newsletter on
intellectual freedom
IFC ALA

Co-editors: Judith F. Krug, Director, and Roger L. Funk, Assistant Director, Office for Intellectual Freedom, American Library Association

ISSN 0028-9485

July, 1974 ☐ Volume XXIII ☐ No. 4

national standards for freedom

By WILLIAM O. DOUGLAS, Associate Justice of the U.S. Supreme Court.

The First Amendment states that "Congress shall make no law . . . abridging the freedom of speech, or of the press."

The word "no" does not seem to be ambiguous, though many judges have read "Congress shall make no law" to mean "Congress may make some laws."

The word "freedom" may to some have elasticity. The word "speech" to others may mean something less than—or different from—"expression." And the word "press" to others means the conventional type of newspaper but not all that is in a newspaper, e.g., commercial advertising. And the word "press," coined of course long before the age of electronics, to others does not include television or the radio.

The word "freedom" in terms of "speech" or "press" had no restrictive meaning in any established sense at the time the First Amendment was ratified in 1791. Profanity was proscribed by some of the colonies, as were sacrilegious utterances. Both were indeed the by-products of the state-church structure of Calvinism. But the religious clauses of the First Amendment made Calvinism, like any other creed, purely the concern of the individual, not of the Federal Government.

But the idea persisted at the local or state level that "offensive" ideas could be. For the Bill of Rights, of which the First Amendment was a part, was at the beginning applicable only to the federal regime.[1]

The great revolution came in 1868, after the Civil War, when the Fourteenth Amendment was adopted. Section 1 of that Amendment guaranteed against state action "the privileges or immunities of citizens of the United States" and it also forbade the States from denying any persons "liberty" without Due Process of Law.

Nearly thirty years passed before the Court construed the Fourteenth Amendment as incorporating selectively some provisions of the Bill of Rights, making them applicable to the States. The first guarantee of the Bill of Rights swept into the Fourteenth Amendment by judicial construction was the Just Compensation Clause of the Fifth Amendment.[2] That was in 1897, a decision endorsed by a "property minded" Court. For without payment of just compensation for property taken a State could practice confiscation with impunity.

Thirty years passed before another provision of the Bill of Rights was made applicable to the States by reason of the Fourteenth Amendment and that was the Speech and Press clause of the First Amendment.[3] While that clause has been applicable to Congress since 1791, it has been applicable to the States only since 1931. So only in the last four decades have the States been under compulsion to live up to its requirements. It is

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

titles now troublesome

Books

Periodicals

Films

Plays

Television Shows

---

therefore understandable why the folklore and tradition of states rights have stood in the way of reordering state law to conform to the federal standard.

From 1931, however, any discussion of the Speech and Press clause of the First Amendment must proceed on the assumption that what is denied the Federal Government is likewise denied the States. For it is settled, though not without dissent, that a provision of the Bill of Rights applicable to the States by reason of the Fourteenth Amendment is not a "watered down"[4] version of that guarantee.

It has long been stated as dicta that obscenity is not a part of "speech" or "press" guaranteed by the First Amendment. But that premise has no foundation in our legal history. It has been engrafted by courts in the process of construction.[5] The temptation has been great as the Anthony Comstocks have waxed strong. Comstock was indeed so potent a force in New York State that the legislature wrote into the law a provision giving him and others a third of the fines collected from so-called pornographers prosecuted as a result of their efforts.[6] The justification for banning "obscene" publications is that they are "offensive" to many people.[7]

This last year I started compiling a list of themes, topics, and exegeses that were "offensive" to me. The list grew and grew and was aided in its growth by the revelations of Watergate. What if a community's list of "offensive" utterances equalled mine? And by the way, it is the community's standards, not the national standards, that determine whether a speaker or publisher or merchant goes to prison for an "obscene" publication.[8] If a community can make criminal one "offensive" idea, what bars it from making criminal another "offensive" idea? The First Amendment says nothing about "speech" or "press" that is unoffensive. In terms it allows all utterances, all publications to be made with impunity. Judges put glosses on the Speech and Press that let local communities punish utterances, touching on sex, that are "offensive" to the

If a community can make criminal one "offensive" idea, what bars it from making criminal another "offensive" idea?

(Continued on page 94)

Mr. Justice Douglas's article was refined from remarks he made at a convocation at Staten Island Community College, October 23, 1973. The article appeared originally in the March 1974 issue of *Rights,* which is published bimonthly by the National Emergency Civil Liberties Committee, 25 E. 26th St., New York City 10010. Used with permission.

let me say this about that

a column of reviews

The Anatomy of Censorship. Jay E. Daily. Marcel Dekker, 1973. 403 p. $13.75. (Books in Library and Information Science, vol. 6)

According to the jacket of this book, the author "watched through 75 pornographic movies, walked through 500 pornographic bookstores, waded through 1000 pornographic orgies, wheezed through two Citizens for Decent Literature meetings, withered through 2000 individual opinions on what constitutes obscenity, was accompanied by his loyal and faithful wife through all of the above [and] is alive and well and Professor of Library and Information Science at the University of Pittsburgh."

With this impeccable background, Daily proceeds to dissect the subject of the censorship of sexual materials. In only two of the ten chapters does the author touch on censorship in political or scientific fields.

The several purposes of this book are stated in the preface and in chapter one: to investigate "the motivations of censors, governmental and voluntary" (p. v), to investigate the proposition "that if obscenity ends anywhere in the world community then it will tend to end everywhere" (p. vii), to show that "expression of ideas was limited" due to the censorship of sexual subjects in the nineteenth century (p. vii), "to explain the commonalty of the world community in its treatment of the communication process" (p. 33), and "to show that a world society will be viable to the extent that it is based on personal liberty" (p. 36).

Although all of these purposes might seem difficult to achieve in one book, Daily has accomplished his objectives. He has presented an abundance of facts about censorship in all phases and in many countries. The book is also copiously footnoted, although all of the footnotes are printed at the back of the book.

I have only one minor criticism–Daily's attempt at clever chapter and subdivision titles. In a book devoted to serious and worthwhile objectives and one that should be read widely by both librarians and laymen, attempts at "cuteness" are unnecessary and unworthy of both the author and the subject. The reader might decipher the heading "Don't Touch My Dirty Words" to mean a discussion about linguistic taboos, but headings such as "The Horses of Instruction," "King Kong is a Faggot," "The Forests of the Night," and "Fearful Symmetry," defy decoding even after a careful reading and therefore do not contribute to understanding.

One section of the book in particular must be pointed out. This section (pp. 19-33) includes a discussion of the Pittsburgh trial of *Therese and Isabelle,* a film on lesbianism in a girls' school. Daily was a witness for the defense in this trial, and his reporting of both the trial and his experiences as a witness should be required reading for all librarians and library school students. A collection of the experiences of librarians who have participated in such trials would be a valuable contribution to the literature on censorship and could serve as a warning to would-be librarians that the defense of intellectual freedom is not an easy task.– *Reviewed by Doris C. Dale, Associate Professor of Instructional Materials, Southern Illinois University, Carbondale.*

Problems in Intellectual Freedom and Censorship. A.J. Anderson. Bowker, 1974. 208 p. $10.75 (tentative).

Since the author is on the staff at the School of Library Science, Simmons College, it is probably safe to assume that this book grew out of the case study method used in teaching there. Thirty case studies in intellectual freedom are presented and followed by questions.

Case study 2, "And Gladly They Teach," tells the story of an excellent young history teacher, Gene Kennedy, who in presenting the writings of the radical left quotes the slogan "Up against the wall mother-fucker" from a book. One of the students relates the incident to his parents, who demand Kennedy's immediate dismissal. The incident is reported to a school committee and the committee asks for his resignation. Kennedy refuses to resign and enlists the aid of the media specialist who had lent him the book, *History and Human Survival.* As the case closes the school principal is demanding the removal of the book from the collection.

Two of the questions following are: "Did Mr. Kennedy show poor judgment in openly quoting the controversial term in the classroom?" "How would you respond to the principal's injunction that the book be removed from the collection?"

Other cases include: a special librarian in an electronics

(Continued on page 99)

Newsletter on Intellectual Freedom is published bimonthly (Jan., March, May, July, Sept., Nov.) by the American Library Association, 50 E. Huron St., Chicago, Illinois 60611. Subscription: $5 per year. Change-of-address, undeliverable copies, and orders for subscriptions should be sent to the Subscription Department, American Library Association. Editorial mail should be addressed to the Office for Intellectual Freedom, 50 E. Huron St., Chicago, Illinois 60611. Second Class postage paid at Chicago, Illinois and at additional mailing offices.

Moore wins Downs award

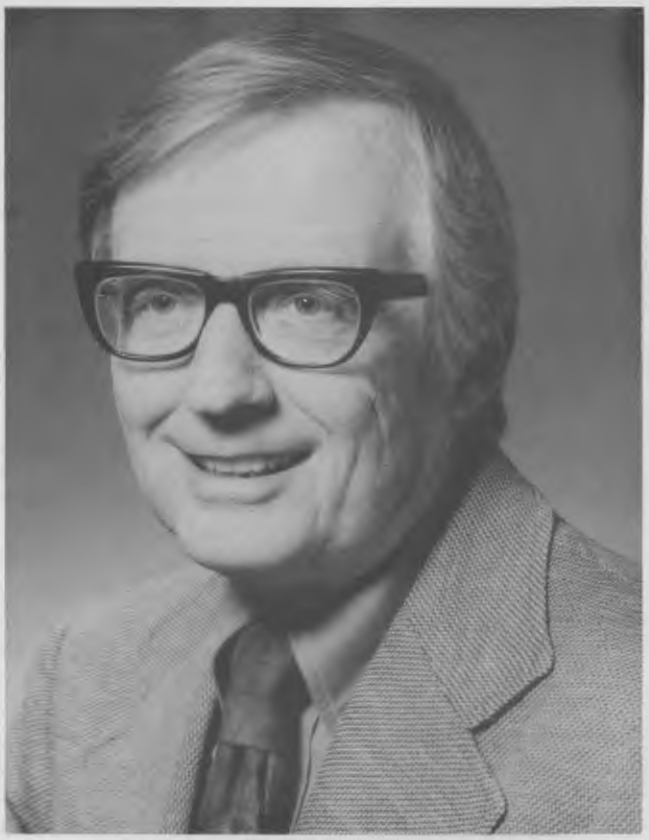
Everett T. Moore, associate university librarian for public services at the University of California at Los Angeles and Freedom to Read Foundation vice-president, has been given the 1974 Robert B. Downs Award for his noteworthy contributions to intellectual freedom in libraries.

Moore's efforts on behalf of intellectual freedom have been unflagging. He served on the ALA Intellectual Freedom Committee from 1960 to 1966 and was editor of the *Newsletter* for the first two years of his term on the committee. In 1969 he was instrumental in the organization of the Freedom to Read Foundation and in the ensuing years has served as a Foundation trustee and officer. He is the author of *Issues of Freedom in American Libraries* (1964), as well as numerous articles in magazines, books, and newspapers.

Contacted about the award, Moore said, "I have had a long association with Robert Downs and am honored to win the award bearing his name. Mr. Downs' own contributions to intellectual freedom stand alone in many ways."

In 1972 Moore became the name plaintiff in a Foundation-funded suit challenging the constitutionality of California's "harmful matter" statute. The suit contends that librarians cannot validly be held liable for the dissemination to minors of works which might at some later point be found "harmful"—works which could be protected under the First Amendment if circulated among adults.

Moore has been a member of the UCLA library staff since 1946. He has lectured on librarianship at universities in the U.S. and abroad. In 1967-68, he was a Fulbright lecturer in Japan.



The award will be presented to Moore next fall at the University of Illinois campus. The prize was established in 1968 to honor Robert B. Downs, dean of library administration at the University of Illinois, on his twenty-fifth anniversary with the university. Past recipients of the award include LeRoy C. Merritt, editor of the *Newsletter* from 1962 to 1970, and Freedom to Read Foundation President Alex P. Allain.

postage and the press

Publishers Weekly (April 29) reports that both Congress and the U.S. Postal Service appear to be moving toward approval of measures that would provide relief from postal hikes which have endangered small magazines, book publishers, booksellers, and libraries. Measures that would lengthen the phase-out period for second, third, and fourth class postal increases appear to have good-to-excellent prospects in the House and Senate.

Certain members of Congress have begun to question the concept of requiring the postal service to break even. Representative James M. Hanley (D.-N.Y.), chairman of the House Postal Service Subcommittee, introduced a bill which would provide for "an adequate level of public service to help keep postal rates down to a manageable level."

An editorial in the *Christian Science Monitor* (May 30) put the problem in a nutshell: "The climbing rates for second class mail—which includes magazines and newspapers—may affect the exchange of ideas and information vital to a society. The nonprofit press, that section of the print media which is most akin in content to the public television sector of television, is being particularly hard hit by the schedule of postage hikes. . . . The way to a balanced post office budget should be found that doesn't unbalance the spectrum of the exchange of ideas and viewpoints."

new obscenity laws

the aftermath of Miller

Lawmakers, like nature, abhor a vacuum. Or so it seems when the void concerns obscenity. Following the U.S. Supreme Court's June 1973 promulgation of new guidelines for obscenity statutes, guidelines which threatened to render many state statutes unconstitutional, thirty-eight state legislatures (of the forty-four states with regular legislative sessions in 1973-74) considered over 150 bills to revise old statutes or implement new ones. Many legislators in the eleven states listed below apparently numbered their citizens among the "gullible" that Chief Justice Burger said require protection. The newly approved statutes are provided with brief annotations.

Connecticut: H. 5596
Definition of obscenity: Memoirs test*
Definition of sexual conduct: no definition
Community: state
Public display: no provisions
Prior civil proceedings: no provisions

Delaware: H. 529 and H. 70
Definition of obscenity: Miller test applies to adults; "without redeeming social value for minors" test is removed
Definition of sexual conduct: Burger list
Community: not defined
Public display: no provisions
Prior civil proceedings: no provisions
Note: H. 70 is a nuisance statute in which a citizen can bring suit

Kentucky: H. 232
Definition of obscenity: Miller test
Definition of sexual conduct: extensive list provided
Community: not defined
Public display: no provisions
Prior civil proceedings: no provisions
Note: destruction of material after final determination; no employment of minors to disseminate; jury to render general and special verdict; exemptions include scientific, education, governmental justification

Nebraska: L. 815
Definition of obscenity: Miller test
Definition of sexual conduct: extensive list provided
Community: jury
Public display: visual or written for minors
Prior civil proceedings: no provisions
Note: out-of-state extradition; no employment of minors to disseminate; obscene materials are contraband; disseminator can request declaratory judgment

New York: S. 7967
Definition of obscenity: Miller test
Definition of sexual conduct: extensive list
Community: (by a court ruling, the state)
Public display: no provisions
Prior civil proceedings: no provisions
Note: statute applicable to minors is revised to include a Miller-type test

North Carolina: S. 1059
Definition of obscenity: Miller test (adds "educational" to the value test)
Definition of sexual conduct: narrowly defined, "actual intercourse," for adults
Community: state
Public display: cover visible from street
Prior civil proceedings: mandatory

Oregon: S. 708
Definition of obscenity: Miller test (added for adults)
Definition of sexual conduct: not defined
Public display: (in present statute)
Prior civil proceedings: no provisions
Note: to be placed on November general ballot

South Dakota: H. 735 and H. 554
Definition of obscenity: Miller test (applies to minors only)
Definition of sexual conduct: extensive list provided
Community: state; no pre-emption provision, so counties and municipalities can regulate
Public display: no provisions
Prior civil proceedings: no provisions
Note: surrender and destruction of materials on final verdict; conspiracy to disseminate is a misdemeanor; jury to render special and general verdict; schools, libraries and museums are exempted

Tennessee: S. 1880
Definition of obscenity: Miller test
Definition of sexual conduct: Burger list
Community: state
Public display: no provisions
Prior civil proceedings: no provisions; does provide for prior adversary hearings with 24 hours notice

(Continued on page 98)

lending respectability to Shockley

Author *(Nixon Agonistes, Bare Ruined Choirs)* and syndicated columnist Garry Wills recently called upon universities to exercise their responsibility and refuse their forums to what Wills considers William Shockley's "political campaign."

The right of Shockley, a Nobel laureate in physics, to debate his ideas concerning the genetic inferiority of blacks has become an issue on many campuses, including Yale and Princeton. Wills contends that Shockley uses the campus forum to proselytize. "He raises questions that are moral and political as well as scientific, and which a healthy academic consensus find disreputable," Wills says in his *Chicago Sun-Times* April 18 column.

"Why lend respectability and give a platform to a program questionable in its scientific foundation, odious in its political repercussions, and offensive to this society's moral code?" Wills asks.

Wills' standards are evident. Universities should ban speakers (1) whose motives are political, (2) whose theories won't wash, and (3) whose ideas are morally repugnant. And they should do this just as editors exercise their responsibility to blue pencil everything "dumb or immoral."

Wills' newspaper analogy is most inappropriate. Newspaper editors (and television broadcasters) have extremely limited editorial space to devote to the ramblings of those who are "dumb or immoral." Isn't the university more like, say, Hyde Park? So long as there is room for the orator to set down his soap box, and so long as there are people willing to listen to him, why should he be banned? Do people on campuses believe everything they hear, particularly "dumb and immoral" ideas?

Wills says that universities would be "well advised" not to become a part of Shockley's "political campaign." Wrongheaded theories have often had political uses. The nineteenth century theory that blacks constitute an inferior *race* was defended by an eminent biologist and used by antiabolitionists. And if politicians want to use Shockley's theory, they will have little reluctance simply because universities decide to ignore him.

It seems apparent to me that Shockley has what Wills chooses to call a campaign only because certain members of certain university communities have tried to deny him his right to speak.

I conclude that Wills has begun a political campaign against Shockley, that Wills' ideas about the nature of the university are manifestly in error, and that Wills' contentions are morally shocking. Keep him off the campus!—RLF

Supreme court update

As this issue of the *Newsletter* goes to press, word is awaited about the fate of Billy Jenkins, the southwest Georgia movie exhibitor whose conviction for showing *Carnal Knowledge* will be ruled upon by the U.S. Supreme Court.

On April 15, the justices heard oral arguments on behalf of Jenkins, represented by Louis Nizer, and on behalf of persons convicted for mailing brochures advertising the illustrated edition of the *Report of the Commission on Obscenity and Pornography.* (The cases are, respectively, *Jenkins* v. *Georgia* and *Hamling* v. *U.S.* The Freedom to Read Foundation filed *amicus* briefs for the ALA in both.)

During the questioning the justices evidenced no interest in revising the guidelines established last year in *Miller* v. *California.* Hardly any interest was shown in the question pressed upon the Court: whether a crazy quilt of "community standards" will render the First Amendment meaningless. Justice Potter Stewart, one of last year's four dissenters, said he thought "community standards" was self-defining, meaning the area from which the jury is drawn.

Jenkins and *Hamling* represent the first opportunity the Court has had since June 1973 to review the "intractable" problem of obscenity. But perhaps an indication of the direction the Court will take on the question of community standards can be found in the fact that it has, during the last eight months, sent several cases back to state courts for reconsideration in light of *Miller* v. *California.*

In recent action the Court:

• Remanded to state courts for reconsideration three convictions for using abusive, vulgar, insulting and boisterous language, in light of the high court's February decision invalidating a New Orlean's ordinance barring the use of "opprobious language" to a policeman. (Remanded April 16.)

• Ruled unanimously that prison officials may censor inmate mail only in the interest of preserving order and security in a penitentiary and rehabilitating inmates, but not to stifle criticism by the inmates. Justice Louis F. Powell Jr., who delivered the opinion of the Court, said: "Prison officials may not censor inmate correspondence simply to eliminate unflattering or unwelcome opinions or

(Continued on page 100)

censorship dateline

libraries

Thatcher, Arizona

After Arizona newspapers carried reports that a member of the Arizona House Education Committee had complained about materials in school libraries and had read passages from *The Me Nobody Knows* during a committee session, the librarian at Thatcher High School was told by the school superintendent to remove "all such materials" from the collection. The librarian, Emalee E. Philpott, asked the superintendent to tell her which materials should be removed, and was told by the superintendent to remove everything that "anybody might object to."

After Philpott had removed from the library shelves every title she could find listed in the *Newsletter* and similar publications, she was told by the superintendent to return the many books to the shelves and await instructions from him concerning specific titles receiving complaints.

Subsequently, four books were objected to by an elementary school teacher: *When the War Is Over, The Tamarind Seed, The Gods Themselves* and *Leopard in My Lap.*

Gulf Breeze, Florida

Hila Colman's *Diary of a Frantic Kid Sister* was removed from the Gulf Breeze Elementary School library on the order of Principal H. G. Speed, who complained that "the language used is not fit for elementary school children to be exposed to."

Miami, Florida

Six copies of a book about the history, economy, and politics of Cuba were removed from the library of Rockway Junior High School after the principal ruled that the book is anti-American and biased in favor of a pro-Castro viewpoint. The book, *The Land and People of Cuba,* is one volume of a Lippincott reference series for elementary and junior high school students.

"It is anti-American throughout," said Principal James Davis, who cited a passage which allegedly shows that President Kennedy "backed down on the Cuban missile crisis." Richard White, director of program development for the Dade County school system, said, "I have asked the librarian to check out other books in this extensive series, especially those about Iron Curtain countries, to see if these materials should be used in a restricted sense here." Reported in: *Miami News,* March 28; *Miami Herald,* March 29; *Washington Post,* March 31.

Authors League of America President Jerome Weidman responded to the censorship in a letter to the school principal: "While individual parents may prohibit their children from reading books, they have no right to dictate which books other parents' children may read. Yet by capitulating to the demands of some parents and removing Miss Ortiz' book from the library, your school has effectively given them that power of censorship. In so doing, it has violated the First Amendment rights of other students to read the book if they choose; it has violated the author's freedom of expression; and it has besmirched the basic principles of academic freedom."

St. Maries, Idaho

The St. Maries School Board banned from the school system's libraries all copies of *The Catcher in the Rye,* to which an objection had been filed by one person who considered it a dirty book. The *Lewiston Tribune* responded editorially: "Any person who has an objection to any book can get it banned, regardless of what other parents in the community may think, by simply showing up at a school board meeting and vetoing the book's presence on the shelves of the school library.

"It is almost enough to make one wish that some parent would object to all the books in the school library. If St. Maries lets its board get away with *The Catcher in the Rye* decision, it is a community that requires but doesn't deserve books." Reported in: *Idaho Department of Education News and Reports,* May-June 1974.

Atlanta, Michigan

Over 200 books were ordered removed from the Atlanta High School library shelves by the Atlanta Community School Board of Education at its first meeting in April. The motion, approved five to one, called for the dismissal of the schools' book committee and for removal of all books approved by it. The board also denied a request to leave the books on the shelves until the end of the school year. The books affected by the board's action included works by Steinbeck, Wouk, and Agatha Christie. The books will apparently remain off the shelves until agreement can be reached on what constitutes a controversial and therefore disruptive book.

The book committee, which included parents, was initiated in January 1974 in an attempt to remove the books selection process from the control of a small group of individuals. Reported in: *Montmorency County Tribune,* April 18.

Carsonville, Michigan

A candidate for election to the school board who complained about "sick" literature and "sick" critics removed *Love Story* from the Carsonville-Port Sanilac Schools media center and refused to return it or the copy of the complaint form he was asked to fill out. School administrators concerned about protests against materials in the media center ordered the director of media services to cover up nude pictures in *Photographic* magazine.

Holdingford, Minnesota

A group of forty parents gathered at a Holdingford School Board meeting to protest sex education classes and several books in the high school library, including Edward Albee's *Who's Afraid of Virginia Woolf?.* One father said the books were obscene and unfit for the eyes of children. After one of the board members read a section from *Virginia Woolf,* Superintendent S.L. Tuchscherer ordered the challenged books stored in his office until a review committee had studied them. He requested that the parents meet with the PTA and the librarians at the school to work out an agreement on works they found offensive. "I'm sure the board will respect whatever recommendations you give them," Tuchscherer said.

A teacher stated that the Albee book was not available to students at the school. "I ordered that book for an English literature class, but after reading the book I decided not to use it. I had the book stored in the teachers' reference room in the library," she said. Reported in: *St. Cloud Times,* March 14.

Bennington, Vermont

A review committee at Mt. Anthony Union School voted two to one to remove *Ms.* magazine from the high school library following complaints from parents who had previously filed objections against *Go Ask Alice.* The decision of the review committee was to have been submitted to the school board for approval, and it was expected that the action of the committee would be sustained. The committee member who voted to retain *Ms.* was the school librarian.

Moorestown, New Jersey

Controversy over a book of poetry in the high school library took the Moorestown board of education by surprise. Members who had not heard of the book were informed that *Black Magic* by Imamau Baraka (formerly LeRoi Jones) had been removed from the library by Superintendent Arthur G. Martin after he had received complaints about the book's "language."

Parents from the Moorestown Parents Association objected to the presence of the book in the school library and demanded that the school board order its removal. Superintendent Martin emphasized that he had not removed the book from the library but had merely checked it out. "[Removal] would be presumptuous before it was evaluated. I would be totally against that. It's on my desk because I want to read it," Martin said. Reported in: *Willingboro* (N.J.) *Burlington Times,* May 8.

schools

Los Angeles, California

By a four-to-three vote the Los Angeles Board of Education refused to grant students expanded rights of expression in school newspapers, thus defying a trend toward liberalized legal standards. The board rejected a proposal which would have limited censorship by principals to articles considered libelous, obscene or disruptive. The board's policy gives unrestricted authority to principals to make "ultimate decisions" about the content of school newspapers.

Board member J.C. Chambers said the schools are responsible to the community to assure that student newspapers reflect "morality, ethics, and good taste." Los Angeles journalism teachers rejected the policy as unconstitutional and vowed to sue the school district to force the granting of expanded student rights. Reported in: *Los Angeles Times,* April 23.

Junction City, Kansas

Youths from the Junction City Southern Baptist Church led by the Rev. R. D. Wooderson destroyed copies of *Playboy* and a copy of *The Exorcist* in a fire on the church's parking lot. The minister said the burning concluded a week-long drive to persuade area book dealers to keep "trash" off their shelves. "To me that's not censorship," Wooderson said. "If it's not right to pollute the atmosphere with automobiles, it's not right to pollute the minds of young people."

According to Wooderson, protests against the presence of *The Exorcist* on a required reading list at the senior high school led to its removal. Wooderson said school officials were "very cooperative" when approached about the book. Reported in: *Wichita Eagle,* April 8.

Howard County, Maryland

Three Wilde Lake High School students were suspended for distributing copies of *Changes,* a controversial magazine published by a Howard County collective organization known as Peer. Articles in the issue which prompted the suspensions included "Lesbians and Faggots," "High School Resistance," and "Energy Crisis Hoax." One of the signed articles was by Douglas B. Sands, chairman of the Howard

County Human Relations Commission. He blamed county racial tensions on failures of both blacks and whites.

Peer members include eight residents of a Simpsonville dwelling who make up the basic "collective" group. Financial help for publishing *Changes* is reportedly received from "many Howard Countians." Reported in: *Baltimore News American,* April 14.

One year ago similar student suspensions for distributing copies of *Changes* were reported in the *Newsletter* (July 1973, p. 89).

New York, New York

Complaining that "you can legally show in a school" pictures that you can be locked up for showing to youths in a public theater," a New York district attorney dropped the investigation of a Bronx high school teacher who showed one of his classes a filmstrip depicting intercourse and oral sex.

The filmstrip, which was shown to an all-girl biology class, was part of a ten-unit sex education program written by a New York University professor, Deryck Calderwood, and produced by the Unitarian Universalist Association of Boston. The part of the unit shown by the teacher was called "Lovemaking," and it showed individual shots of a couple engaged in sexual intercourse and various types of oral sex.

The teacher was reprimanded by School Chancellor Irving Anker and transferred from James Monroe High School to another school. Prior to the transfer U.S. District Court Judge Harold R. Tyler upheld the right of Anker to suspend the teacher from his duties while maintaining his salary and other benefits.

The teacher, whose name was withheld, said Anker "did disagree with my judgment in showing the filmstrip, but also acknowledged my commendable teaching record and was convinced of my propriety and dedication to my students." Commenting on the district attorney's remarks, the teacher characterized them as "slanderous." "This was not an obscene, *X*-rated movie. What I showed was an educational filmstrip . . . shown all through the U.S. to junior high school teenagers in their Sunday school sex education program," the teacher said. Reported in: *New York Daily News,* April 5, 24; *New York Times,* May 23.

North Syracuse, New York

A committee appointed to review curricular materials informed the North Syracuse School Board that the four books it reviewed are permissible for use in the schools. The books were *Pigman, Flowers for Algernon, The Catcher in the Rye,* and *Soul on Ice.*

After lengthy discussion, the board took no action on continued use of the books. Persons opposed to the committee's recommendation told the board that the committee "was not representative of the lay community" and that the books approved contained "filthy sexual language." It was averred that the contents of *Flowers for Algernon* and *Soul on Ice* are "beyond the limits which the community at large, if they read the books, would want for our children." The Rev. Jed N. Snyder said it all boiled down to the question of whether "we want this dirty stuff given to these children." Reported in: *Syracuse Post-Standard,* May 21.

Ogden, Utah

Administrators at Bonneville High School interrupted distribution of the student newspaper, *The Beacon,* and confiscated remaining issues because they objected to a photo accompanying an article on streaking. The picture showed the backs of two nude boys.

In a letter to the editor of the *Ogden Standard-Examiner* (May 20), one student expressed her opinion: "We are in school to learn. Friday, we learned to disallow people to have differences of opinion with us. We learned that others do not have the right to have different tastes from ours. We learned that we must stifle our creativeness unless it appeals to the administration. We learned that the Soviet Union was right in its censorship of Alexander Solzhenitsyn."

Bristol, Virginia

Claiming that a textbook supplied to their children contains "Communist inspired, anti-Christ, and sex novels," a group of nearly 200 Washington County parents promised court action and "to nail the political hides of a bunch of people to the wall" after the Board of School Supervisors rejected a resolution opposing the book. The challenged work, *The Responding Series,* was approved by the state and is used by many Virginia schools. It contains short stories written by twenty-five contemporary authors, including Erskine Caldwell and Philip Roth. Reported in: *Washington Post,* April 11; *Roanoke World-News,* April 18; *Roanoke Times,* April 19.

the press

Los Angeles, California

The Los Angeles City Council voted twelve to one to approve a new ordinance controlling newspaper vending racks. Specifically, the ordinance prohibits sale from unattended street vending machines of published material that would fall under the state's statutory definition of "harmful matter," as well as displays in street newsracks of photographs or drawings depicting human genitalia and female breasts.

Although City Attorney Burt Pines expressed "serious reservations" concerning the ordinance's constitutionality, Mayor Tom Bradley signed the law, saying: "[The ordinance] relates to the possible effect on children of the display on public streets of publications containing illustrations to which parents may not wish to have their youngsters exposed. I believe we should give it a try, and let the

courts decide whether or not it is constitutional."

Similar ordinances have been adopted by other cities in California, including Santa Monica and San Diego. Reported in: *Los Angeles Times,* April 26, May 3, 10.

colleges-universities

Auburn, Alabama

Auburn University banned *Playboy* and *Penthouse* from stands at the university bookstore after an Opelika minister threatened to contact Governor George C. Wallace and the state's major newspapers about the "vile smut" being sold at the store.

The complainant, the Rev. Henry L. Dawson, said students should not be allowed to choose what they want to read from an open selection, and that he was not satisfied with removal of just the two magazines and would complain further unless all "filthy literature" is removed. Ben T. Latham, administrative vice president of the university and reportedly the person who made the decision to remove the magazines, was not available for comment. Reported in: *Columbus Enquirer,* March 14, 21.

New Haven, Connecticut

Physicist William B. Shockley was prevented from debating his controversial views on genetics by seventy minutes of sustained heckling and clapping by a Yale University audience. "Pity for Yale," three words Shockley wrote on a blackboard on stage, was the only message he was able to get across to the crowd before leaving with the man who was to debate him, *National Review* publisher William Rusher.

Shockley, a Nobel Prize winner in physics, has faced continual harassment from audiences at U.S. universities. Yale Secretary Henry Chauncey Jr. warned students they could be suspended for causing a disturbance. Yale President Kingman Brewster Jr. said, "It makes me sick that even a small minority of Yale students would use storm trooper tactics in preference to freedom of speech." Reported in: *Washington Post,* April 17.

Urbana, Illinois

Although University of Illinois Vice Chancellor Hugh M. Satterlee maintains that there are no university regulations against the showing of "obscene" movies on campus, university security personnel continue to interfere with film exhibitions on campus.

A showing of *Deep Throat* at a campus auditorium was abruptly canceled by its student sponsors when they identified security officers and county sheriff's deputies in the audience. Satterlee said that campus security officers attended the showing "to see if any laws were broken."

The owners of a Champaign theater remain under indictment for showing *Deep Throat* in June 1973. Their case is still pending. Reported in: *Champaign Urbana News-Gazette,* April 8.

Charlotte, North Carolina

Displaying outrage over the publication of a story entitled "Fucking a Nigger on Saturday Night," black students at the University of North Carolina at Charlotte burned copies of the school's literary magazine, *Sanskrit.* Kenneth Foster, president of the Black Student Union, asserted that the story offended not only black women but most of the blacks "as a whole."

Bill Holder, the white student who wrote the work, stated that the story "was supposed to work in reverse of the way it did." "It's supposed to be so bigoted that it's not," he explained.

Foster pointed out that students were not upset at the magazine's editorial staff for printing the article. He maintained that students were concerned because the article was printed without any consultation with black students. Reported in: *Washington* (D.C.) *Afro-American,* March 26.

theaters

Cambridge, Massachusetts

An actor and actress who had simulated sexual intercourse in the nude for a scene in the play *Sweet Eros* were arrested on stage by a state police officer. Twelve persons associated with the one-act play, including ticket sellers, were charged with open and gross lewdness following the arrest of the actors.

The arrests occurred despite the invalidity of Massachusetts' obscenity law. The state's highest court struck down the law on April 23, calling it "vague and archaic." Reported in: *New York Post,* May 24.

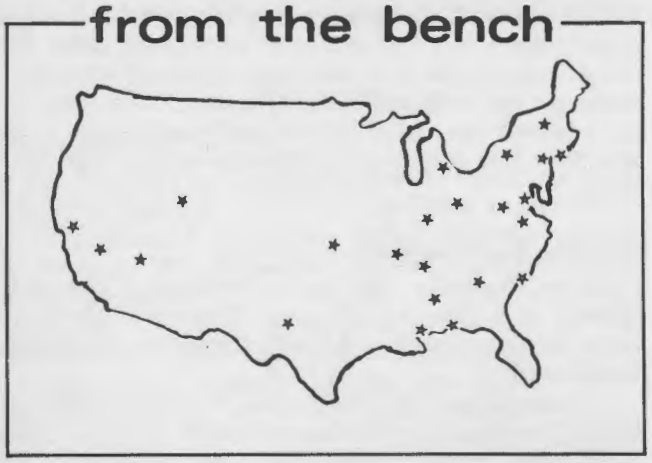
New York, New York

The Congress of Racial Equality (CORE) claimed victory when its Harlem chapter disclosed that the organization had pressured two major theater chains into agreements to remove the controversial film *Africa Uncensored* from nearly seventy-five percent of their metropolitan locations. CORE said that efforts to get full compliance from the chains would not stop until the film was "withdrawn altogether from the city."

CORE contends that the film represents a "wanton rape of black people's culture" and portrays Africans as "savage and bestial." Elaine Parker, a CORE negotiator, said her reaction to the film was one of "utter revulsion." Reported in: *Brooklyn Recorder,* May 4.

(Continued on page 79)

from the bench



obscenity rulings

Modesto, California

Complaining that California's obscenity law requires changes, a Modesto jury threw out charges against the clerk and the owner of an adult bookstore. Jury members told Judge Robert Falasco that they considered the materials brought before them obscene, but since testimony established that between fifty and 150 persons a day went into the store, they could not rule that the materials were counter to "contemporary community standards." Reported in: *Turlock Journal,* March 31.

Denver, Colorado

Procedures used by the Denver district attorney's office to seize movies as evidence in obscenity trials are proper, the Colorado Supreme Court ruled. Justice William H. Erickson, writing for the court, dismissed the argument that forcing a theater owner to produce films at a hearing on obscenity violated his constitutional protection against self-incrimination.

Erickson wrote that "it would be ludicrous to say that a person can display, promote, and show moving pictures to a standing-room-only audience at performance after performance and then claim that he has the Fifth Amendment as a shield to prevent production of the moving picture films at a hearing which the courts must conduct on the obscenity issue." Reported in: *Rocky Mountain News,* April 23.

Washington, D.C.

The Court of Appeals for the District of Columbia upheld a ruling by a Superior Court judge that abolished the District's law against "lewd, obscene or indecent acts." The unanimous appellate panel agreed with Superior Court Judge Charles W. Halleck that "obscene or indecent acts" is unconstitutionally vague. Calling the indecent acts prohibition a "shotgun clause," the appellate court said: "It subjects [persons] to criminal liability under a standard so indefinite that police, court, and jury are free to react to nothing more than what offends them." Reported in: *Washington Star-News,* May 10.

Atlanta, Georgia

Georgia's Court of Appeals overturned the obscenity conviction of an Atlanta theater manager on the grounds that a criminal defendant need not provide evidence against himself. It was under threat of jail, the court noted, that the manager surrendered films he had at first refused to produce.

Writing for the court, Judge Irwin W. Stolz Jr. said, "We have no sympathy for purveyors of filth. However, common and constitutional law [holds that the Superior Court] had no authority to order the defendant to furnish incriminating evidence against himself on pain of contempt."

The question of a defendant's being forced to produce evidence against himself in an obscenity trial will be considered by the U.S. Supreme Court. Reported in: *Boxoffice,* April 22.

New Orleans, Louisiana

Acting on a case remanded to it by the U.S. Supreme Court, the Louisiana Supreme Court reversed the convictions of the operators of a Bourbon Street theater. The reasons for the reversals were set forth by Justice Albert Tate Jr.: "[The] statute defines obscenity as the intentional production, sale, exhibition, gift and advertisement [of publications, motion pictures, etc.] with the intent to primarily appeal to the prurient interests of the average person." The court declared that such language cannot meet U.S. constitutional standards.

The court's three dissenters charged the majority with an "erroneous interpretation of the principles governing obscenity announced by the U.S. Supreme Court." They cited dissents filed in earlier cases (see *Newsletter,* March 1974, p. 34). Reported in: *New Orleans States Item,* April 29.

Baltimore, Maryland

Criminal Court Judge Anselm Sodaro declared that Baltimore City's ninety-five year old ordinance prohibiting indecent shows is "defective, unenforceable, and unconstitutional." Sodaro noted that the U.S. Supreme Court "pronounced the demise of our local ordinance" when it held that such ordinances must specifically define prohibited conduct. He said the 1879 ordinance was "totally lacking in this respect," adding that he could not "breathe life back into it . . . by judicial fiat." Reported in: *Baltimore News American,* April 19.

Boston, Massachusetts

Ruling on cases involving the showing of *The Devil in Miss Jones* and the sale of allegedly obscene magazines, the

Massachusetts Supreme Judicial Court declared that Bay State laws regulating the sale of books and the exhibition of films to adults were unconstitutionally "vague" and "archaic." Writing for the majority in the four-to-three decision, Justice Herbert P. Wilkins noted that the U.S. Supreme Court required state laws to "specifically define the sexual conduct whose depiction or description is forbidden."

"People are entitled to know what they may or may not do under the threat of imprisonment or fines," Justice Wilkins wrote. "Our general obscenity statutes do not furnish any guidance." The justices refused to engage in an attempt "to save judicially a statute which is of great ambiguity on its face."

The court also found that Massachusetts' variable obscenity law dealing with minors is definitive enough to pass constitutional scrutiny. Reported in: *Boston Globe,* April 24; *Brockton Enterprise-Times,* April 24.

Detroit, Michigan

A Detroit zoning ordinance designed to prevent the opening of new adult bookstores and movie theaters was found partially unconstitutional by two federal judges. U.S. District Court Judges Cornelia G. Kennedy and Lawrence Gubow expressed their objections to sections of the ordinance which provided that approval from property owners and residents was needed if a proposed bookstore or cinema came within 500 feet of even one residential dwelling. "No arguments are advanced by [the city] as to how the prohibition . . . furthers the legitimate interests the city has in preserving a residential area or neighborhood," the judges said. Left standing was a provision of the ordinance requiring that adult theaters and bookstores remain at leat 1,000 feet apart. Reported in: *Detroit Free Press,* March 23; *Detroit News,* March 25.

Hattiesburg, Mississippi

Four women and two men convicted ABC Interstate Theaters, Inc. on charges of showing an obscene film. The "obscene" movie was *The Exorcist.* The six-member justice of the peace jury deliberated more than an hour before returning its verdict. Justice of the Peace Marie Kepper fined ABC Interstate Theaters $100. Reported in: *Chicago Sun-Times,* May 3.

Las Vegas, Nevada

After commending county and city officials for their efforts to control pornography in Las Vegas, District Judge Keith C. Hayes declared newly adopted city and county ordinances unconstitutional.

Although the judge commented that it was not proper for him to express his opinion on pornography so long as the question before the court concerned constitutionality, he nonetheless said: "If the authorities in the city and in the county wish to take direct and effective action against the purveyors of pornography they have remedies, and I would submit that the remedy is to proceed under the nuisance aspect and close them up as nuisances rather than charging them with misdemeanor crimes, where they can pay a two-bit fine and go right out again and proceed to do what they have done before." Reported in: *Las Vegas Sun,* April 12.

Charlotte, North Carolina

Calling *Meatball* a "sure sign of the decay of the minds of men," U.S. District Court Judge Woodrow W. Jones declared the film obscene and fined its producer and shipper $5,000 each.

"It's stretching [the Constitution] all out of proportion to say that the kind of filth portrayed in this film is protected under the free speech amendment," Jones said. "It's nothing but some people wanting to make a fast buck appealing to the baser nature of man—all in the name of art." Reported in: *Charlotte News,* April 9.

Chattanooga, Tennessee

Ruling that his court does not have jurisdiction, Sessions Court Judge W. N. Dietzen dismissed the case of a bookstore clerk charged with selling obscene literature to a minor. The charge was lodged against David Case, a twenty-two-year-old college student who works in a bookstore, by the father of a sixteen-year-old boy who purchased a book from Case. The book was *The Joy of Sex.*

Dietzen ruled that his court did not have jurisdiction over the complaint and that it should have been brought by the attorney general's office rather than the father. "I sympathize with you," Dietzen told the youth's mother after dismissing the case. "I think this book is bad." Reported in: *Chattanooga Times,* May 26.

Nashville, Tennessee

The constitutionality of Tennessee's new obscenity law was upheld by Criminal Court Judge John L. Draper. After hearing arguments that the law is unconstitutional and invests too much authority in policemen, allowing them to sit as judges, Draper was asked by attorneys representing a bookstore to suppress evidence seized without payment. Draper summarily rejected the argument. "The matter was ably argued and the motion to suppress is respectfully overruled," he said. Reported in: *Nashville Banner,* April 19.

St. Louis, Missouri

The U.S. Court of Appeals for the Eighth Circuit ruled that it is no violation of federal law to write obscene words or phrases on postcards or the outside of envelopes. In reversing the conviction of Ray A. Tollett of Nashville, Arkansas, the panel held that the statute barring "libelous, scurrilous, defamatory, or threatening" material on the outside of mailings is "overly broad" and interferes with the

First Amendment right to freedom of expression. Reported in: *Review of the News,* February 27.

the press

Washington, D.C.

U.S. District Court Judge Gerhard A. Gesell, presiding over the perjury case of former White House appointments secretary Dwight L. Cahpin—the first of the indictments to be brought by Watergate Special Prosecutor Leon Jaworski—proposed in February rules to govern publicity. Among the proposals: sequestration of the jury, barring witnesses under subpoena from communicating with the press about their testimony, limiting attorneys at trial to supplying the press with facts of public record only, prohibiting photographs and sketches of jurors until the jury is sequestered, and prohibiting reporters from asking court officials about what took place in court. Judge Gesell also urged the press to use "self-restraint and good taste" in its pre-trial reporting, and warned that coverage of the Chapin trial, as the first of a series of Watergate prosecutions, "will influence the rules governing subsequent trials."

Gesell requested comment from the media and other interested parties. One week later, he reissued the order with several modifications, allowing "impressionistic" artists sketches of jurors and granting Chapin an unrestricted right to communicate with the press. Gesell also appointed a press liaison officer from the General Services Administration to assist reporters. Reported in: *Press Censorship Newsletter,* April-May 1974.

Richmond, Indiana

A confidential source led *Indianapolis Star* reporter Carolyn Pickering to investigate and publish a series of articles about an alleged plot to defraud and rob an elderly man. Police began investigating, and eventually a male attorney and a woman companion were indicted for conspiracy to commit theft.

At their trial, a defense attorney called Pickering as a witness and asked her where she obtained the information concerning the story. When the reporter refused to identify her source, invoking Indiana's shield law, the defense made a motion to have the law declared unconstitutional. In a brief oral opinion, Judge James C. Puckett of the Wayne Circuit Court in Richmond rejected the challenge. The Indiana shield law, in effect since 1941, has never been tested in court. Reported in: *Press Censorship Newsletter,* April-May 1974.

Boston, Massachusetts

The Supreme Judicial Court of Massachusetts ruled that a reporter has no constitutional privilege to refuse to identify a news source in a libel suit pre-trial deposition. The decision was handed down in a case involving the *Wall Street Journal*'s attempt to protect the source of an allegedly libelous statement in an article by Liz Roman Gallese, on the grounds that the reporter had obtained the information under a pledge of confidentiality.

The court found that the information sought from Gallese was "central to the plaintiff's case" and rejected the reporter's argument that the plaintiff should be required to show "actual malice" on the part of the *Journal* before seeking disclosure of the source of the alleged libel. The court rejected the confidentiality argument, and said, "We adhere to our prior holding that the First Amendment imports no such privilege, qualified or absolute." Dow Jones & Company, owner of the *Journal,* decided on a money settlement of the libel suit rather than an appeal of the decision to the U.S. Supreme Court. Reported in: *Press Censorship Newsletter,* April-May 1974.

Montpelier, Vermont

John Gladding, a reporter for WCAX-TV in Burlington, was subpoenaed last year by the defense in a pre-trial criminal hearing to answer questions about his presence at a drug raid in Rutland. Gladding refused to identify the source of his advance knowledge of the raid, claiming that he was protected by the First Amendment. The trial judge then ordered Gladding to answer all questions, and held that the First Amendment did not give reporters any right to refuse to disclose sources.

In January, the Vermont Supreme Court found that Gladding was entitled to some First Amendment protection. In a unanimous decision, the court said a reporter could protect his sources in a pre-trial deposition unless the information sought was relevant, material to the issue of guilt or innocence, and not available from other sources. Since the information sought from Gladding was relevant only to the issue of the defendants' claims of prejudicial publicity, the trial judge later dismissed the contempt charges. Reported in: *Press Censorship Newsletter,* April-May 1974.

prisoners' rights

Mobile, Alabama

Ruling on a complaint filed by a prisoner in the Alabama Penal System, a complaint alleging inadequate food, toilet facilities, etc., U.S. District Court Judge Virgil Pittman ruled against most of the plaintiff's allegations, holding that unless "conditions rise to the level of cruel and unusual punishment the federal courts will not interfere with the internal management of the prison."

However, in a visit to the Atmore Prison Complex, Pittman found a totally inadequate legal library. "The few volumes of the Alabama Code in the library do not constitute a sufficient legal library," Pittman said. "It is clear that the state penitentiary must provide reasonable legal library facilities to its inmates, or legal aid or services, so that he may have full 'access to the courts.' . . . It is therefore

ordered . . . that within a reasonable period of time, and not more than ninety days, these libraries be established at each institution."

Pittman held that the following constitutes a reasonable legal library: United States Code; Code of Alabama, Recompiled 1958; Alabama Reporter, Volumes 270-current; Alabama Appellate Reporter, Volumes 45-current; Supreme Court Reporter, Volumes 76-current; Federal Reporter, Second Series, Volumes 275-current; Federal Rules of Civil and Appellate procedure–latest edition; Federal Rules of Criminal and Appellate Procedure–latest edition; Alabama Rules of Civil Procedure, 1973; a law dictionary, Black's or Ballentine's; Harvard Law Review Habeas Corpus; a recognized form book. Reported in: *Prison Law Reporter,* March 1974.

San Francisco, California

A federal judge issued unusually comprehensive guidelines for prison officials on the censorship of inmate mail and reading material. U.S. District Court Judge Stanley Weigel ruled that censorship conducted at the Deuel Vocational Institution in Tracy was uninformed, capricious, arbitrary, and in violation of the prisoners' First and Fourteenth Amendment rights.

Weigel declared that a book or periodical requested by an inmate must be approved or disapproved within five days, and, if found objectionable, that the reasons be given. He also ordered that, if mail has been disapproved, the inmate be informed in two days.

Among the works the prison officials barred were books by James Baldwin and Karl Marx, books on black psychology, and a variety of legal aids prepared for prisoners, including the *Jail House Lawyers' Manual.* He found that mail from an inmate to his attorney had gone undelivered and that another inmate was refused the forms necessary to comply with court instructions.

Weigel noted that the prison official who made most of the decisions to withhold periodicals from inmates had never received training in analyzing periodicals and had not read a book within the two years preceding the date of his deposition in the case. Reported in: *New York Times,* April 8.

New Orleans, Louisiana

Ruling on a petition filed by an inmate of the federal penitentiary at Leavenworth, the U.S. Court of Appeals for the Fifth Circuit declared that "it is firmly established that prison authorities have the right and responsibility to regulate correspondence of inmates."

The appellant claimed that prison authorities at the federal penitentiary in Atlanta, Georgia had interfered with his letters to inmates of the Atlanta penitentiary, had prevented him from determining whether members of his Church of the New Song were given the right to assemble for worship in the Atlanta penitentiary, and had denied him the opportunity to communicate and share religious news, experiences, and ideas. The appeals court, after noting that no question had arisen concerning communications with courts and attorneys, affirmed the District Court holding that prison mail is a matter of internal prison administration and that the guidelines adopted by the Atlanta prison were clearly authorized by policies of the Federal Bureau of Prisons.

Members of the Church of the New Song claim that their rites require Harvey's Bristol Cream Sherry and porterhouse steaks. Reported in: *Prison Law Reporter,* February 1974.

Buffalo, New York

After reviewing records of fact relevant to charges filed by an Attica inmate who contended he was placed in segregation by a prison adjustment committee for having "inflammatory writing" in his cell, U.S. District Court Judge John T. Curtin ruled that the action of the adjustment committee was improper. Speaking of the publication found in the prisoner's cell, *The Black Panther Party Ten Point Program–Platform,* Curtin noted that its principles are "espoused by many individuals in the American community." Reported in: *Prison Law Reporter,* April 1974.

students' rights

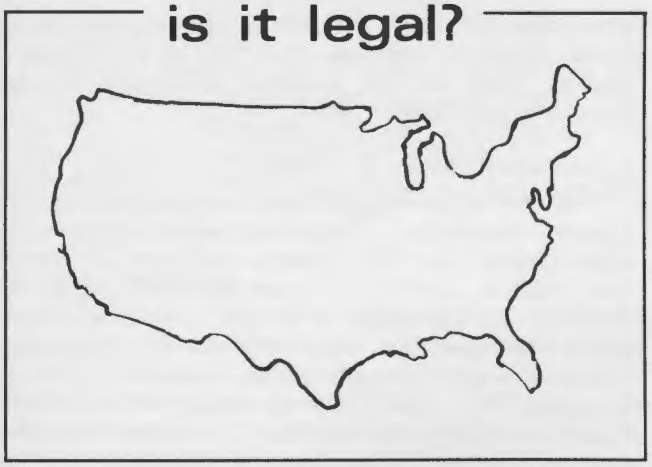
Baltimore, Maryland

After deciding to enjoin the Baltimore County Board of Education from enforcing its policy of allowing principals to censor all nonschool publications by students (see *Newsletter,* May 1974, p. 63), U.S. District Judge Edward S. Northrop said he would lift his injunction when school officials adopt regulations for student publications that will pass constitutional scrutiny. The judge's comments were made in the latest of several hearings in a suit filed by the American Civil Liberties Union on behalf of three Woodlawn Senior High School students who were ordered to stop distribution of privately mimeographed newspapers. Judge Northrop told the board on several occasions that its definitions of libel and obscenity must fall within narrow constitutional limits. Reported in: *Baltimore Sun,* May 14.

Columbus, Ohio

Ruling on a case that involved the classic *Spoon River Anthology,* a federal judge declared that a teacher at Hilliard Junior High School did not violate the constitutional rights of her students when she distributed a censored version of the work. U.S. District Judge Joseph P. Kinneary ruled that students have no constitutional right to

(Continued on page 91)



obscenity

Champaign, Illinois

After hearing objections from Mayor Virgil Wikoff, the Champaign City Council voted seven to two to approve a resolution ostensibly protecting the right of consenting adults to enjoy any books, movies, etc., they find palatable. The intent of the council was to define "community standards" on access of consenting adults to sexually explicit materials. The status of the resolution under state law—especially if it were to come into conflict with a strict state statute—remains unclear. Reported in: *Champaign Urbana News-Gazette,* April 3.

Paducah, Kentucky

A company which operates a theater advertising "adult-rated" films asked a U.S. District Court judge to declare Kentucky's obscenity law unconstitutional because of "threatened action against the theater." The theater has been raided by Paducah police, and allegedly further raids were threatened when the theater scheduled a showing of *Deep Throat.*

The company contends that the Kentucky statute is "vague and indefinite" in light of U.S. Supreme Court guidelines, and that the statute permits unconstitutional prior restraint. Reported in: *Louisville Courier Journal,* March 29.

Hattiesburg, Mississippi

Forrest County District Attorney Rex Jones requested a chancery court judge to ban the sale of April issues of *Playboy* and *Penthouse.* In addition, the court was asked to force the publishers to forfeit to the state all profits from sales in Forrest County.

Judge Howard Patterson ruled that there was probable cause for a hearing in the June term. However, he refused to issue an injunction against the sale of the April issues. Reported in: *Pascagoula Mississippi Press,* March 26.

Dallas, Texas

U.S. District Court Judge William Taylor warned Dallas police officers against seizure of all copies of questionable films before a court determines whether they are obscene. "The police alone should not determine what the community standards of obscenity are," the judge said.

The U.S. Supreme Court has ruled that when only single copies of films are available to exhibitors, courts should order copies made "promptly" so that showings can be continued pending a judicial determination of the obscenity issue. Reported in: *Dallas Morning News,* April 25.

Burnsville, Wisconsin

Sexually explicit movies, lingerie shows in bars, and the public display of such magazines as *Playboy* would be banned in Burnsville under the terms of an ordinance proposed by Mayor Al Hall. Hall, a Mormon bishop, urged the city council to adopt a three part ordinance that would prohibit exhibitions of X-rated movies or any movies "primarily intended to arouse sexual desire"; lingerie shows in bars or cocktail lounges; and display of books and magazines which picture nudes or models in lingerie or underclothing on their covers.

Several attorneys expressed doubt about the constitutionality of the ordinance in view of obscenity definitions adopted by both the Minnesota Supreme Court and the U.S. Supreme Court. Reported in: *Minneapolis Star,* May 7.

the press

Los Angeles, California

The American Broadcasting Company and the Columbia Broadcasting System filed a fifty-nine-page memorandum and a 350-page appendix in U.S. District Court in support of a motion to introduce evidence showing that antitrust suits against the three major networks were based on political considerations. The networks maintain that the antitrust actions brought against them violate the First Amendment and represent attempts to bring them into line with Nixon administration views. The Justice Department opposed the networks' motion on the grounds that such evidence was "prejudicial, immaterial and insufficient in law" and "not a proper subject of proper inquiry," as well as "frivolous and insufficient."

Much of the material the networks would like to introduce as evidence was made public as a result of the Watergate scandals and Congressional hearings. Among the items in the appendix was a note from White House Deputy Director of Communications Jeb Stuart Magruder to H. R. Haldeman in November 1973. It said the government's

"power at hand," including the antitrust division, would be "effective in changing [alleged network criticism of Nixon] views in . . . the matter." Reported in: *Variety,* May 1.

Washington, D.C.

Before the issue of its policy affecting reporters was to be argued before the U.S. Supreme Court, the Bureau of Prisons disclosed that it was revising its guidelines on interviews with federal inmates. The case involved the *Washington Post* and one of its former editors and writers, Ben Bagdikian, who filed suit against Attorney General William B. Saxbe in an effort to gain access to selected prisoners who had been on negotiating committees at Lewisburg and Danbury prisons.

In a letter to the Clerk of the Supreme Court, Solicitor General Robert H. Bork said the Bureau of Prisons had modified its total ban on press interviews at federal prison institutions that can be characterized as minimum security. The revised policy will permit press interviews subject to reasonable regulations as to place, time, and number. The new rule affects approximately 5,800 inmates or slightly less than one-fourth of the inmate population.

Attorneys for the *Washington Post* had contended that the First Amendment applies to the right of access to news sources as well as the right to publish. Reported in: *Washington Post,* April 18.

Atlanta, Georgia

In 1972, WSB-TV in Atlanta broadcast a filmed news report by reporter Thomas Wessell on the public trial of six high school youths charged with the rape-murder of a teenaged girl. The report, which was broadcast eight months after the girl's death, referred to her by name. The victim's father sued WSB-TV and Wessell for money damages, alleging that the broadcast had invaded his privacy. He relied on a Georgia criminal statute which prohibits the publication or broadcasting of "the name or identity of any female who may have been raped or upon whom an assault with intent to commit rape may have been made."

In a divided opinion last fall, the Supreme Court of Georgia upheld the statute as constitutional. It rejected arguments by Cox Broadcasting Corp., owner of WSB-TV, that the law was in violation of the First Amendment. The court ruled that the statute established as the public policy of Georgia that disclosure of the name of a victim of rape or attempted rape was not a matter of public interest or general concern. Even without the statute, the court stated, the father of the deceased girl had a claim against the broadcaster for invasion of privacy.

Three dissenting judges criticized the decision as inconsistent with freedom of speech and press and contrary to the rule that a publication in connection with a matter of public interest cannot violate anyone's right of privacy. The U.S. Supreme Court has granted review. At least two other states (Wisconsin and South Carolina) have statutes similar to the Georgia law which will be affected by a Supreme Court decision. Reported in: *Press Censorship Newsletter,* April-May 1974.

St. Petersburg, Florida

Two criminal contempt of court citations, each carrying a prison sentence, are now pending against *St. Petersburg Times* reporter Lucy Ware Morgan. In November, Morgan was found in contempt of court and sentenced to five months in jail for refusing to identify a confidential news source when questioned under subpoena by a Florida state attorney. In December, Morgan again refused to identify her source, this time under questioning before a Pasco County grand jury. She was found in contempt a second time and sentenced to ninety days in jail. Both jail sentences have been stayed pending separate appeals of the two contempt citations.

Florida officials maintain that their questioning of Morgan was justified as part of an investigation into a possible violation of Florida's grand jury secrecy law. They contend that an article by Morgan about a secret grand jury report on alleged corruption among local officials indicates that some grand juror may have violated Florida law by disclosing what went on in the jury room. In her defense, Morgan has argued that both the state's attorney and the grand jury lacked authority to question her and that compelled disclosure of a reporter's confidential sources violates the First Amendment. Reported in: *Press Censorship Newsletter,* April-May 1974.

Montgomery County, Maryland

A Montgomery County school principal has filed suit against the *Montgomery County Sentinel,* its former editor, Roger Farquhar, and two reporters, claiming that he was libeled by a 1971 article which characterized the principal as "unsuited" for his job. The article was written by former *Sentinel* reporters Bob Woodward, now a reporter for the *Washington Post,* and William Bancroft, currently with the *Winston-Salem* (N.C.) *Journal.*

As part of his defense on the issue of malice, Farquhar claimed that before publication the article was shown to several "experts" in the school system who agreed with its conclusions. When asked to name the experts, Farquhar and the reporters refused. They claimed the experts were confidential sources protected from disclosure by the Maryland shield law and the First Amendment. In November, a county circuit court judge ruled that the defendants were not covered by the Maryland shield law. He said persons not mentioned in a news story but only consulted after the story was written do not constitute "sources" within the meaning of the state statute. The judge then said that if the identities of the experts was not disclosed, evidence of their approval of the article could not be introduced as part of

the newspaper's defense.

The jury decided for the principal. Total damages, after being reduced by the trial judge, were set at $281,000. The newsmen are appealing the judgment, contesting the trial judge's ruling on the applicability of the Maryland shield law. Reported in: *Press Censorship Newsletter,* April-May 1974.

Trenton, New Jersey

In 1949, the New Jersey Supreme Court adopted a permanent rule prohibiting any sketching in state courtrooms, during either trials or recesses between sessions. The virtually unique New Jersey Canon 35 (no permanent sketch ban exists in any federal court and only one other state, Rhode Island, is known to have such a rule) provides that sketching is "calculated to detract from the essential dignity of the proceedings, degrade the court, and create misconceptions with respect thereto in the minds of the public and should not be permitted."

Recently the New Jersey sketch ban appears to have been enforced with particular vigor. NBC sketch artist Ida Libby Dengrove was denied permission to attend two widely publicized New Jersey trials: the murder trial of Joanne Chesimard, an alleged Black Liberation Army leader, and the "mercy-killing" trial of Lester Zygmaniak for the shooting of his brother. At a trial in Hackensack, Dengrove had her sketches confiscated after a clerk called her presence to the attention of the judge, who had been unaware of the sketching until told about it.

In response to these incidents, NBC filed a petition asking the state supreme court to rescind its twenty-five-year-old ban on the grounds that a flat ban on courtroom sketching violates First Amendment press freedoms and the Sixth Amendment right to public trials in criminal cases. NBC also argued that, as a matter of policy, sketching is necessary for effective coverage of trials.

On April 3, the Supreme Court of New Jersey granted NBC's petition. Without reaching the constitutional issues, and instead citing policy considerations, the court declared that, effective immediately, sketching would be permitted in state courtrooms. The court added that New Jersey judges would "retain the power and indeed the duty to take whatever corrective steps may be appropriate" should the conduct of any sketch artist appear to detract from court decorum. Reported in: *Press Censorship Newsletter,* April-May 1974.

Philadelphia, Pennsylvania

Last October, Susan Stranahan of *The Philadelphia Inquirer* reported that a defendant in a perjury trial was also under indictment for conspiracy to murder a government informant. The day the article appeared, U.S. District Court Judge J. William Ditter Jr. warned the press about prejudicial publicity. Stranahan once again mentioned the murder charges in her account of the trial. The next day, Ditter ordered reporters not to mention the other indictments, and specifically warned Stranahan and the *Inquirer* that a violation of the order would result in contempt charges.

When challenged by attorneys for the *Inquirer,* Ditter stated that the 1966 U.S. Supreme Court decision in *Sheppard* v. *Maxwell* authorized a trial judge to take "strong measures" to protect a criminal defendant from prejudicial publicity. Five days later, an appeals court granted a temporary stay of Ditter's order pending resolution of the appeal.

In its appeal, the *Inquirer* contends that a trial judge has no authority to prohibit the publication of information that is a matter of public record. Such a prohibition, the *Inquirer* argues, is a classic form of prior restraint unsupported by any decisions in the "fair trial-free press" area. In March, the U.S. Court of Appeals for the Third Circuit announced that all nine members of the court will hear the appeal. Reported in: *Press Censorship Newsletter,* April-May 1974.

Charlottesville, Virginia

In 1971, Jeffrey C. Bigelow, editor of *The Virginia Weekly,* a Charlottesville underground newspaper, was found guilty and fined $500 for carrying an advertisement for an abortion referral service. A virginia statute makes it a misdemeanor for any person to advertise "or in any other manner encourage or prompt the procuring of abortion." Bigelow appealed, contending that the statute was unconstitutional on its face. The Virginia Supreme Court upheld the conviction, ruling that Bigelow's conduct was purely commercial and that the First Amendment did not prohibit government regulation of commercial advertising.

The U.S. Supreme Court vacated the judgment and remanded Bigelow's case to the Virginia court after the 1973 decision declaring criminal prohibitions of abortion unconstitutional. In November, the Virginia Supreme Court affirmed its earlier decision. The court stated that Bigelow was convicted of abortion advertising and not abortion, and that therefore the conviction was unaffected by the U.S. Supreme Court abortion decision.

Bigelow is once again appealing to the U.S. Supreme Court. He is arguing that the advertisement was not "purely commercial" but contained important newsworthy information entitled to First Amendment protection. He also contends that even if the advertisement could be characterized as "purely commercial," the state still has no legitimate interest in its prohibition, since abortions are legal. Reported in: *Press Censorship Newsletter,* April-May 1974.

(Continued on page 92)

success stories

Blackfoot, Idaho

Go Ask Alice was back in the Blackfoot Public Library after a parent who presumably thought the book should be banned turned it over to a sheriff's deputy. The book was returned to the library after being inspected by Bingham County Sheriff's Deputy Boyd Summers, Bingham County Prosecuting Attorney Kenneth Clarke, and members of the municipal library board.

Clarke said he did not think the book could be considered obscene under standards set by the U.S. Supreme Court. "It doesn't even come close. I'm not going to take any official action," he declared.

Clarke's wife, a newly appointed member of the library board, was asked whether the book should be openly available to all ages of library patrons. "What will you do, have them show an I.D.? It it's going to be in the library, all should be able to read it," she said.

Other members of the library board defended the "open shelf" policy. Reported in: *Blackfoot News,* April 27.

Rock Island, Illinois

After receiving a special review committee's nine-to-one vote in favor of retaining *Go Ask Alice* in school libraries, the Rock Island School Board voted four to one in favor of the committee's recommendation. The advisory panel was appointed after the parent of two students filed a formal complaint against the book's "low literary quality," four-letter words, and explicit sexuality. June M. Stetson, mother of a boy in the eighth grade and a girl in the eleventh, said presence of the book on school library shelves could lead students to consider it "acceptable reading material."

The school board meeting on *Go Ask Alice* was attended by a man smeared with dog excrement and carrying a Bible and a leather briefcase filled with more excrement. The protester, a member of the Bible Missionary Church of Rock Island, was persuaded to leave the meeting before uttering a word. He later told reporters: "I've studied and prayed on this for the past two days and I know what I'm doing is right. If the board accepts this book, what I am doing now will be commonplace in the next twenty years." Reported in: *Chicago Daily News,* April 24, May 15.

Kansas

A school librarian who asked for anonymity reports that members of the baptist church in her community expressed opposition to the sale of *The Exorcist* at a school book fair. When the presence of *The Exorcist* in the school was made an issue at a school board meeting by a new board member, the librarian informed administrators that she would not submit to censorship pressures. Because of the attack, she added extra copies of the work to the school collection.

Racine, Wisconsin

City editor John Fridell of the *Racine Journal Times* came to the aid of the Union Grove High School newspaper and reprinted an entire issue in his own paper after school officials had said the content was "too pornographic" to be distributed to students. Editors of the paper, *The Bronco Times,* had focused the controversial edition on abortion, pregnancy, and contraceptives.

Articles published included "Keep the Child: A First Person Account"; "Birth Control–Alternative to Pregnancy"; "Who Are the Real Rape Victims?"; and "School Assistance for Unwed Families." An introduction to the issue said that the topics treated in the stories "are not taught in school for various reasons . . . but we are convinced that students are mature enough to have the privilege and the right to be informed of the laws that pertain to them."

After the paper was confiscated by the high school principal, the student editors contacted the Racine-Kenosha chapter of the American Civil Liberties Union. An attorney for the Union urged the students to file a lawsuit if the school made further attempts to control the paper.

Fridell said, "We do not find the stories at all objectionable, and felt the content was exceptional." The ACLU attorney said, "Freedom of the press, freedom of speech applies to students as well as everybody else." Reported in: *Chicago Tribune,* May 16.

(Dateline . . . from page 90)

Mansfield, Ohio

More than a thousand city residents, joined by seventeen ministers from Mansfield churches, attempted to close a showing of *The Exorcist* at a shopping center theater. The ministers met with Mayor Richard A. Porter to present him with petitions containing the names of thousands of

persons who objected to the film and to request cancellation of the booking on grounds of "obscenity."

The minister leading the campaign said protestants considered the picture "demonic, satanic, degrading and deteriorating to the morals of persons of all ages."

Mayor Porter, who refused to act against the movie, responded to an accusation that he was not a Christian: "The decision I made was not a moral one but a constitutional one. It is your constitutional right not to see the movie, while we must assure the constitutional rights of others who may choose to see it." Reported in: *Boxoffice,* April 8.

museums

Philadelphia, Pennsylvania

Marcia Tucker, a curator of art at the Whitney Museum of American Art in New York City, refused to serve as a juror for an exhibition at the Philadelphia Civic Center, charging censorship by city officials. The exhibit, "Women's Work—American Art: 1974," was part of a two month celebration of work by women artists and was sponsored by "Philadelphia Focuses on Women in the Visual Arts."

In a letter to the Civic Center's executive director, John Pierron, Tucker asked Pierron to reinstate a work by Judith Bernstein, a charcoal drawing entitled "Horizontal," a nine by twelve foot abstract rendering of a phallus. Tucker wrote: "I am shocked and dismayed at your exclusion of Judith Bernstein's work, and I do not feel I can support the exhibition under the circumstances. Unless this situation is rectified, I will withdraw my name as a juror and disassociate myself from the exhibition completely. I hope you will understand that such censorship is anathema to the support of the creative arts in this country."

Pierron accepted Tucker's resignation. He said that removal of Bernstein's work was an "editing" act. "We're a public museum," he said. "School kids come here all week. I think of my own kids. Do they need that for nurturing? I don't think so." Reported in: *Philadelphia Bulletin,* April 17.

television

Los Angeles, California

Los Angeles television station KTTV announced that it will halt broadcasts of "Superman," "Batman," and "Aquaman." The suspension of the series was part of an agreement with four citizens' groups opposed to violence in children's shows. Reported in: *New York Times,* May 4.

Panama City, Florida and elsewhere

Eight stations in the American Broadcasting Company network declined to carry ABC's presentation of *The Wedding Band,* a play by Alice Childress, which concerns the marriage of a white man to a black woman just after World War I. All of the stations, most situated in the South, rejected the show because of its miscegenation theme.

The play was produced by Joseph Papp, who also produced for the Columbia Broadcasting System David Rabe's *Sticks and Bones,* whose 1973 broadcast was delayed because of affiliate defections. The stations that refused to broadcast *The Wedding Band* are located in Little Rock, Ark.; Nashville, Tenn.; Panama City, Fla.; Monroe, La.; El Dorado, Ark.; Raleigh, N.C.; Tulsa, Okla.; Jackson, Miss.; and Asheville, N.C. Reported in: *New York Times,* April 23.

Binghamton, New York

The manager of television station WBNG substituted an episode of "Bonanza" for a segment of the "Mike Douglas Show" featuring sexologists Masters and Johnson. Station manager George R. Dunham said he considered the show "too explicit."

When asked to explain what he meant by "explicit," Dunham said Masters and Johnson discussed "descriptions of physiological relations involved in sexual intercourse. If it were any more explicit, you wouldn't put it in the paper, either." Reported in: *Binghamton Press,* April 6.

obscenity law, etc.

Fort Wayne, Indiana

The Fort Wayne City Council unanimously passed an obscenity ordinance, with only one member voicing any reluctance on the issue. The ordinance incorporates the U.S. Supreme Court's *Miller* guidelines and provides for adversary hearings for judicial determinations of obscenity when materials are seized under provisions of the ordinance. Reported in: *Boxoffice,* April 29.

South Kingstown, Rhode Island

South Kingstown magazine dealers were told by police to move copies of such magazines as *Playboy* and *Oui* off the newsstands and behind counters. Police said their efforts were directed toward enforcement of a 1971 Rhode Island law governing the sale of periodicals in stores "frequented by minors."

Joseph Kaplan, general manager of Max Silverstein & Sons, a wholesale distributor of magazines, said the statute is "very difficult to figure out" and only sporadically enforced in the state. He added that removal of magazines from view illegally keeps them away from adults. Reported in: *Providence Journal,* May 18.

(From the Bench . . . from page 86)

receive information that a teacher might not choose to give them.

The teacher, Mary R. Meyer, said she did not consider some of the poems proper reading for fourteen-year-old students. She objected to the words "harlot," "lesbian," "bare breasts," and "free love."

In an anticlimactic note, Kinneary added that the teacher could be charged with damaging personal property, inasmuch as the students paid $1.25 each for the book. Such damages, however, are not within the jurisdiction of the federal courts. Reported in: *Belleville* (Ill.) *News Democrat,* March 13.

teachers' rights

Dallas, Texas

A student teacher who was fired by the Dallas Independent School District for allegedly agitating students was ordered reinstated by U.S. District Court Judge Robert Hill. However, the judge refused to consider charges against the school district alleging censorship and denial of free speech. The teacher, Lloyd Gite, charged that his right of free speech was abridged when he was forbidden to discuss an incident involving a Black Panther boycott at a store adjacent to Pinkston High School. Hill said the overriding issue in the case was the ability of the North Texas State University senior to meet requirements for graduation. Student teaching is a prerequisite of the education degree sought by Gite. Reported in: *Dallas News,* April 25.

(Is it legal? . . . from page 89)

Louisville, Kentucky

U.S. District Court Judge Charles M. Allen was asked to order Kentucky corrections officials to appear in court and show why they should not be held in contempt for alleged violations of an order Allen issued last September concerning the censorship of prisoners' mail. According to the motion filed on behalf of an inmate at the Kentucky State Penitentiary at Eddyville, Corrections Commissioner Charles J. Holmes and penitentiary Superintendent Henry Cowan "have patently violated the judgment of this court by opening outside the addressee's presence and subjecting to inspection" privileged correspondence intended for inmates.

Last September, Allen ruled that prisoners' mail from attorneys, government officials, and representatives of the news media is "privileged correspondence" and may be opened only in the presence of the inmate to whom it is addressed. Before Allen's ruling, the Department of Corrections had listed only the governor, the corrections commissioner, the courts, attorneys, and the office of the public defender as "privileged" correspondents.

Allen also ruled that no restrictions can be placed on the number of persons that inmates may write to or receive mail from, and that outgoing mail may not be inspected. Reported in: *Louisville Courier Journal,* April 2.

students' rights

Indianapolis, Indiana

In 1971, no publications could be distributed in Indianapolis public schools without the express prior approval of the general superintendent. Challenged in court by a group of high school students whose unofficial newspaper had been suppressed, that rule was struck down in 1972 as unconstitutional prior restraint.

A new rule was then issued prohibiting the distribution in school of any literature "likely to produce a significant disruption of the normal educational processes, functions or purposes . . . or injury to others." In December, this amended rule was struck down by the U.S. Court of Appeals for the Seventh Circuit. The court found that the rule was vague and overbroad and therefore endangered "full exercise of the students' First Amendment rights." The court also decided a student publication containing "a few earthy words" was not obscene in relation to minors. The Indianapolis school board is appealing to the U.S. Supreme court. Reported in: *Press Censorship Newsletter,* April-May 1974.

Dallas, Texas

Students and teachers at Skyline High School charged in federal court that school officials practice censorship against black history and literature. Attorneys with Dallas Legal Services filed suit in U.S. District Court on behalf of two senior students, Gerald Sherrell and Nina Woods, who protested censorship of black speakers, posters, and literature by the Dallas Independent School District.

Sherrell testified before U.S. District Judge Robert Hill that a black student committee had requested speakers from the Black Panther party, the Uhuru party, and the Black Muslim movement for their Black History Week, February 11-15, "but we couldn't have them because their presence is considered too controversial."

Gloria Akbar, a teacher, testified she had been called in by a principal for including black anthologies, a poem by black poet Langston Hughes, and a tape recording about black history in her literature class.

Nolan Estes, superintendent of the Dallas Independent School District, defended the restrictions by explaining that the district was operating cautiously while its desegregation case remains on appeal. Estes said he was "opposed to any kind of controversy that creates any atmosphere not conducive to learning." Reported in: *Dallas News,* April 17; *Dallas Times Herald,* April 17.

miscellany

Chicago, Illinois

A Chicago attorney filed suit in Cook County Circuit Court charging that scenes of violence in the movie *Papillon* caused his three daughters "irreparable harm" after they were lured by "false advertising" which indicated that the picture was a family film. The attorney asked for $250,000 in damages from the film's distributor, Allied Artists Picture Corporation, from the owners of Cinema 1 and 2 theaters in Highland Park, and from the Motion Picture Association of America. It was the MPAA that rated the film *PG*, indicating that parental guidance was suggested for children. Reported in: *Chicago Daily News*, May 7.

Breckenridge Hills, Missouri

A suit seeking to compel the village of Breckenridge Hills to allow a National Socialist White People's Party bookstore in the municipality was filed in U.S. District Court by the American Civil Liberties Union of Eastern Missouri. The suit, filed on behalf of Dennis Nix, a local party leader, alleges that the conduct of village officials deprives him of his First Amendment right of free speech.

Nix charges in his petition that police officers have seized his pamphlets and tracts on the grounds that he cannot display them without a license, and that village officials have refused to issue him a license because of his political and social views. Reported in: *St. Louis Post-Dispatch*, April 14.

---

clear thinking in Belleville

Belleville (Ill.) Mayor Charles E. Nichols, answering an objection to the city's new obscenity ordinance: "We will not be legislating morality, we will be insuring the existence of community standards of morality." Reported in: *Belleville News-Democrat*, March 19.

$160,000 for study of racism, sexism

Research Action Notes, published by the National Foundation for Improvement of Education, reports that the Carnegie Corporation of New York has awarded $160,000 to the Council in Interracial Books for Children. The grant will be used to develop criteria for use in evaluating textbooks for incorrect, distorted, and negative depictions of minorities and women. The grant also provides for the creation of a syllabus and supplementary materials for a college course on identifying racial and sex stereotyping in school curricula.

We sincerely hope that the efforts of the Council will not lead to another round of demands that "unacceptable" books be removed from school and public libraries. When one considers the sources of racism and sexism in our society, the Council's efforts seem doomed to become a bootless enterprise. If anything is accomplished, no doubt it will be reinforcement of the common notion that good books can be separated from bad like chalk from cheese. A notion, in other words, very dear to those who would remake libraries to conform them to their high standards of moral rectitude.

Books usually betray their authors' attitudes, sometimes by design, sometimes not. Some readers will like certain attitudes, others will despise them. But every author should have—through his book—the right to encounter a person; correspondingly, the reader should have the right to confront the author as a person. Those intermediaries who would stamp out racism and sexism in books have sanctions (largely economic) to apply against one side of the equation. But what about the other side? The children? Who has ever bothered to ask them?—JFK, RLF

Feds say indexes to be improved

A notice in the April 24, 1974 *Federal Register* (pp. 14548-49) invited federal agencies and the public "to assist the Office of the Federal Register in improving the indexes to Federal regulations."

"The people's right to know about their Government," the notice said, "is substantially protected by the Federal Register Act, the Administrative Procedure Act, and the Freedom of Information Act—as the 30,000 plus pages printed in the *Federal Register* in the past twelve months indicate. The people's chance of pinpointing pertinent information quickly and easily, however, may be considerably less substantial.

"A senior citizen checking on his rights must decide whether to look in various indexes under 'Aged,' 'Elderly,' or, more bluntly, 'Old People.' The citizen with a buzzing seat belt who wants to look up relevant regulations may have to shift his mental gears from 'Cars' to 'Automobile' to, at last successfully, 'Motor Vehicles.'

"In an effort to improve this situation, the Office of the Federal Register is developing a thesaurus or vocabulary of subject terms to be used in identifying, indexing and retrieving information contained in the *Federal Register, Code of Federal Regulations* and other Federal Register publications."

(National Standards . . . from page 74)

majority. Nor have judges restricted the ban to literature that is "obscene."

All ideas are of course potentially inciting. The purpose of the Speech and Press Clause is not merely to enlighten people but to offer challenging and provocative ideas as well as comforting ones. One gets the impression from reading conventional discussions of the First Amendment, even those written by our so-called scholars,[9] that the frame of discourse and debate must be within the framework of the existing system and compatible with its basic tenets. That of course is the Russian philosophy. It is the reason why innovative minds who seek relief from the orthodox Marxist creed still go to prison or are made patients in the insane asylums Khrushchev created for the dissenters.

Our First Amendment should save our dissenters from suffering like sanctions. For ideas have a market place and it was assumed by Jefferson and Madison that that market is open to all ideas. That has not, however, been the direction in which judge-made law has evolved. In World War I men who spoke against the draft of soldiers were convicted and went off to prison.[10] Why under the Constitution is discussion of the propriety or morality of a war beyond the pale, whether the war is "declared" by Congress as provided in Article I, Section 8, or launched as a so-called new-fangled Presidential war under Article II, Section 2, of the Constitution? Control of news concerning the dispatch of troops or the movement of vessels while we are at war is control of transmission of information that will bring aid or comfort to the enemy. But discussion of the legality and morality of war–like discussion of the problem of censorship–would seem permissible. It was in that setting that Holmes coined the phrase "clear and present danger."[11] If there was such a danger then speech could be squelched and punished. "Clear and present danger" of what?

That one listener might "dodge" the draft?

That the whole draft project might be defeated?

That enthusiasm for the war would diminish?

That test presupposes that speech which to some degree is or may be effective may be punished. The matter is in reality academic because the test has been abandoned by being stretched to include even a remote, far distant, and highly contingent "danger." That step was taken in the *Dennis* case (341 U.S. 494) where the crime was an agreement (a "conspiracy" in the law) among a group to teach the Marxist creed. They were not plotting revolution, handing out hand grenades, making caches or rifles and ammunition, and the like. They were teachers only–men teaching Marxism. The fact that they were aiming at converts who might some distant day move into action was enough. And so the "clear and present danger" test disappeared[12] and "advocacy" took its place.

A teacher who laid out courses in Marxism explaining what it was, but not evincing enthusiasm for it, was safe. One who, however, "advocated" it could be punished.[13] Yet advocacy relates only to intensity of belief. One who teaches believing in his theme steps across the line.

But the line, in the Jeffersonian sense, was the line between speech and action. Holmes unwittingly gave an example when he said that a person could be punished for shouting "fire" in a crowded theater.[14] Speech and action are then closely brigaded. And there will be other occasional times when a like relationship between speech and action will be evident, though rare.

By taking the line the Court took in the World War I cases and later by adopting "advocacy" as the test, the Court has joined those who allow "political dissent" to be prosecuted, whether here or in Russia. Philosophically they stem from the same premise–that when advocacy is *anti* the existing ideological regime, it is beyond the pale–the advocacy of a private sector in Russia, the advocacy of an overall socialist sector here.

Beliefs under our system are sacrosanct. What one believes is beyond the reach of government. "Do you believe in God?" "Do you believe in socialism?" "Do you believe in Henry George's Unearned Increment as a political action postulate." These are not permissible questions for House or Senate Committees to ask a witness on pain of contempt.

That is why I thought that the Hollywood Ten–charged with being subversives with Communist beliefs in the movie industry–were unlawfully punished.[15] They refused to answer on the basis of the First Amendment. The First Amendment is indeed a wider, stauncher, more defensible privilege than the Fifth Amendment. Its broad philosophy was stated by Chief Justice Warren in *Watkins* v. *United States* (354 U.S. 178, 200) where he wrote that "there is no congressional power to expose for the sake of exposure." *Watkins,* however, was the most advanced position taken, later decisions indicating a retreat.

In Morristown, New Jersey, on May 19, 1887, Charles B. Reynolds–an ex-Methodist minister who renounced the Bible and started preaching the gospel of free thought–was indicted, tried, and convicted under a New Jersey blasphemy statute. The jury convicted. Robert G. Ingersoll was the agnostic defender. Thomas Hart was the cartoonist for Harpers, showing Ingersoll embracing the Devil as his client. Ingersoll told the jury:

> . . . This statute, under which this indictment is found, is unconstitutional, because it does abridge the liberty of speech; it does exactly that which the Constitution emphatically says shall not be done.
>
> . . . If every man has not the right to think, the people of New Jersey had no right to make a statute, or to adopt a Constitution–no jury has the right to render a verdict, and no court to pass its sentence.

> . . . In other words, without liberty of thought, no human being has the right to form a judgment. Without liberty there can be no such thing as conscience, no such thing as justice. All human actions—all good, all bad—have for a foundation the idea of human liberty, and without Liberty there can be no vice, and there can be no virtue. Take the word Liberty from human speech and all the other words become poor, withered, meaningless sounds—but with that word realized, with that word understood, the world becomes a paradise.
>
> . . . Gladly would I give up the splendors of the nineteenth century—gladly would I forget every invention that has leaped from the brain of man—gladly would I see all books ashes, all works of art destroyed, all statutes broken, and all the triumphs of the world lost—gladly, joyously would I go back to the abodes and dens of savagery, if that were necessary to preserve the inestimable gem of human liberty.
>
> . . . Thomas Jefferson entertained about the same views entertained by the defendant in this case, and he was made President of the United States . . . I sincerely hope that it will never be necessary again, under the flag of the United States—that flag for which has been shed the bravest and best blood of the world, under that in defense of which New Jersey poured out her best and bravest blood—I hope it will never be necessary again for a man to stand before a jury and plead for the Liberty of Speech.[16]

That thesis of Ingersoll's has become the generally accepted one today. But the exceptions multiply where ideas become so "offensive" to some that courts and juries knuckle under to the hysteria of the times. The greatest retreats have been in the field of "obscenity" and of "political ideology."

The greatest retreats have been in the field of "obscenity" and of "political ideology."

No nation made up of mature integrated people would allow that to happen. Perhaps, as some profess, the First Amendment is too strong a doctrine for us. Perhaps those who read it as containing only "admonitions of moderation"[17] are politically more acceptable to mid-America. But the theory of law under a Constitution is to raise the level of conscience and conduct, not to cater to the lower passions and prejudices of the uninformed people among us.

The crucial question so far as the application of the First Amendment to the States is concerned arises in connection with libel and slander actions.

In our early history Congress passed the Alien & Sedition Acts. I Stat. 596, to which Jefferson was deeply opposed and which were not re-enacted in his administration.[18] These acts made it a crime to denounce the President, to call him an ass or otherwise to hold him up to ridicule. Quite a few people were arrested, fined, or imprisoned; and those cases laid heavily on the conscience of the country. The consensus is, I think, with Jefferson that by virtue of the First Amendment Congress has no Constitutional power to pass a libel law. Does the same restriction apply to the States?

In recent years the Court, speaking largely through Mr. Justice Brennan, held that the First Amendment by reason of the Fourteenth banned libel actions brought by candidates for state office for statements made against them during the campaign.[19] In later cases the same principle was applied to plaintiffs, who though not running for public offices, had a "public image."[20] The contents of that category have not been delineated; but it would seem that at least people in leadership positions—football coaches, scout masters, teachers, editors and publishers, forest supervisors, and the like, would be under the umbrella of the First and Fourteenth Amendments.

In all these cases, however, the Court made an exception for statements made with "malice."[21] Free speech, however, in the constitutional sense has never been qualified by the intent with which a statement was made, except of course the passionate zeal identified with "advocacy" as distinguished from mere encyclopedic analysis. Neither, however, has any meaningful significance in terms of First Amendment philosophy. I say—in the light of the Court's repeated statement that a provision of the Bill of Rights, applicable to the States by reason of the Fourteenth, is not a "watered down" version of the particular guarantee—that the guarantee is to be applied with full vigor to the States, exactly as it would be to the Federal Government.

A minority of the Court, notably the late Mr. Justice Harlan, took a contrary view. His conception was that since the Due Process Clause of the Fourteenth Amendment made freedom of speech and of press a "liberty" guaranteed by that amendment, the "liberty" was a "Due Process" kind of "liberty,"[22] having no absolutist overtones. In his view the States, therefore, had freedom to qualify freedom of speech and of press in manners that a majority of the Court deemed to be "reasonable." In that view the First Amendment contained no mandate to the States beyond what others have called an "admonition of moderation."

Mr. Justice Black and I took the opposed idea, repudiating the Harlan stand[23] and embracing the Brennan position as far as it went. We have been criticized for being "absolutists." But that epitaph never bothered us. It was the First Congress and the people who were the absolutists when they made the First Amendment say that Congress

shall make "no law" abridging freedom of speech or of press. Judges, professors, and others with a different social or political philosophy or those who visualize Congress, not the Courts, as keeper of the constitutional conscience are the revisionists who rewrite the First Amendment either to state what they think "ordered liberty" should embrace or to allow free (full) parliamentary control over constitutional restraints in the manner of the British House of Commons.

Moreover, it should be noted that those who headed up promotion of the idea that the Fourteenth Amendment incorporated the Bill of Rights never imagined that it was the Due Process Clause alone that made the First Amendment applicable to the States. In other words, it cannot be confidentially stated that the late Mr. Justice Harlan was correct when he stated that it was the Due Process Clause of the Fourteenth that triggered the First Amendment. It is true that some decisions have been planted firmly on that premise.[24] But Mr. Justice Black and I thought that the entire Section I of the Fourteenth Amendment was the operative provision, not the Due Process Clause alone. Section I speaks of "privileges and immunities" of citizens of the United States, and Mr. Justice Black and I could never think of a privilege or immunity that had a higher claim to recognition against state abridgment than freedom of speech and press.[25]

Do not the recent libel decisions of the Court march inexorably to the conclusion that libel and slander actions are taboo and are no more within the reach of state law than they are within the reach of federal law?

There are those who believe that libel and slander actions are needed lest duels and other species of violence take their place. These are considerable problems.

There is of course a growing tendency of an increasingly powerful government to make the citizen walk submissively to the rightist philosophies now in the ascendency. It may be that those pressures, plus the easy use of electronic surveillance and the invasion of privacy will combine to end an era that brought us close to the Jeffersonian ideal.

The First Amendment is the weathervane. There are ominous signs everywhere that it may be on the decline. Two examples other than those already mentioned may be added. Prior restraint has long been the rule that bans the use of censorship to keep an article from being published. It originated at a time when preservation of the right to trial by jury was paramount. If prior restraint were permissible, then one who defied the censor would be tried for contempt of court, a procedure that conventionally was tried only to a judge, not to a jury. If however the article were published and suit were brought against the publisher, say for libel, he would be entitled to trial by jury. The ancient doctrine has seldom been before the Court. It was tendered in 1971 in the Pentagon Papers Case[26] and it won out in a six-to-three decision, the late Mr. Justice Black being one of the six. So prior restraint seems to be in delicate balance.

Moreover, though television and the radio are concededly under the protection of the First Amendment,[27] the Court has held by overwhelming majorities that Congress and the Executive—or the Executive alone—can hold broadcasters to "fair comment."[28] The dissents have been sparse.[29] So we approach the 1980s with a large chunk of the "press" under government control.

The FCC has recently banned from broadcasting all "drug related" songs. 28 FCC 2d 409; 31 FCC 2d 79. See *Yale Broadcasting Co.* v. *FCC*, CADC No. 71-1780, Jan. 5, 1973, —App. D.C.—, —F.2d—. If the Commission can censor song lyrics, why may it not censor comedy programs or even news broadcasts. Songs may play a large role in public debate, eulogizing John Brown of the abolition movement or Joe Hill of the union movement. They may provide a rallying cry such as We Shall Overcome or express in music the values of the youthful counter-culture. If government can control a broadcaster, why may not it control a newspaper? The rationale of *Red Lion* has indeed been applied to newspapers by at least one state, *Tornillo* v. *Miami Herald Publishing Co.*, —Fla.— (Florida Supreme Court No. 43,009, July 18, 1973, reported at 42 U.S.L.W. 2073).

If government can control a broadcaster, why may not it control a newspaper?

Decisions concerning the depth and scope of First Amendment rights have been momentous ones ever since Hughes in the 30s made it applicable to the States by reason of the Fourteenth. Various forces since World War I have moved inexorably to curtail it and cut it down in interests of "states' rights" and of "national security." As a nation our federalism hardly can allow disparate treatment for literature, movies, public debate, speech and press dependent on the whims or prejudices of local groups. So far as basic freedoms are concerned there must be national standards, lest the most illiterate and least civilized factions lower us to their prejudices and condition the mass media and national publications to the lowest common denominator.

Freedom, moreover, degenerates to submissiveness if tolerance for the errant spirit of man is not honored.

1. Barron v. Mayor and City Council, 32 U.S. (7 Pet.) 243.
2. Allgeyer v. Louisiana, 165 U.S. 578.
3. Stromberg v. California, 283 U.S. 359.
4. Malloy v. Hogan, 378 U.S. 1, 10 (Brennan, J.); see also Johnson v. Louisiana, 406 U.S. 356, 384 (Douglas, J., dissenting).
5. Paris Adult Theatre v. Slaton, 413 U.S. 49, 41 U.S.L.W. 4935; Miller v. California, 413 U.S. 15, 41 U.S.L.W. 4925; Ginsberg v. New York, 390 U.S. 629; Ginsberg v. United States, 383 U.S. 463; Roth v. United States, 354 U.S. 476.
6. Chapter 430, Sec. 1, [1868] N.Y. Laws, 91st Sess. (7 Stat. 309).

7. Miller v. California, 413 U.S. 15, 41 U.S.L.W. 4925, 4934 (Brennan, J., dissenting); Paris Adult Theatre v. Slaton, 413 U.S. 49, 41 U.S.L.W. 4935, 4943 (Brennan, J., dissenting).

8. Miller v. California, 413 U.S. 15, 41 U.S.L.W. 4925.

9. See the note by Professor Bickel, 22 The Public Interest 25 (Winter 1971).

10. Schneck v. United States, 249 U.S. 47.

11. Id., at 52.

12. Judge Learned Hand, writing for the Court of Appeals in that case, phrased the "clear and present danger" test as follows: "In each case [courts] must ask whether the gravity of the 'evil,' discounted by its improbability, justifies such invasion of free speech as is necessary to avoid the danger." 183 F.2d 201, 212. Chief Justice Vinson, writing for the majority in the Supreme Court, adopted that phrase. 341 U.S., at 510.

13. Scales v. United States, 367 U.S. 203.

14. Schenck v. United States, 249 U.S. 41, 52.

15. The Hollywood Ten were, however, convicted for refusing to say whether they believed in Communism. Lawson v. United States, 176 F.2d 49. The Supreme Court denied certiorari, 399 U.S. 934, Justice Black and I dissenting.

16. See Shapiro, Blasphemy Trial, in At Ease (Sunday magazine of The Bergen Evening Record). May 20, 1973, at p. 20.

17. Learned Hand so labeled it. L. Hand. The Spirit of Liberty 278 (Dilliard ed. 1960).

18. By their terms the acts expired in 1801.

19. New York Times v. Sullivan, 376 U.S. 254; Garrison v. Louisiana, 379 U.S. 64; Greenbelt Publishing Assn. v. Bresler, 398 U.S. 6.

20. Rosenbloom v. Metromedia, 403 U.S. 29.

21. New York Times v. Sullivan, 376 U.S. 254, 279-280.

22. Roth v. United States, 354 U.S. 476, 501 (Harlan, J., concurring in the companion case of Alberts v. California).

23. See, e.g., Roth v. United States, 354 U.S. 476, 508 (dissenting opinion of Douglas, J.); Jacobellis v. Ohio, 378 U.S. 184, 196 (concurring opinion of Black J., joined by Douglas, J.); Ginzburg v. United States, 383 U.S. 463, 476, 482 (dissenting opinions of Black, J., and Douglas, J.); United States v. 37 Photographs, 402 U.S. 363, 379 (dissenting opinion of Black, J., joined by Douglas, J.).

24. Stromberg v. California, 283 U.S. 359, 368.

25. The Court has frequently rested decisions on the Fourteenth Amendment generally, rather than on the Due Process Clause. This has been done both in cases on Free Speech and Press, see, e.g., Bridges v. California, 314 U.S. 252, 263 n. 6 (1941) (Black, J.); Murdock v. Pennsylvania, 319 U.S. 105, 108 (1943) (Douglas, J.) (also Free Exercise) Saia v. New York, 334 U.S. 558, 560 (1948) (Douglas, J.); Talley v. California, 362 U.S. 60, 62 (1960) (Black, J.); De Gregory v. Attorney General, 383 U.S. 825, 828 (1966) (Douglas, J.); Elfbrandt v. Russell, 384 U.S. 11, 18 (1966) (Douglas, J.); Mills v. Alabama, 384 U.S. 214, 218 (1966) (Black, J.); Mine Workers v. Illinois Bar Assn;. 389 U.S. 217, 221-222 & n. 4 (1967) (Black, J.), and cases on the Free Exercise and Establishment Clause, see, e.g. Illinois ex rel. McCollum v. Bd. of Educ., 333 U.S. 203, 210 (1948) (Black, J.); Zorach v. Clauson, 343 U.S. 306, 309 (1952) (Douglas, J.); Engel v. Vitale, 370 U.S. 421, 430 (1962) (Black, J.).

26. New York Times Co. v. United States, 403 U.S. 713.

27. Red Lion Broadcasting v. F.C.C., 395 U.S. 367, 386.

28. Columbia Broadcasting System v. Democratic National Committee, 412 U.S.—, 41 U.S.L.W. 4688, 4690; Red Lion Broadcasting Co. v. F.C.C., 395 U.S. 367, 392.

29. Columbia Broadcasting System v. Democratic National Committee, 412 U.S.—, 41 U.S.L.W. 4688, 4699 (separate statement of Douglas, J., concurring in the result). See also id., at 4706, for opinion of Stewart, J., also concurring in the result but finding that the broadcasters are protected by the First Amendment.

ironic footnote

Supreme Court Justice William O. Douglas has a long-standing policy against film or tape coverage of his speeches. In response to a lawsuit brought by Austin station KVUE, Judge Charles Matthews ruled that the First Amendment protects the right of broadcasters to obtain live coverage of lectures at public institutions by public officials such as Justice Douglas. The judge also declared that the Fourteenth Amendment's guarantee of equal protection under the law gives broadcasters the right to use their tools (cameras, microphones, tape records, etc.) just as print media newsmen use theirs.

Judge Matthews granted KVUE's request for a temporary restraining order preventing the University of Texas from enforcing its contract with Douglas for a speech on March 5. The contract contained assurances that no cameras or tape recorders would be allowed in the lecture hall. Informed of the late-hour court order upon his Austin arrival, Douglas went ahead with his speech. It was filmed and taped, and that night's radio and television news carried reports on the lecture, whose subject was government secrecy.

Douglas attributes his no-camera policy to what he terms the tendency of some newsmen to edit tapes and film in such a way as to quote inaccurately and out of context. Reported in: *Press Censorship Newsletter*, April-May 1974.

new SIECUS statement

The Board of Directors of the Sex Information and Education Council of the United States approved ten new "position statements" aimed toward the establishment of human sexual rights. The statements, printed in the May 1974 *SIECUS Report*, include a declaration on explicit sexual materials: "The use of explicit materials (sometimes referred to as pornography) can serve a variety of important needs in the lives of countless individuals and should be available to adults who wish to have them. In this regard we find ourselves in entire agreement with the Majority Report of the President's Commission on Obscenity and Pornography."

(Obscenity laws . . . from page 77)

Note: evidentiary seizure; surrender and destruction of materials after final determination; out-of-state extradition; libraries are exempted

Vermont: H. 373
Definition of obscenity: Miller test (applies to minors only)
Definition of sexual conduct: no definition (defined in present law)
Community: state
Public display: no minors are allowed on the premises where pictorial matter is displayed or visible from public streets
Prior civil proceedings: mandatory (pertains to written material only)
Note: libraries, schools and museums are exempted

West Virginia: H. 627
Definition of obscenity: Miller test (applies to minors only)
Definition of sexual conduct: Burger list
Community: state
Public display: premises open to minors, and visible from public street
Prior civil proceedings: no provisions

Contemporary community standards

Courts in nine states have defined the community whose standards are to be applied in determining the "patent offensiveness" of sexual materials. In its decisions of June 1973, the Supreme Court ruled that the state can be considered the community (formerly, national standards applied); whether, for example, the standards of a county or municipality can be employed was left unresolved by the high federal court.

Alabama: community is defined as the area from which the jury venire is drawn *(Brazelton* v. *State,* Court of Criminal Appeals, 7/29/73).

Florida: a county or lesser political subdivision *(Davison* v. *State,* Supreme Court, 12/20/73).

Georgia: state *(Slaton* v. *Paris Adult Theatre,* Supreme Court, 10/30/73).

Iowa: local community *(State* v. *Lavin,* District Court, 8/13/73).

Michigan: state *(People* v. *One Motion Picture Entitled "Deep Throat,"* Recorder's Court for the City of Detroit, 9/12/73).

New Jersey: state *(Wein* v. *Town of Irvington,* Appellate Division, 1/28/74).

New York: state *(Heller* v. *New York,* Court of Appeals, 12/28/73).

Virginia: local community *(Price* v. *Commonwealth,* Supreme Court, 1/14/74).

Washington: state *(State* v. *J-R. Distributors, Inc.,* Supreme Court, 10/30/73).

Rulings on constitutionality

Courts in ten states have declared their state obscenity laws *un*constitutional: Alabama, California, Indiana, Iowa, Louisiana, Massachusetts, Michigan, New Jersey, North Dakota, and Tennessee.

Obscenity laws in the following states have been ruled constitutionally acceptable: Arkansas, California, Florida, Georgia, Minnesota, Missouri, New York, North Carolina, Ohio, Virginia, Washington, and Wisconsin.

**Memoirs Test:* 1) the dominant theme of the material taken as a whole appeals to the prurient interest in sex; 2) the material is patently offensive because it affronts contemporary community standards; 3) the material is utterly without redeeming social value. (*Memoirs* v. *Massachusetts,* 383 U.S. 413 [1966])

Miller Test: 1) whether "the average person, applying contemporary community standards" would find that the work, taken as a whole, appeals to the prurient interest; 2) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; 3) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. (*Miller* v. *California,* 413 U.S. 15 [1973])

Burger list: 1) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated; 2) patently offensive representations of masturbation, excretory functions, and lewd exhibition of the genitals.

Prior civil proceedings: usually, a suit for a court declaration as to whether a given work is "obscene" (or "harmful to minors") under the applicable statutory definition (a suit which can be instituted prior to any criminal prosecutions).

General verdict: the usual form of a verdict, in which the jury finds either for or against the plaintiff or defendant in general terms.

Special verdict: a finding of fact (e.g., that a work is "obscene") by the jury.

Chicago SDS suspended

The Student Government at the University of Chicago imposed a six month suspension on the Students for a Democratic Society. Members of the organization engaged in a boisterous demonstration which prevented Professor Edward C. Banfield from delivering a scheduled lecture at the university on March 20 (see *Newsletter,* May 1974, p. 55).

Banfield, an urbanologist at the University of Pennsylvania, is the author of *The Unheavenly City.* The work advances the thesis that disadvantages of culture, not overt discrimination, impede the progress of minority groups. Members of the Chicago SDS denounced Banfield as a racist. Reported in: *Chicago Tribune,* May 19.

(Let me say this . . . from page 75)

plant with government contracts who writes signed letters to the newspaper criticizing the military establishment; a college librarian who agrees to show a pornographic film to a film study class; removal from a university library of diet books considered unsound by a well-known nutrition professor.

The cases are presented objectively and two cases are analyzed to provide sample approaches. However, the individual reading the book becomes frustrated because the cases require discussion. The book is really suited, and seems intended for, use with groups or classes. Library school students would enjoy working through solutions to the cases, and would at the same time be exposed to some of the possible problems involving intellectual freedom. Library associations in many states have held intellectual freedom workshops or are planning them. These case studies would be excellent for small group discussions at these meetings.

If nothing else, *Problems in Intellectual Freedom and Censorship* provides librarians with a reminder that censorship appears in many forms and from unexpected, as well as expected, sources.–*Reviewed by Linda Crowe, Assistant Professor, Graduate School of Library Science, Rosary College.*

Political Prisoners in America. Charles Goodell. Random House, 1973. 400 p. $8.95.

Political Prisoners in America is a study of political dissent and its consequences in the United States. It reports what the government does to those who openly disagree with its policies, whether their expression be the printed word, mass protests or symbolic actions.

Citizens who engage in active political dissent risk the consequences of antagonizing those in power, i.e., they risk becoming political prisoners. The government may bring the mechanism for the enforcement of criminal law to bear upon them in an effort to stifle protest and to punish dissent. Those advocating alternative policies or political goals may be prosecuted, tried, convicted and sentenced.

This manipulation of "America's criminal process for political ends" has two major consequences. What is essentially a nonpolitical process for the enforcement of enacted law is subverted to protect those in power from criticism. When political attitudes are subjected to legal sanctions, the criminal process loses its integrity. One striking example of this was the Chicago Conspiracy Trial. Equally dangerous to the well being of our society is the elimination of dissent through political prosecution.

Political prosecutions, political prisoners, are not novelties of recent years. Goodell documents how from the very beginning of the republic repression of political dissent has been a means of discouraging opposition and criticism. The Sedition Act of 1798 was an attempt by the Federalists to outlaw "false, scandalous and malicious" statements. When the Federalists lost power and the Sedition Act itself was no longer in effect, President Jefferson still managed to have Federalist journalists charged and convicted of seditious libel, claiming that "a few prosecutions . . . would have a wholesome effect of restoring the integrity of the presses."

While political prosecution is not a new phenomenon, today it is arguably more dangerous to the well being of a free society than ever before. Technology has given a new level of competence to those who are disposed to repress dissent. Snooping devices record and computers efficiently compile and retrieve material for dossiers on citizens.

Goodell has in this book described what is a serious problem; he has given it a historical perspective and has offered suggestions on how a large pluralistic society can accommodate and benefit from political dissent. For readers especially interested in the problems of censorship and intellectual freedom, Goodell's work is a useful source book. More important, however, is its contribution to an awareness that censorship has many facets. Publishers and librarians often meet the censor over works with sexual content. *Political Prisoners in America* reminds one that the threats to intellectual freedom are varied and may come under the guise of national security as well as someone's personal idea of morality and obscenity.–*Reviewed by Lin Murphy, University of Saskatchewan.*

Student Rights: A Guide to the Rights of Children, Youth and Future Teachers, Martin Haberman. Association of Teacher Educators (1201 16th Street, N.W., Washington, D.C. 20036), August 1973. 35 p. $2.50.

For a fast review of court cases in the field of student rights, this brochure (ATE Bulletin 34) should prove useful as a supplementary aid to other basic sources now available. Citations for twenty-six court cases remind us of advances being made in the area of the First Amendment (freedom of expression, dress, and grooming), thanks to the Supreme Court decisions *In Re Gault* (1967) and *Tinker* v. *Des Moines School District* (1969). Lesser advances have been made with regard to search and seizure, invasion of privacy, and discipline.

The author, a professor of education at the University of Wisconsin-Milwaukee, tries to carry over these exciting developments to the programs of teacher education. A special Bill of Rights for future teachers is proposed. The carry-over makes a lot of sense from the viewpoint that teachers trained in the democratic process and sensitized to the importance of the Bill of Rights can bring this experience into the classroom. A very ambitious program is proposed for schools of education to guarantee the rights of

teachers in training as a way of insuring innovative and creative learning experiences for our children.

While this approach (matter of educational policy) tends to get away from the strict limits of academic freedom, it demonstrates the great potential of further developments and ramifications of the student rights movement.

For those interested in the rights of children and young people, I highly recommend the new ACLU handbook on *The Rights of Students* (Avon, $.95) and the gold mine of information in the *Harvard Educational Review,* November 1973 and February 1974, "The Rights of Children", parts I and II, $3.50 each.–*Reviewed by David Cohen, Librarian, Plainview-Old Bethpage High School, Plainview, New York.*

(Supreme court . . . from page 78

factually accurate statements. Rather they must show that a regulation authorizing mail censorship furthers one or more of the substantial government interests of security, order, and rehabilitation." The decision invalidated the broad mail censorship policy used by prison officials in California. *(Procunier* v. *Martinez,* decided April 29.)

• Upheld an order by Chief Justice Warren Burger which allowed the Chicago Transit Authority to ban advertisements calling for the impeachment of President Nixon. The president of the Illinois Chapter of the American Civil Liberties Union, which asked for the reconsideration of Burger's order, said the decision amounted to "censorship" because the Court's review of the merits of the case will probably not occur before the impeachment question is resolved. (Order upheld May 13.)

Review granted

• Agreed to review a federal court decision enjoining an Ohio court order closing a motion picture theater as a public nuisance for showing obscene films, as well as a similar case in which a federal court in Alabama refused to enjoin such action of a state court. (Accepted March 19.)

• Agreed to review the contempt conviction of a Texas attorney that was based on his advising a newsstand operator to refuse to produce four allegedly obscene magazines on the ground that they might tend to incriminate him. (Accepted April 15.)

• Voted to rule on whether the obscenity law approved by the New Jersey Legislature in 1971 is an unconstitutional limit on freedom of expression. A three-judge federal panel declared the law unconstitutional because it would ban "material of serious literary, artistic, political or scientific value, violating guarantees of freedom of speech." The statute under challenge defines obscenity as "that which, to the average person applying contemporary community standards, when considered as a whole, has as its dominant theme or purpose an appeal to the prurient interst." (Accepted April 22.)

• Agreed to decide whether New York courts have properly suppressed a commercially sold book by a psychiatric team at the behest of a patient whose sex life is detailed in the book. Set for argument in the fall was a case titled with the anonymous names "Roe," "Doe," and "Coe Press," in which a doctor seeks to overturn the suppression as an unconstitutional prior restraint on free expression. (Accepted May 28.)

Review declined

• Declined to review a decision barring the University of Mississippi from prohibiting an English department magazine from publishing articles "replete with four-letter words." (Declined May 13.)

• Declined to review a Louisiana Supreme Court decision declaring unconstitutional Louisiana's obscenity statute that requires judges to grant injunctions against "lewd, lascivious, filthy or sexually indecent" pictures or magazines at a prosecutor's request. (Declined May 28.)

News media

The Supreme Court has granted review in the following cases involving the press: *Miami Herald* v. *Tornillo* (Florida right of reply law); *Procunier* v. *Hillery* (inmate's right to press interviews); *Wolff* v. *McDonnell* (prisoners' mail rights, including media correspondence); *Cox Braodcasting Co.* v. *Georgia* (Georgia criminal ban on publication of rape victim's name); and *Holder* v. *Banks* (attorney barred from representing client because of press interview).

---

librarians bribed??

Taking a crack at a proposed law that would have made it a prison offense to disseminate obscene materials to those under eighteen years of age, the chairman of the Alaska Senate Judiciary Committee recommended an immediate investigation of all librarians. "Some sort of security check might be needed for the librarians handling Shakespeare, Chaucer, Longfellow, Mailer, Ginsburg, Faulkner, and Steinbeck," Senator Robert Ziegler said.

"The librarians are going to be subjected to tremendous pressures, offered all types of bribes and temptations to make pornographic works available to those under eighteen," Ziegler spoofed. "I think it would be a relatively simple matter to detect those librarians who have accepted bribes for allowing unauthorized readers to obtain copies of Shakespeare, Chaucer, Longfellow, Mailer, Ginsburg, Faulkner, and Steinbeck. Any unusual accumulation of bubblegum, marbles, and jawbreakers found in their possession should be sufficient evidence for conviction." Reported in: *Anchorage Daily Times,* April 8.

reply bills defeated

Legislators in three states killed bills which would have required newspapers to publish replies from persons who claimed they were assailed or criticized in print.

The Pennsylvania House of Representatives rejected by a vote of 104 to 78 an amendment to a bill dealing with legal advertising that would have given equal space to candidates or elected officials who are subjects of stories that "clearly imply misconduct."

By a vote of twenty-four to nineteen the North Carolina General Assembly killed a similar bill. The defeat was praised by Sam Ragan, president of the North Carolina Press Association, who said the state's papers "already practice the principle of right to reply."

Vermont legislators voted down a bill designed to require newspapers to pay carriers more when supplements are printed. The bill was defeated largely because of the political implications of amendments that would have given persons who are "assailed" by a paper equal space to reply. Reported in: *Editor & Publisher,* April 27.

for the little old lady in Harlan

"I'm setting my standards at the box office," said Al Woodraska, owner of the Harlan (Iowa) Theater, the only movie house in town. "That's what pays the bills." To pay the bills, Woodraska shows *X*-rated movies once a month. *Midnight Plowboy* was April's profitable feature, *Teenage Bride,* May's.

Harlan is a farm town and county seat in western Iowa. The telephone directory lists twenty taverns, twenty-eight churches, and forty-three farm equipment and feed dealers.

Last year, *X*-rated movies drew city council condemnation and pickets from the local Baptist church. This year hasn't seen a ripple of protest. "People say they don't want *X*-rated movies, but they sure support them," said Woodraska. "It's the only thing they'll come and pay for. It's just that simple."

Shelby County Attorney John Sawin said, "As of today, the community standard is, 'We'll tolerate it.' " Sawin reported he had received no complaints. "If you don't have any complaints, you assume the community is satisfied." Reported in: *Champaign Urbana News-Gazette,* May 22.

Bradlee sounds warning on S. 1400

Ben Bradlee, executive editor of the *Washington Post,* warned his colleagues at the Dirks newspaper forum in Atlanta that S. 1400, a Nixon administration bill to revise the federal criminal code, would emasculate freedom of the press.

The proposed legislation, Bradlee said, would make it a crime to reveal any classified information, wisely or unwisely classified, military or nonmilitary, true or false. In explaining the implications of the bill, Bradlee cited an instance in which an administration official told a *Post* reporter that the newspaper company might be forced to sell its broadcast properties if it persisted in printing the Pentagon Papers.

He said Richard Kleindienst, then a deputy attorney general, asked a *Post* reporter if publisher Katherine Graham fully understood the law involving ownership of television stations.

Specifically, the law prevented convicted felons from owning broadcast property," Bradlee stated. "If we persisted in publishing the Pentagon Papers, the attorney general went on, and if we refused to turn them over to the Justice Department, we were laying ourselves wide open to criminal prosecution under the Espionage Act." Bradlee characterized the conversation as "blackmail." Reported in: *Chicago Sun-Times,* April 17.

Three Marias win rights case

Three Portuguese writers were acquitted by a Lisbon court of having offended public morals with a book attacking the repression of women's rights in Portugal. The acquittal of Maria Teresa Horta, Maria Isabel Barreno, and Maria Velho da Costa came after freedom of the press was established following the military coup April 25.

The case of the "Three Marias" evoked an international protest last year after the authors were charged with publishing a pornographic book, *The New Portuguese Letters.* Among the groups which condemned the censorship of their work was the American Library Association (see *Newsletter,* March 1974, p. 42). Horta and Barreno said that with the new freedom to gather and express ideas, they would start a women's movement. "Today's decision is only the beginning," Barreno said. Reported in: *New York Times,* May 8.

Congressman attacks Purdue editors

U.S. Representative Earl F. Landgrebe (R.-Ind.) joined critics of the student editors of the 1974 Purdue University yearbook for using a hammer and sickle design on the yearbook's cover.

Landgrebe, who was once arrested for distributing Bibles in Moscow, said: "Having spent two weeks inside the con-

fines of the world's second largest prison–the USSR–and having seen firsthand the bitter oppression under which all people, including university students, are forced to live, it's difficult for me to understand the purpose of or the reasoning behind the use of the hammer and sickle emblem on the cover of the Purdue yearbook."

Earlier, State Senator John Shawley asked for an FBI investigation of the printers and artists for Purdue's yearbook. He said that in paging through the book he found subtle references to the "communist cause."

Robert Dittus, the yearbook editor, brushed the controversy aside. Landgrebe, in an unsigned release from his office in Washington, said those responsible for the use of the hammer and sickle "should be dealt with severely." Reported in: *Gary Post-Tribune,* April 30.

CIA book includes agency deletions

The publishers of Victor Marchetti and John Marks' *CIA and the Cult of Intelligence* announced that the book will be released with certain deletions requested by the CIA printed in boldfaced type. The announcement came after U.S. District Court Judge Albert V. Bryan Jr. ruled that the CIA had failed to prove the need to keep the passages secret.

Two years ago, the CIA filed suit asking that publication of Marchetti's work be enjoined until cleared with the agency. The publisher, Alfred A. Knopf, went to court along with the American Civil Liberties Union to challenge the CIA's right to prepublication censorship. After the agency voluntarily reduced proposed cuts from 339 to 168, Judge Bryan ruled that the agency had failed to prove the need for secrecy for any but twenty-seven of the passages.

Because Bryan refused to issue a restraining order while the case is on appeal, the book will be published with the restored cuts in boldface.

Among the proposed deletion was one concerning a cabinet meeting in the White House: "Vice President Spiro Agnew gave an impassioned speech on how the South Africans, now that they had recently declared their independence, were not about to be pushed around, went on to compare South Africa to the United States in its infant days. Finally the President leaned over to Agnew and said gently, 'You mean Rhodesia, don't you, Ted?' " Reported in: *New York Times,* April 21.

invisible obscenity

"The part I felt violated the law was a real quick sequence of a nude man in a shower room. You might miss it unless you were looking closely, but, still, the law said that this was illegal and it was my job to report to the district attorney."–*Lynn Stout, ex-investigator for the Albany, Georgia district attorney who prosecuted Billy Jenkins for showing* Carnal Knowledge. Quoted in: *Atlanta Journal,* May 6.

intellectual freedom bibliography

Compiled by PATRICIA R. HARRIS, Assistant to the Director, Office for Intellectual Freedom.

"AAP Asks Supreme Court for 'New Approach' to Porno," *Library Journal.* v. 99 (March 15, 1974), p. 722.

"ALA Freedom to Read Policy Amplified By Marylanders," *Library Journal,* v. 99 (April 1, 1974), p. 920.

"ALA and Intellectual Freedom: Debate on International Role," *Library Journal,* v. 99 (May 15, 1974), p. 1350.

"ALA's International Role in Intellectual Freedom to be Explored," *LJ/SLJ Hotline,* March 25, 1974, p. 1.

"ALA Midwinter 1974: Fogbound in Palmer House," *Wilson Library Bulletin,* v. 48 (March 1974), p. 579-91.

"Alarming Increase in Censorship," *From the State Librarian's Desk* (California State Library), May 1974, p. 3-4.

Allain, Alex. "The First and Fourteenth Amendments As They Support Libraries, Librarians, Library Systems, and Library Development," *Illinois Libraries,* v. 56 (January 1974), p. 3-14.

"Amendments to FOI Act Are Approved," *Editor & Publisher,* March 30, 1974, p. 11.

"Association of American Publishers Charge Supreme Court With 'Michievous Assaults,' " *Colorado State Library Newsletter,* no. 2 (March 1974), p. 6.

"Anti-Censorship Resolution Approved by New York System," *Library Journal,* v. 99 (May 1, 1974), p. 1251.

Baky, John. "Obscenity Hearings Inconclusive," *Connecticut Libraries,* v. 16 (April 1974), p. 24.

"Book Burnings and Bannings," *Intellect,* v. 102 (April 1974), p. 417.

"Book Publishers Ask Supreme Court for New Approach to 'Obscenity Problem,'" *PNLA Quarterly,* v. 38 (Spring 1974), p. 15-16.
Brown, Robert U. "Freedom Under Assault," *Editor & Publisher,* April 13, 1974, p. 56.
Brown, Robert U. "Accuracy, Fairness, Credibility," *Editor & Publisher,* April 27, 1974, p. 60.
Brown, Robert U. "Judicial Restraints," *Editor & Publisher,* April 6, 1974, p. 40.
Cass, James. "What Rights for Children?" *Saturday Review/World,* May 4, 1974, p. 67.
Caston, Frances. "A Teacher vs. a Town," *Scholastic Teacher,* April-May 1974, p. 22-24.
"Censorship by the Sixth Sense," *Wilson Library Bulletin,* v. 48 (November 1973), p. 200.
"Censorship in Canada," *Library Journal,* v. 99 (April 15, 1974), p. 1086.
"Children's Television Programs Under Fire," *Library Journal,* v. 99 (May 15, 1974), p. 1427.
Cohen, David. "Current Freedom of Information Legislation," *Illinois Libraries,* v. 56 (April 1974), p. 274-79.
Congrat-Butlar, Stefan. "Dissident Voices," *The American Pen,* v. 6 (Winter 1974), p. 1-14.
"Court Refuses to Curb Access to U.S. Data," *Editor & Publisher,* March 23, 1974, p. 36.
Darling, Richard L. "Censorship—an Old Story," *Elementary English,* v. 51 (May 1974), p. 691-96.
Douglas, William O. "National Standards for Freedom," *Rights,* v. 20 (February-March 1974), p. 3-7.
Downing, John and Sceats, John. "Should School Dictionaries Be Banned?" *Elementary English,* v. 51 (April 1974), p. 601-3.
"Drake, N.D. School Board Severs Severy's Contract," *Library Journal,* v. 99 (April 15, 1974), p. 1173.
"Flesh Appeal Flops in Georgia, Heads for High Court," *Wilson Library Bulletin,* v. 48 (January 1974), p. 367-68.
"Florida Jr. High Principal Bans Lippincott's 'Cuba,'" *Library Journal,* v. 99 (May 15, 1974), p. 1427.
"Fundamental Human Rights," *Editor & Publisher,* April 6, 1974, p. 6.
Geller, Evelyn. "Intellectual Freedom: Eternal Principle or Unanticipated Consequence?" *Library Journal,* v. 99 (May 15, 1974), p. 1364-67.
Gerhardt, Lillian N. and Cheatham, Bertha M. "ALA's Midwinter Conference, 1974: Report on the Youth Divisions," *Library Journal,* v. 99 (March 15, 1974), p. 69-74.
Gillmor, Donald M. "Judicial Restraints on the Press," *Freedom of Information Foundation* (Columbia, Mo.) *Series,* no. 2, March 1974, 28 p.
Goble, Frank. "Freedom and Responsibilities," *Schism,* v. 4 (Spring 1974), p. 1-3.
Gordon, Sol. "Why Sex Education Belongs in the Home," *The PTA Magazine,* v. 68 (February 1974), p. 15.
Hentoff, Nat. "Librarians and the First Amendment after Nixon," *Wilson Library Bulletin,* v. 48 (May 1974), p. 742-47.
Hepburn, Mary A. "A Case of Creeping Censorship, Georgia Style," *Phi Delta Kappan,* v. 55 (May 1974), p. 611-13.
Hilldrup, Robert P. "Why Sex Education Belongs in the Schools," *The PTA Magazine,* v. 68 (February 1974), p. 12.
"How to Teach Youngsters with . . . What?" *The American School Board Journal,* v. 161 (April 1974), p. 20-21.
Huston, Luther A. "ANPA, ASNE, APME Caution on Proposed Privacy Bills," *Editor & Publisher,* March 23, 1974, p. 12.
"IFC: New Questions," *Library Journal,* v. 99 (March 15, 1974), p. 734-35.
"I.F. Notes," *Library Journal,* v. 99 (March 15, 1974), p. 722.
"Illinois Church Rite: Occult Books Torched," *Library Journal,* v. 99 (March 15, 1974), p. 722.
"Intellectual Freedom," *Nebraska Library Association Quarterly,* v. 5 (Spring 1974), p. 13-14.
"Is Your State on This Bandwagon?" *Wilson Library Bulletin,* v. 48 (April 1974), p. 617-19.
"Lawsuit Over Book Burning," *AB Bookman's Weekly,* April 1, 1974, p. 1323.
Levey, Rose Marie. "Happenings in Education," *The PTA Magazine,* v. 68 (February 1974), p. 2-3.
Lottman, Herbert R. "Life Since Solzhenitsyn: A Hectic One for Lawyer Fritz Heeb," *Publishers Weekly,* April 1, 1974, p. 30.
Moore, Ray N. "Intellectual Freedom Workshop," *North Carolina Libraries,* v. 31, (no. 4), p. 7-11.
Moore, Richard E. "In Preparation for the Censor," *PNLA Quarterly,* v. 38 (Spring 1974), p. 23.
Muller, Al. "The Adolescent Novel in the Classroom," *Media and Methods,* v. 10 (April 1974), p. 32-33.
"NCTE Tackles Issues: Censorship and Testing," *Library Journal,* v. 99 (March 15, 1974), p. 838-840.
"New Group Fighting for Freedom to Read," *Publishers Weekly,* April 15, 1974, p. 21.
"Next Step in Marchetti Case May be Supreme Court Appeal," *Publishers Weekly,* March 18, 1974, p. 22.
Norris, Hoke. "A Free University in Action," *The PTA Magazine,* v. 68 (May 1974), p. 34-37.
"North Carolina's IF Resolution," *Library Journal,* v. 99 (April 1, 1974), p. 950.
Oboler, Eli M. "Public Relations and Intellectual Freedom," *PNLA Quarterly,* v. 38 (Spring 1974), p. 17-21.
"Obscenity Amici Questioned: With So Many Friends," *Wilson Library Bulletin,* v. 48 (March 1974), p. 530-1.
"The Obscenity Tangle," *Library Journal,* v. 99 (April 15, 1974), p. 1086.
"One Teacher Arrested, Another Sues in Censorship Cases," *Council Grams,* v. 35 (March 1974), p. 28-30.
Paulsen, Monrad G. "The Legal Rights of Children," *Child-*

hood Education, v. 50 (April-May 1974), p. 327-9.
Porter, Barry. "On The Obscenity Bill," *The Aardvark,* v. 5 (March-April 1974), p. 1.
"Proposed Position Paper for the Oregon Library Association on S.B. 708," *Oregon Library News,* v. 19 (April 1974), p. 7-8.
"Sakharov in Knopf Piece Warns of 'False Detente,' " *Publishers Weekly,* March 18, 1974, p. 22-23.
Salmons, Lorna. "Would You Consider?" *Missouri Library Association Newsletter,* v. 5 (April 1974), p. 7.
Sanders, Michael. "Book Burning and Brutality," *Index,* v. 3 (Spring 1974), p. 7-16.
Schimmel, David and Fischer, Louis. "On the Cutting Edge of the Law: the Expansion of Teachers' Rights," *School Review,* v. 82 (February 1974), p. 261-79.
"Score One for Intellectual Freedom," *Wilson Library Bulletin,* v. 48 (September 1973), p. 15.
"Sex Stereotyping and Bias Studied by Text Publishers," *Library Journal* v. 99 (May 15, 1974), p. 1427.
Shields, Gerald R. "Viewpoint: A Fire So Tiny," *Library Journal,* v. 99 (March 15, 1974), p. 738.
"Solzhenitsyn Removed From Libraries," *Wilson Library Bulletin,* v. 48 (April 1974), p. 619.
Sternberg, Hilary. "Sakharov and Solzhenitsyn: Champions of Freedom," *Index,* v. 2 (Winter 1973), p. 5-11.
Tedford, Thomas L. "Freedom of Speech: A Selected Annotated Basic Bibliography." January 1974. 13 p. Available from: Speech Communication Module, ERIC Clearinghouse on Reading and Communication Skills, Statler Hilton Hotel, New York, N.Y. 10001.
"Ten States Pass New Obscenity Legislation," *Publishers Weekly,* May 6, 1974, p. 25.
"To Clothe or Not Clothe: 'Night Kitchen' Issue Bared," *Library Journal,* v. 99 (May 15, 1974), p. 1430.
"Trustee Tells State: Exempt Librarians From Obscenity Laws," *Wilson Library Bulletin,* v. 48 (December 1973), p. 294.
Wagner, Susan. "The First Amendment: Supreme Court Reviews 'Carnal Knowledge' Case," *Publishers Weekly,* April 29, 1974, p. 17.
Walden, John D. "The Student Press," *Principal,* v. 53 (March-April 1973), p. 69-71.
Whaley, Elizabeth Gates. "What Happens When You Put the Manchild in the Promised Land? An Experience With Censorship," *English Journal,* v. 63 (May 1974), p. 61-65.
Whitman, Ainsley A. "The Buncombe County Case," *North Carolina Libraries,* v. 31, (no. 4), p. 12-18.
Wilson, Jane. "Intellectual Freedom Committee Report," *Illinois Libraries,* v. 56 (February 1974), p. 134-5.
"WLB's Vigilante of the Month," *Wilson Library Bulletin,* v. 48 (October 1973), p. 126.
"Young Adult Right to Read Statement," *California Library Association Newsletter,* v. 16 (March 1974), p. 18.

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