

newsletter on intellectual freedom



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

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Freedom of Information Act amended

Congress overrides veto

As if to emphasize the need for a more open government, not to mention stricter standards of accountability for federal agencies in the post-Watergate era, members of Congress voted in November to override President Ford's veto of a measure to strengthen the Freedom of Information Act. In the House, the override measure passed by 371 to 31—103 votes more than the two-thirds required. In the Senate, the vote was 65 to 27, three more than needed.

Although some observers of Congress were disappointed with the final version of the bill, most of the proponents of the override of President Ford's veto are convinced that the amendments will make the act a more effective instrument for reporters, citizen-sponsored investigative groups, members of Congress, and others who in recent years have tried to gain access to reports and files of the various federal agencies. The amendments will:

- Require government agencies to publish indexes "quarterly or more frequently" describing information legally available to the public and to make the material listed in the index "promptly available" through standardized request procedures and reasonable documents search charges.
- Give officials ten working days to respond to a request for information and twenty days to answer an appeal. The original refusal must include reasons for turning down the request and notification of the right to appeal the decision to the agency head.
- Permit the courts to award reasonable attorneys' fees to members of the public who "substantially prevail" in freedom of information suits against the government.
- Place the burden of proof on the government to show that opening up law enforcement files would jeopardize police activities or injure an individual. (The current law simply exempts all investigatory files compiled for law enforcement purposes.)
- Allow the federal courts to decide whether a document has been properly classified through *in camera* examination of the material.
- Designate the administrator of the Civil Service Commission as the official responsible for disciplining government employees in cases where information was improperly withheld.
- Require each agency to supply the Speaker of the House and the President of the Senate on March 1 of each year a report giving an account of the number of times the agency decided not to comply with requests for information, the number of appeals of such decisions, the names of persons responsible for denials, as well as any rules adopted by the agency regarding the act.

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to our readers

Many of you regularly send us newspaper articles on censorship in your communities. Because the volume of mail precludes our acknowledging every item received, we would like to express here our deep appreciation for your contributions to the *Newsletter*. Keep 'em coming!—JFK, RLF

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AAParagraphs

From the FREEDOM TO READ COMMITTEE of the Association of American Publishers. In the cooperative spirit that has characterized the long and productive relationship of the ALA Intellectual Freedom Committee and the AAP Freedom to Read Committee, the co-editors of the Newsletter invited the AAP committee to contribute a regular column on publishers' activities in defense of the freedom to read. We are pleased to present here the first article in an ongoing series.

We accept.

We accept, in fact, with tremendous pleasure the NIF editors' offer of a regular column where publishers can speak to librarians about our mutual freedom-to-read concerns. Frankly, we not only welcome this forum in which to discuss AAP's anti-censorship activities, but we are particularly pleased at the prospect of displaying the many interests and concerns that publishers and librarians share.

These wide areas of mutual interest—eclipsing by far, we believe, our relatively narrow areas of differences—are not news at our respective headquarters—ALA's in Chicago, AAP's in New York, and both associations' Washington offices. At those activity centers, our close collaboration on a wide range of legislative, administrative and technical issues is well-known; but it may not be fully comprehended in the "field," and the spread of this word, we believe, can be a happy by-product of this new NIF column.

Specifically in the area of First Amendment activities, it may not be generally known that ALA's Intellectual Freedom Committee and AAP's Freedom to Read Committee meet together at least once a year. The formal minutes of the last such meeting—held in New York last July during ALA's Annual Conference—quite properly reflect the sober roster of issues formally discussed—Supreme Court decisions, state legislation and the like. What such minutes cannot communicate, however, are the cordiality and the informality of the exchanges between us—chairman to chairman, member to member, staff to staff. Out of that July meeting developed a joint ALA-AAP approach to a major national organization which we hope to stimulate to a greater interest in First Amendment issues (of which more when there is more to tell).

We are, in short, glad to be aboard and we feel ourselves among friends.

The year was 1971. Spiro Agnew (remember?) was periodically unburdening himself of attacks against the press, occasionally catching book publishers in the sweep of his gunshots. . . The Commission on Obscenity and Pornography had reported—and its well-documented recom-

mendations had been repudiated by President Nixon. . . A new Supreme Court majority that was to reshape many interpretations of the First Amendment was forming but not yet complete. . .

Against this backdrop, the chairman (then and now) of AAP's Freedom to Read Committee, Kenneth D. McCormick of Doubleday, told an AAP gathering, after enumerating the brushfires that needed quenching that day:

"We might wish that we had the resources to send an expert to lecture on the verities of the Constitution and the subtleties of the law. Yet there's always someone who seems to do the job for us. He's the guy who simply stands up, sticks out his jaw and politely tells everybody that they can all go to hell because nobody's going to tell him what he can or can't read. And nobody argues with him.

"I don't suggest for a minute that we try to refine that gentleman's approach, but I do think we can give education and encouragement to those who are genuinely concerned with these issues and who are quite frankly puzzled by the speed with which things seem to be changing all around them. I would suggest that if the Committee could ever get clear of all its other hassles and could establish some long-range goals, this is where we should start."

Well, it's 1974 as this is written (and 1975, as it's being read) and the FTR Committee isn't "clear of all its other hassles"—and probably never will be. But recognizing the need to set some long-range goals—and perhaps even to "lecture the throng on the verities of the Constitution and the subtleties of the law"—AAP President Townsend Hoopes and Chairman McCormick have restructured the Freedom to Read Committee.

There are now three subcommittees that will feed their recommendations to the full committee—which in turn reports to AAP's Board of Directors: the Legislative and Legal Subcommittee, headed by James Silberman of Random House, concerned with legislation and litigation affecting the right to read and publish freely; the Public Relations Subcommittee, headed by Thomas McCormack of St. Martin's Press (also the full Committee Vice Chairman), charged with devising mass media programs of information on First Amendment issues, and the Education Subcommittee, headed by Arthur Wang, of Hill and Wang, charged with collaborating with other groups sharing AAP's First Amendment interests (e.g., ALA) on diverse programs of education outside of the mass media. The new subcommittees began to function immediately.

The West Virginia schoolbook controversy certainly was not one into which publishers—or anyone—would mix lightly, fraught as it was (and is) with delicate issues involving passionately-held feelings and beliefs. Nevertheless, when the *New York Times* solicited a statement from AAP, and in the light of somewhat inflammatory declarations

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the published word

a column of reviews

The Fear of the Word: Censorship and Sex. Eli M. Oboler. Scarecrow Press, 1974. 362 p. \$10.00.

This treatise is a first in the literature of censorship, a historical analysis of the cultural influences that have led to the suppression or restriction of the literature of sex in Western society from the beginning of civilization to the present day. The approach is broadly interdisciplinary, citing evidence from anthropology, sociology, psychology, linguistics, literary criticism, law, philosophy, and theology. If the emphasis turns out to be theological, this is inevitable; all religions arise from attempts to understand and control the two great mysteries of human existence, sex and death, so the censorship of sexual expression has always been predominantly rooted in religious belief.

Although he briefly summarizes some of the sexual attitudes of ancient religions, Oboler devotes most of his attention to Christianity; he correctly points out that the persistent equation of sex with sin in Christian theology,

derived from the belief that the Original Sin of Adam and Eve was their sexual discovery of each other, is as faulty as it is pervasive; objective exegesis of the Genesis narrative provides no basis for this doctrine, nor does it appear anywhere in the recorded teachings of Jesus. However, it is a very long-established doctrine, first partially developed in the Epistles of Paul and fully articulated in the writings of Augustine. While Oboler is able to quote some present-day theologians who reject this doctrine and argue for the naturalness and goodness of human sexuality, he does not suggest that their views are yet shared by anything like a majority of Christians.

Oboler seems to feel that ancient Athenian (though he falls into the almost universal error of equating Athenian with Greek) society had the most admirable views on sexual expression of any Western culture. Viewed solely from the sexual aspect, perhaps this is true, but in terms of overall

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Kanawha County ALA joins panel of inquiry

At the invitation of the National Education Association, the American Library Association joined a panel of inquiry established to investigate the origins of the particularly violent opposition to the use of several series of board-approved textbooks in the Kanawha County, West Virginia schools. Judith F. Krug, Director of the Office for Intellectual Freedom, served as ALA's representative.

The panel, which included representatives from several national organizations, was established by the NEA after preliminary inquiries addressed to County Superintendent Kenneth Underwood and several teachers indicated that it could contribute to a diminution of the problems of educators in Kanawha County and elsewhere. The panel began its work December 8, and anticipated that its report would be submitted in January.

Statement of Purpose

The work of the panel was based on the following statement of purpose:

"The NEA fact-finding team will analyze the origins and development of the textbook controversy in Kanawha County, with the intent of clarifying and bringing into rational perspective the proper role of parents, students,

educators, and concerned community groups in the shaping of decisions that set the course of educational programming in the public schools.

"In conducting the study, the team will focus on the following issues, which appear as central to the Kanawha County conflict and which are, in fact, educational issues of national concern: (1) What are the rights of parental and community involvement in the selection of public school curricular and supplementary materials? What are the obligations of public school professionals and boards of education to provide for such involvement, and, at the same time, maintain responsible control of the schools? (2) Where is the line drawn between legitimate public concern for and criticism of public school curricula and criticism that is illegitimate and intolerably censorial?

"It is the hope of the National Education Association that the findings and recommendations of this inquiry will be of assistance, not only to the educators, students, and concerned community groups in Kanawha County, but also to other school systems and teacher organizations in preparing for, preventing, and defending against similarly destructive—and educationally disruptive—attacks."

the perils of muckraking

In an article in *[More]* (Sept. 1974) on the effectiveness of the libel suit as a weapon to cripple authors and publishers, David M. Rubin notes that even though a public figure has little chance of winning such a suit, legal costs can quickly dissolve all income from a book.

In a survey of cases that he thinks reflects the plight of dozens of authors, Rubin reports that Hank Whittemore, author of the highly successful *Super Cops*, was sued for \$2 million by a New York City police captain. Whittemore, whose contract with publisher Stein & Day requires him to bear all legal costs, has refused to settle out of court because of his concern for "personal integrity" and because "you'll have a line waiting at your door picking hundred dollar bills out of your pockets."

For authors who are less successful financially, libel suits can mean ruin. For those presenting manuscripts to publishers, the common demand that they indemnify their publishers can present virtually insurmountable problems. And, once published, an author may see his work go unpromoted as the publisher refuses to publicize a book which someone charges is libelous.

Typical is the case of Ovid Demaris, author of *Captive City*. Two major publishers rejected the manuscript, reportedly because of threatened libel actions. Lyle Stuart, who agreed to publish the book, stated that legal expenses from half a dozen suits—one of them dismissed after five years—amounted to \$45,000. Demaris told Rubin that he had received no royalty accounting from Stuart, and only a single \$10,000 royalty payment from estimated sales of 60,000 copies. Stuart said he had charged Demaris only \$10,000 of the legal bill, although the indemnity clause of Demaris' contract requires the author to pay legal expenses to the limit of his resources.

James Ridgeway, contributor to *The New Republic* and *The Village Voice*, commented on the effect of libel suits: "There is no way of measuring the psychological effect of this thing on me. It has different effects on different people. It might have made me practice self-censorship. I don't know." Publication of Ridgeway's *The Closed Corporation* resulted in a \$500,000 claim against him.

archives planned for TV news

The Columbia Broadcasting System and the National Archives have agreed to establish an archives of television news broadcasts. Videotape copies of all regularly scheduled and special news broadcasts of CBS News will be available for research use in the National Archives in Washington, its eleven regional branch archives, and the six presidential libraries.

In addition, the National Archives plans to make video-

tape copies of the news broadcasts to fill requests from public, university, and other libraries operating under the ALA Interlibrary Loan Code. Reported in: *Chicago Sun-Times*, November 15.

One year ago CBS filed suit against Vanderbilt University to halt distribution of videotapes of "CBS Evening News with Walter Cronkite" through the university's television news archive. The university maintained on file more than 3,000 hours of videotape of the news show, and rented tapes on a nonprofit basis to anyone who desired them.

In its suit CBS charged Vanderbilt with illegally distributing CBS property in violation of copyright provisions. According to spokesmen for the university, CBS offered Vanderbilt University a royalty free, nonexclusive license to make videotape recordings of "CBS Evening News with Walter Cronkite" and to make a library of such tapes for use at the university. The university refused to accept the offer because it precluded editing and rental of copies of the tapes for use beyond the university's premises.

At the ALA's 1974 annual conference in New York City, the Intellectual Freedom Committee reviewed the issues of the suit and recommended that the policy and procedural questions regarding the preservation of nonprint media be referred to the agenda of the joint ALA-Society of American Archivists Committee on Library-Archives Relationships.

censorship foes do better in school

According to a survey conducted by the Purdue University Opinion Panel, students opposed to book censorship generally receive higher grades in school than the pro-censorship minority of the nation's high school students. The survey also showed that the anti-censorship majority reads more books outside of the school and that students in the minority favoring censorship were more likely to get low scores on a vocabulary quiz that accompanied the survey.

The nationwide survey was based on a questionnaire completed by more than 8,500 boys and girls in the tenth, eleventh, and twelfth grades.

The survey also showed that:

Five percent of the pupils would approve of burning "sexy, profane, obscene, immoral or filthy material."

Twenty-four percent would let a committee of local citizens screen books used in school.

Ten percent would restrict the rights of individuals to read books on all shades of political and social opinion.

Twenty-two percent would limit the rights of individuals to use libraries on the basis of age, race, religion, national origin or social or political views. Reported in: *New York Times*, November 10.

censorship dateline



libraries

Montgomery County, Maryland

Officials of the Montgomery County Public Schools received a barrage of complaints about *Soul on Ice*, *Manchild in the Promised Land*, and P. E. I. Bonewits' *Real Magic* after a group called Citizens United for Responsible Education (CURE) distributed leaflets that included excerpts from the books. Members of CURE objected to the explicit treatment of sexual themes in the works.

In response, an evaluation committee of teachers, librarians, and administrators was appointed to review the books. None of the works was removed from school library shelves pending the outcome of the committee's review.

Two textbooks which were not mentioned in the CURE leaflet but which were the subject of complaints about sexual stereotyping were also assigned to a review committee. The books were *Our Working World: Families at Work* and *Scott Foresman Reading Systems*. Reported in: *Washington Post*, November 8.

Kalamazoo, Michigan

The Kalamazoo Board of Education voted unanimously to ban *Go Ask Alice* from the school system's libraries because of passages which board members considered "filth" and "garbage."

The board voted to remove the book after the mother of a seventh grade student complained about it. School Superintendent William Coats emphasized that there could be dozens of books bearing similar language in the schools, and that removal of *Go Ask Alice* would not solve the problem. Reported in: *Flint (Mich.) Journal*, November 19.

Oscoda, Michigan

Acting on the complaint of an Oscoda citizen, members of the Oscoda Board of Education voted to remove from high school library shelves *Rivers of Blood—Years of Dark-*

ness, an account of the Watts riots, pending the decision of a review committee.

The complainant characterized the book as "a waste of tax dollars." "Kids can learn it [the language used in the book] on the streets for free," he said. He added that three years ago the book was removed at his request by the former high school principal. He asked why the book had been returned to the library shelves. Reported in: *Alpena News*, October 15.

In a letter to the board, several Alpena librarians protested the decision: "If an item is removed from the collection because of bad language, shouldn't all materials with bad language be removed? This would eliminate almost all new fiction, nonfiction, or magazines from the collection. . . . Other materials can and will be challenged. How much of a collection will you have? If an item is removed from the collection, what are you telling your children of their ability to read, reflect, and respond discriminately?"

Hamilton County, Tennessee

Principals and librarians in Hamilton County schools received in October a memorandum advising them to remove from library shelves all books that are "permeated with four-letter words or whose content is of a nature of perversion" and send them to the County-wide Library Service for review. The memorandum was dispatched by Robert E. Lee, director of media services, at the direction of School Superintendent Dale Carter. It was entitled "Undesirable Library Books."

Carter, who said the memorandum was prompted by complaints from parents, declared that he did not want to eliminate "any established classic," and that the aim of his action was to prohibit the dissemination of "trash."

Carter said he could not accept the philosophy that teachers and supervisors do not have the right to censor or screen the reading materials of students. He added that works will not necessarily be approved for library use just because "street language" has obtained "common acceptance."

In an interview, Lee stated that only two books have been listed as "questionable" since the memorandum was issued. He said there were objections to the language used in *Blueschild Baby*, and to the "filthy language and discussion of homosexuality" in *Run, Shelley, Run*. Reported in: *Chattanooga Times*, October 24.

Dallas, Texas

Several books, among them *Lord of the Flies*, *Farewell to Arms*, *The Death of a Salesman*, *Rabbit Run*, *All the King's Men*, *Catch-22*, and *The Catcher in the Rye*, were removed from Dallas Independent School District high school libraries pending a review of their appropriateness. According to a policy of the school district, the books must be reviewed by a language arts committee and a committee

comprised of board members before they can be permanently removed from library shelves.

Deputy School Superintendent H.S. Griffin said, "It's important we keep only literature that is to the best interest of the children of Dallas. We thought it might be a good idea to bring in the books and review them."

The decision was characterized as "incredible" by Marshall N. Terry Jr., chairman of the English department at Southern Methodist University. "I am very shocked. Every one of these books is a serious and important work of literary merit," Terry said. He added that he hoped the "Dallas public will collapse in laughter." Reported in: *Dallas Times Herald*, November 14.

Virginia

A middle school librarian in southwest Virginia reported to the Office for Intellectual Freedom that two books, *Mash* and *The Diary of A.N.*, were removed from the school library on the order of the superintendent of the school system. The superintendent was of the opinion that their removal would deny no one a good education.

The issue of the books arose when the parent of a sixth grader complained to the school principal that the language of the books is unsuitable for middle school students. It appeared that complaints about school materials in other Virginia districts prompted the parent to bring the complaint to the attention of school administrators.

Canada

Having won out of court settlements and apologies from publishers of four recent books critical of Scientology, the Church of Scientology has vowed to take to court any Canadian library or bookstore that refuses to get rid of the "libelous" works. The books are *The Scandal of Scientology* by Paulette Cooper, *Inside Scientology* by Robert Kaufman, *Scientology: the Now Religion* by George Malko, and *The Mind Benders* by Cyril Vosper.

The Canadian Library Association has announced formation of a legal defense fund to aid libraries confronted with libel suits, and is hoping to organize authors, publishers, booksellers, and libraries into a common front against demands from the Scientologists. Reported in: *Library Journal*, November 1.

schools

Sauk Village, Illinois

In response to complaints from a group led by conservative ministers, the Sauk Village School Board voted to restructure its family life program. Materials dealing with human sexuality originally planned for fourth graders will not be used until the fifth grade, and the original fifth grade program will be delayed until the sixth grade.

Refusing to accept the board's attempt at compromise, the Rev. Arnold Hancock vowed to continue the fight. "We will not give up, because the Bible says the authority to teach about sex is given to parents, not the schools." Hancock alleged that sex education in Sweden resulted in unwanted pregnancies, venereal disease, alcoholism, and insanity.

Under the school district's sex education guidelines, parents have a right to keep their children out of family life courses. Reported in: *Chicago Tribune*, November 24.

Pierceton, Indiana

After receiving complaints from more than two-hundred parents, Whitko School Corporation officials agreed to drop the controversial junior high series *Man* from the system's required reading list. According to an agreement reached with teachers, who said they could not teach under controversy, the series will be used as elective reading material in the senior high school.

Parents objected to the use of profanity and the political ideas of selections in the books, which include writings by Eldridge Cleaver and Malcolm X.

School Superintendent J.O. Smith said he recognized that parents have a right to voice opinions on teaching materials; he added that he hoped the agreement would resolve the conflict.

The *Man* texts have been involved in controversies elsewhere in the country, including the violent one in Kanawha County, West Virginia. Reported in: *Chicago Tribune*, November 20.

Prince George's County, Maryland

The Prince George's County School Board voted to remove from the schools an Encyclopaedia Britannica film based on Shirley Jackson's "The Lottery," a short story first published in the *New Yorker* magazine in 1948. The attack on the film was led by Sue V. Mills, a member of the board's conservative majority, who said the board's action was designed to impress upon the county school staff that "this board is serious in what it's been saying about the need for basic education."

The film "totally destroys the tradition of a mother's love for her children and the child's love for her mother," said Mills, referring to the scapegoat in the story and the fact that her children join in stoning her and appear to be relieved that it is she and not they who must die.

John Gruber, president of the Prince George's County Educators Association, said the board violated the teachers' contract by removing materials from the schools. "The indiscriminate censorship of curricular materials is, the association believes, injurious to the quality of education in the county school system," Gruber said.

In what was characterized as an unprecedented move,

thirty-six faculty members, including the dean of the University of Maryland college of education, took a public position opposing the board's decision to ban the film.

Board Member Mills was also the sponsor of a resolution that would remove from county schools a language art series published by D.C. Heath. The series, *Communicating*, was also involved in the controversy in Kanawha County, West Virginia. Reported in: *Washington Post*, November 1, 13.

Jackson, Mississippi

The authors of a new textbook on Mississippi history have charged that their book was rejected for use in Mississippi public schools because of racial bias. James Loewen of Tougaloo College and Charles Sallis of Millsaps College said their book, *Mississippi: Conflict and Change*, gives greater coverage of the black experience in Mississippi, including the civil rights struggle, than other books now in use in the schools.

Loewen, an associate professor of sociology, said "We have heard that the rating committee was particularly upset with our treatment of Reconstruction, slavery, and the civil rights era." The authors characterized their work as consistent with "recognized revisionist historical scholarship."

Garvin Johnston, the state superintendent of education, said he knew of no reason for the rejection by a rating committee of the State Textbook Purchasing Board. He said the board had only to consider "whether or not the book had received a rating by at least four of the seven members of the committee." He added that the book in question "had been rated by only two members." Reported in: *New York Times*, November 10.

Austin, Texas

In final action approving textbooks for state public schools, the Texas Board of Education voted unanimously to remove from the approved list *Linescapes; Spindrift; Trajectories*, a seventh grade reader, and *Timetouchers; Windcharge; Dreamstalkers*, an eighth grade reader, both published by the Economy Company.

Mrs. Billy C. Hutcheson of Fort Worth claimed that the two books violate a Texas penal code provision prohibiting display to minors of materials that would offend the prevailing adult community standards. A letter campaign which she initiated, she said, proved that the books offend the standards of Fort Worth.

Hutcheson cited numerous stories from the text, including "a story on how to make knuckles from a garbage can handle and use them in a gang fight" and a "morbid story of a girl whose brother dies and she worries and worries about when he will be buried."

The books were also protested by Mrs. R.C. Bearden of San Angelo, representing the Texas Society of the Daughters of the American Revolution, because her re-

viewers complained of stories about witchcraft. Bearden contended that witchcraft is a religion and as such cannot be taught in public schools. Reported in: *Houston Chronicle*, November 10.

Following their testimony, Hutcheson and Bearden were sued for \$30 million in a libel-slander suit filed by the Economy Company. Economy alleged that the two women and a third, Linda Eichblatt of the Continuing Task Force in Education for Women, had caused a loss of sales and damage to the firm's national reputation. Reported in: *Chicago Tribune*, November 21; *New York Times*, November 25.

Virginia

School boards in two Virginia counties—Bedford and Carroll—ordered the *Responding* series removed from their school systems. *Responding*, published by Ginn and Company, includes selections from the works of such authors as Chekhov, Robert Frost, James Thurber, Malcolm X, and Philip Roth.

Three members of the Galax Ministerial Association brought the presence of the state-approved books in Carroll to the county board's attention. The Rev. Thomas L. Bird, president of the association, said his group had taken a formal stand opposing their use. Bird's group circulated typewritten sheets quoting passages which the ministers felt were objectionable.

The Bedford County Ministerial Association also expressed objections to the books, stating that they feared the works might become required reading.

Following expressions of dissatisfaction with the Bedford County board's decision, County School Superintendent Robert Parlier announced that the action of the board could be appealed. He said that the board's policies specified that any five heads of households who are dissatisfied with a board decision may appeal through the superintendent to the Bedford County Circuit Court. Reported in: *Roanoke Times*, November 14, 15; *Roanoke World-News*, November 14.

Charleston, West Virginia

At a November 8 meeting televised throughout West Virginia, the Kanawha County Board of Education voted four to one to restore to classrooms virtually all of the textbooks that were temporarily banned following protests which broke out at the beginning of the school year. In what was regarded as a conciliatory move, the board decided to allow parents who object to any texts to request that their children be assigned alternative works.

The only textbooks banned by the board were Houghton Mifflin's *Interaction*, Series Level 4. One other series, D.C. Heath's *Communicating*, was ordered placed in instructional materials centers for possible use as supplementary texts.

Following reinstatement of the books, County School Superintendent Kenneth Underwood won approval of what he termed "a return of normal administrative practices." Parents were warned that authorities would begin to enforce the state's compulsory attendance law.

Calls from protest leaders for a massive boycott of the schools were only partially successful; more than seventy percent of the county's 45,000 pupils appeared for classes on the first school day after the board's decision on the books.

Unplacated and seemingly galvanized by the restoration of the books, the faction-ridden protest groups continued to express their opposition to what they termed "anti-Christian" and "anti-American" school materials. In a legal move, Cedar Grove Mayor John L. Hudnall issued warrants charging that Superintendent Underwood and all board members except Alice Moore, the dissenter, contributed to the delinquency of minors by introducing books that were "obscene" and damaging to children.

Underwood said he thought the warrants were sought in good faith. "I think this matter should be in the courts," he commented. "I think this is where it should have gone two months ago."

Violence also continued. Bags of dynamite were found at two schools, three school buses were struck by gunfire, and a car owned by parents who had been threatened by one anti-textbook faction was firebombed.

Concerned about the extreme protest measures employed in Kanawha County, National Education Association President James A. Harris said the 1.6 million-member NEA "has no quarrel with the right of parents and other citizens to challenge instructional materials in an orderly and objective way. However, we will vehemently oppose any centralized effort by extremists to disrupt our schools."

Harris also announced the formation of a panel of inquiry which the NEA will send to Kanawha County (see report elsewhere in this issue). Reported in: *Washington Post*, November 9, 13; *New York Times*, November 10; *Charleston Mail*, November 12, 14; *Chicago Tribune*, November 14; *Washington Star-News*, November 21.

universities

Odessa, Texas

After the *Windmill*, the campus weekly at the University of Texas-Permian Basin, printed a letter to which President B.H. Amsted objected, the university head ordered all copies of the paper shredded.

The president commented, "This is not a student newspaper. We consider it a house organ." When Joel Asbery, the student editor of the paper, said he would not be a mouthpiece for the administration, he was fired.

The letter, signed by a senior government student, criticized the University of Texas Board of Regents for firing

UT-Austin President Stephen H. Spurr. The student characterized the regents' action as a "deplorable act of dictatorship." Reported in: *Editor & Publisher*, November 23.

museums-galleries

Glendale, California

"I was shocked and felt a public demonstration of some sort was in order," artist Jesus Gutierrez explained after parading some of his rejected nude paintings at an open house before 200 visitors in the Brand Library Art Center. Chief Librarian Jack Ramsey and his executive assistant, Burdette Peterson, who were responsible for arranging the combined exhibit of brothers Jesus, Jacob, and Frank Gutierrez, expressed surprise.

In an interview with the *Los Angeles Times*, Ramsey said, "They understand our qualifications. The agreement gives us exclusive right to prepare any exhibit by selecting, omitting or arranging an exhibitor's work to suit a theme purpose intended and desired by Brand Library." Ramsey supported his aide's decision to omit twelve of twenty colored drawings with nude men, women, and children "because we felt them inappropriate." Jesus Gutierrez described his nude paintings as "very bold, graphic statements that stand on their own." He commented, "The omitted works should not have been censored. They are not inappropriate. I've shown those paintings in my home and my mother's home. My own minister has two of my paintings. One of the censored paintings was hung in my daughter's room and another over the piano where she studies everyday." Reported in: *Los Angeles Times*, October 6.

In a letter to the *Glendale News Press* (Oct. 1), supporters of the Gutierrez brothers stated that "not only did [Brand officials] suggest that he [Jesus] remove certain works, but in fact, insisted that he sign documents guaranteeing their removal. Mr. Gutierrez felt that this was an unfair form of censorship, especially since there was no time to appeal it."

Washington, D.C.

Smithsonian Institution Secretary S. Dillon Ripley personally directed the cancellation of a December 3 appearance by poet and novelist Erica Jong that was to have been part of the Smithsonian Associates' series "Distinguished Women of Letters." In a memorandum signed by Ripley and obtained by the *Washington Post*, Ripley told Janet W. Solinger, Resident Associates director, "I am strongly opposed to the lecture by Ms. Jong." He ordered that no more programs of "contemporary novelists or poets" be scheduled at the Smithsonian.

Ripley's order to cancel Jong's appearance was never carried out because Jong, who was to read an excerpt from her novel *Fear of Flying*, withdrew from the series in a

protest against "censorship."

The incident was the most recent in a series of problems with censorship at the institution.

Poet Nikki Giovanni, who launched the women's series on September 11, offended Ripley and other officials when she questioned whether Gerald Ford was the best man to be President. Assistant Secretary Julian T. Euell called it "an embarrassing ad-libbing performance."

Prior to an appearance by author Anais Nin, Euell warned of "the need to set certain bounds of propriety on the expression of controversial political views by the performers who are engaged for other reasons." Euell added that "any performer who cannot do his or her 'thing' comfortably within reasonable limits of political propriety should not be booked."

Christopher Bird, co-author of *The Secret Life of Plants*, was reportedly canceled as an Associates speaker because officials of the Museum of Natural History disagreed with his views on plants.

A proposed tribute to the late poet Anne Sexton and an invitation to *New Yorker* film critic Pauline Kael were both canceled in line with Ripley's directive about "contemporary" writers.

Meryle Secrest, invited to discuss her book *Between Me and Life: A Biography of Romaine Brooks*, reported that an Associates' official urged her to be "discreet" in discussing the subject of lesbianism, a major theme of the work.

According to reports from employees at the Smithsonian, problems over speakers began two years ago when poet Allen Ginsberg, speaking at the Smithsonian, alleged that the CIA financed opium trade abroad. Ginsberg's remarks prompted angry letters from former Vice President Spiro T. Agnew and Supreme Court Justice Warren E. Burger. Reported in: *Washington Post*, November 23.

Honolulu, Hawaii

In a decision characterized as "final and irrevocable," administrative officers of the Bernice P. Bishop Museum barred Terrance Barrow from the museum's collections, facilities, and files. Because the matter is under litigation, Museum Director Roland W. Force refused to discuss the decision with the Hawaii Library Association or to disclose the reasons behind it.

Barrow has worked for many years at ethnographical museums, including seventeen years at the National Museum of New Zealand, and is the author of several works on the Pacific, the most recent of which is *Art and Life in Polynesia*.

Brooklyn, New York

Richardson Pratt Jr., president of the Pratt Institute, banned artwork showing frontal nudity from three of the institute's public galleries. Pratt, the great grandson of the institute's founder, said he feared offending visitors, and

argued the need for balance between freedom of expression for Pratt's student artists and freedom of choice for visitors to Pratt's public areas.

Pratt noted that the three galleries were in areas that attracted visitors for purposes other than viewing an exhibition. "Among them are visitors—particularly parents of existing and prospective students—who are offended by inadvertently viewing controversial art," he stated.

A spokesman for the institute, Richard Stainbrook, explained that although half of the institute's enrollment consists of art students, there are also schools of engineering, architecture, and professional studies. "You get some parents of engineering students from Brooklyn or the Bronx or whatever and they're pretty conservative—they have a bad enough view of schools without finding this kind of art," Stainbrook said. Reported in: *New York Times*, October 1.

radio-television

New York, New York

An episode in the television series "Marcus Welby, M.D." that dealt with the sexual molestation of a fourteen-year-old boy by one of his teachers was rejected for broadcast by three ABC-TV stations. Following a national campaign coordinated by homosexual rights groups, including the National Gay Task Force, ABC affiliates in Philadelphia and Boston declined to carry the program. It was thought that cancellation by the network's Lafayette, Louisiana affiliate stemmed more from objections to the subject matter than from alleged injustice to homosexuals.

A spokesman for the network said it had sent a wire to each of its affiliates to advise them that ABC had taken the proper precautions with the program and to urge them not to "over-react to the pressure groups."

"Frankly, we're surprised that the gay groups have organized this campaign, because we consulted gay rights people on the original script and made extensive revisions on their advice," said Frederick S. Pierce, senior vice president of ABC Television.

The executive director of the National Gay Task Force said the program could reinforce old myths and play upon the apprehensions of parents at a time when homosexual rights legislation is pending in the Congress and various cities.

After NBC-TV decided to withdraw an episode of "Police Woman" dealing with lesbianism, a spokesman emphasized that the network's decision was not the result of pressures from homosexual rights organizations. He said the program dealt with lesbianism in a "somewhat sensationalized and insensitive" manner which was deemed unacceptable by NBC's program practices department. The network returned the film to Columbia Pictures Television for further editing for play on November 8.

Outraged at the final version of the program, the Lesbian

Feminist Liberation and the National Gay Task Force characterized it as the worst television show ever on homosexuals. Reported in: *New York Times*, September 28, October 11; *Variety*, November 13.

New York, New York

In preparing *Midnight Cowboy* for national broadcast, ABC-TV excised twenty-three minutes from the original 111 minutes, removing almost all references to sex and all scenes of sexual conduct.

Despite the censorship, Morality in Media was prominent among the groups which protested broadcast of the film.

At least three ABC affiliates refused to air the film. One thought it was crippled by the ABC censors. Gary Robinson, program director at WGHP-TV in High Point, North Carolina, objected to the edited version. "The original movie was a powerful story," Robinson said, "but for television they removed so much of it that the edited version was not a good film." Reported in: *Variety*, November 6, 13.

New York, New York

Several commercials used for the movie *Lenny*, based on the life of the late Lenny Bruce, were rejected for reasons other than obscenity by seven New York radio stations. In a telegram to the stations, United Artists Vice President Gabe Sumner called the action "blatant censorship" and asked for equal time to reply. Reported in: *New York Times*, November 11.

Seattle, Washington

Asians for Fair Media, a group of students from the University of Washington and Franklin High School, secured an agreement from radio stations KJR and KYAC to keep the record *Kung Fu Fighting* off the air.

The group contended that "records of this nature perpetuate and condone the use of racially offensive slurs and project damaging stereotype images of Asian Americans and our community." They specifically objected to a portion of the record, sung by Carl Douglas: "They were funky Chinamen from funky Chinatown." Reported in: *Seattle Times*, November 5.

the press

Washingtonville, New York

Proclaiming in an editorial that "I and the members of the staff still firmly believe in God," the editor of an upstate weekly newspaper refused either to accept advertising from or to print news articles about any candidates for political office who favored abortion. Elmer J. Spear, the publisher of the *Orange County Post*, said that despite the loss in revenue he could not have acted otherwise because "we believe that people are killing people."

Spear said that during his thirty years as a publisher his policy had been to accept news releases from any candidate, and to attempt to give equal space to opponents. A spokesman for the American Newspaper Publishers Association in Reston, Virginia called Spear's new policy "absolutely horrendous" and "unprecedented."

Although newspapers commonly refuse to accept certain forms of advertising, it is rare for them to refuse to print certain kinds of news articles as a matter of policy. Reported in: *New York Times*, October 9.

York, Pennsylvania

Jim Scoggins, publisher of the *York Daily Record*, told *Editor & Publisher* (Nov. 16) that he was bitter about a mid-October decision by a group of the city's news media who agreed with Judge James E. Buckingham to suppress all news of a mutilation-murder trial until its conclusion.

"The idea is to sequester the jury and not the press. I was against [the decision] when I found out, and wanted to protest and not go along with it. But I flat chickened out and wish to hell now I would have fought it through," Scoggins said.

At the conclusion of the trial, in-depth news stories filled the two York newspapers, the *Record* and the *Dispatch*. Reporters were present in the courtroom at the week-long trial and took notes, but not a word about the case was printed or broadcast until the verdict was announced.

Jim Snaveley, a *Record* court reporter for ten years and before that a private investigator, who is also president of the Newspaper Guild local in York, asked for a resolution condemning the blackout, and it was passed November 9. Four of the five court reporters in York opposed the blackout. Reported in: *Editor & Publisher*, November 16.

prisons

Stillwater, Minnesota

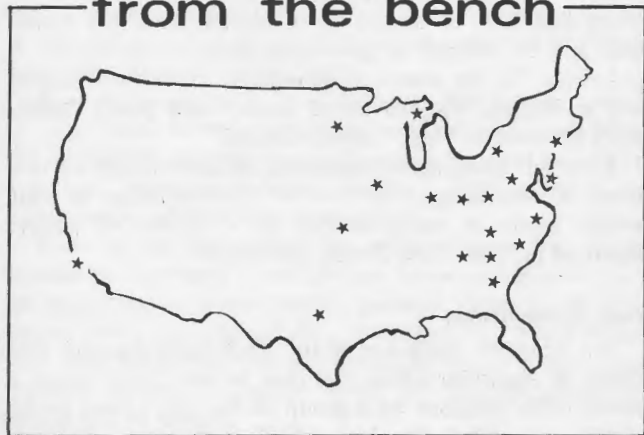
An article in the *Stillwater Prison Mirror* was censored by Warden Bruce McManus because he said it pitted his "personal philosophy" against the Minnesota Corrections Authority parole board. The censored paragraphs commended McManus' "progressive theory on how the system should be run" and condemned the parole board for not following it.

McManus said the references to him were not "in the interests of good harmony" between him and the parole board. "It's my prerogative to censor the newspaper," he said. "It's only a house organ."

The incident was the first occurrence of censorship in the history of the newspaper, which was founded in 1887. Reported in: *Minneapolis Tribune*, November 9.

(Continued on page 18)

from the bench



U.S. Supreme Court rulings

In First Amendment cases decided early in its current term, the U.S. Supreme Court upheld Maryland's movie censorship law and set aside a lower court ruling that Wisconsin's obscenity law is unconstitutional.

In the Maryland case, the Court's five-to-four ruling supported a lower court holding that police raids and confiscations of film were justified when films had not been submitted to the Maryland Movie Motion Picture Board of Censors for review before they were exhibited to patrons.

The dissenters, Justices William O. Douglas, William J. Brennan, Potter Stewart, and Thurgood Marshall, said they considered the Maryland statute unconstitutional. "By imposing his sanctions in advance, the censor circumvents all the protections of the Bill of Rights," Justice Douglas wrote. In a separate opinion, the other dissenting justices said that in their view the Maryland law is "constitutionally overbroad and therefore invalid on its face."

In a 1965 decision, the Court ruled that the film censorship law was invalid because it lacked procedural safeguards to provide for quick judicial review of movies deemed unacceptable by the censorship board. The law was amended to comply with the Court's ruling. (Case decided October 29.)

In another five-to-four ruling, the Supreme Court ordered the U.S. Court of Appeals for the Seventh Circuit to reconsider its ruling against Wisconsin's obscenity law in light of its recent obscenity rulings. The prevailing justices cited their own decision last year upholding a federal obscenity law and a decision of the Wisconsin Supreme Court upholding the Wisconsin law.

Last May the Wisconsin Supreme Court decided, in light of U.S. Supreme Court rulings in *Miller v. California* (1973), that prosecutors must show that challenged works, taken as a whole, lack serious literary, artistic, political or scientific value (see *Newsletter*, Sept. 1974, p. 116).

Dissenting Justices Douglas, Brennan, Stewart, and Marshall would have declared the Wisconsin statute invalid.

(Case decided November 18.)

In other action, the Supreme Court left standing nine convictions for violations of state and federal obscenity laws. Brief, unsigned orders refusing review in all nine cases were supported by Chief Justice Warren E. Burger and Justices Byron R. White, Harry A. Blackmun, Lewis F. Powell Jr., and William H. Rehnquist. The four dissenting justices would have overturned two of the convictions and ordered new trials in the other cases.

The Supreme Court also declined to review a decision denying a group of Vietnam veterans an injunction against an Oklahoma law prohibiting the display of names of war dead on placards during a protest. The Oklahoma Supreme Court had reversed a decision that the statute was unconstitutional, holding that the protesters could not obtain an injunction against a criminal law. Presumably, they could raise the free speech issue again if they were arrested for such a demonstration.

In a case involving freedom of the press, Justice Powell issued a stay order suspending limitations on New Orleans's reporters that were upheld by the Louisiana Supreme Court. The Times-Picayune Publishing Corporation asked Justice Powell to stay the order of state Criminal Court Justice Oliver B. Schulingkamp, who imposed a total ban on reporting of testimony given in hearings on pre-trial motions in the trial of two defendants accused of committing a highly publicized rape and murder.

Justice Powell said the court was properly concerned that news coverage might threaten the defendants' rights to a fair trial. "But the restraints it has imposed are both pervasive and of uncertain duration," Powell said. "Moreover, the court has available alternative means for protecting the defendants' right to a fair trial."

obscenity law

Baltimore, Maryland

A decision of the Maryland Board of Censors to ban the movie *Spectrum of Modern Human Sexuality* was upheld by Circuit Court Judge Joseph C. Howard, who declared that the "film speaks for itself" and that the testimony of experts who favored its showing was "not particularly persuasive."

The film won the Francis Scott Key Award of the Baltimore Human Sexuality Film Festival in June. The festival was sponsored in part by the Johns Hopkins University Hospital and by the hospital's department of psychiatry and behavioral sciences. Three experts, including a Baltimore school teacher and a Baltimore film exhibitor, told Judge Howard that the film was of "serious literary, artistic, political, and scientific value."

Ruling on the film, which consists of spliced segments of so-called stag films and a narration which the court characterized as "rather intelligent and logical," Judge Howard said: "It is apparent to this court that the respondent is

endeavoring to make that which is visibly impermissible under current obscenity standards acceptable by encouching it in a detached discussion of historical and psychological views of sexuality in the United States. This in the court's opinion cannot be permitted." Reported in: *Baltimore Sun*, November 9.

Los Angeles, California

In ordering the return of more than 2,000 books confiscated from an import firm on the grounds of obscenity, U.S. District Court Judge Warren J. Ferguson ruled that the government must demonstrate what Los Angeles residents really think about pornography if he is to pass judgment on the issue of obscenity.

"The court has no conception at all as to what community standards are," Ferguson said. He told a representative of the U.S. Attorney's office that it is the government's responsibility to produce evidence indicating whether Los Angeles citizens disapprove of books that U.S. customs agents deemed obscene. Reported in: *Los Angeles Herald-Examiner*, October 5.

Atlanta, Georgia

The Georgia Supreme Court upheld the obscenity conviction of Herman Dyke, manager of an Atlanta theater, on two counts of exhibiting obscene material in connection with a showing of *The Devil in Miss Jones*. The court ruled that a Fulton County Superior Court was correct in finding Dyke guilty.

Dyke argued that the state obscenity statute under which he was convicted was "too vague and overly broad to withstand constitutional attacks." He also claimed that the movie is "not merely a stag film, but a full-length film with a continuing story line, an attempt at innovative lighting, and that a moral is gleaned from viewing it." The justices disagreed with his contentions. Reported in: *Variety*, October 2.

Springfield, Illinois

Ruling on cases remanded to it by the U.S. Supreme Court, the Illinois Supreme Court upheld the constitutionality of the Illinois obscenity statute. In its six-to-one decision, the court held that the law adequately conforms to standards established by the U.S. court.

Justice Joseph H. Goldenhersh, who wrote the court's opinion, declared that the statute is neither too vague nor too broad, as charged by two Rockford men who had appealed their convictions under the law to the U.S. court. "Although not phrased in the exact language" of the U.S. Supreme Court's decision in *Miller v. California*, Goldenhersh said, "the basic element of the statutory offense is that the material 'appeal to the prurient interest.'"

Goldenhersh added that "a shameful or morbid interest in nudity, sex or excretion" is specifically included in the statute's definition of "prurient interest." Reported in:

Chicago Tribune, November 28.

Muncie, Indiana

Muncie's new obscenity ordinance was ruled unconstitutional by Circuit Court Judge Alva Cox, who issued a permanent injunction against its enforcement. Judge Cox ruled that the law violated rights protected by the First Amendment.

The complaint against the ordinance was filed by Lawrence Weinberg, owner of the Muncie News, a distributor of magazines and books. Weinberg and other owners of drug stores, supermarkets, and businesses where books and magazines are sold were warned in September by Muncie Police Chief Cordell Campbell that the ordinance, which prohibited display of objectionable materials to minors, would be rigorously enforced.

Among other things, the ordinance prohibited display of "nudity," which was defined as: "uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernably turgid state...." Reported in: *Muncie Press*, September 19, November 12.

Annapolis, Maryland

In a unanimous decision, the Maryland Court of Appeals held that *Deep Throat* is obscene and may be legally banned in Maryland. In the decision written by Judge John C. Eldridge, the court also established that "obscenity" in Maryland law means whatever the U.S. Supreme Court has most recently established that it means.

The court rejected an argument that constantly changing judicial rulings on the definition of obscenity constitute a usurpation of legislative power and hence a violation of the constitutional principle of separation of powers.

The court maintained that because the state's film censorship law had no definition of obscenity for nearly forty years before the general assembly first attempted a definition in 1955, and because the legislature had not tried to define the word again since its first try was struck down in 1965, the legislators intended the courts to use prevailing U.S. Supreme Court standards. Reported in: *Baltimore Sun*, November 26.

Prince George's County, Maryland

A judge and a jury in Prince George's County made contradictory decisions on the obscenity of identical works brought before them.

In September, a jury returned a verdict of innocent in the trial of a Camp Springs bookstore charged with exhibiting and possessing obscene matter with the intent to distribute it.

Even though acquitted of criminal charges, the bookstore cannot sell the works in question. Circuit Court Judge Ralph W. Powers permanently enjoined the store from sell-

ing the works after he declared them obscene in a ruling upheld by the Maryland Court of Special Appeals. The appeals court called the publications "hard-core pornography screaming for all to hear that they are obscene."

The store has asked for a new hearing in the civil case before the Court of Appeals, the state's highest court. Reported in: *Washington Post*, September 27.

Boston, Massachusetts

A Massachusetts judge declared that *Deep Throat*, *The Devil in Miss Jones*, and *Behind the Green Door* are not obscene and proposed that voters be asked whether they want sexually explicit films shown in their communities and in the state. In a ruling that went against rulings on the films in every other federal and state court in Massachusetts, Superior Court Judge Vincent R. Brogna said, "We should find out what the average person in Massachusetts wants or will tolerate as sexual entertainment."

The judge accused prosecutors of failing to provide a reliable survey to determine what offends the average person in the state of Massachusetts in the area of explicit sexual films. "From my own observation," Judge Brogna said, "I saw people waiting in lines to get in to see them."

The case was the first court test of Massachusetts' new obscenity law. Prosecutors announced plans for an immediate appeal to the State Supreme Judicial Court. Reported in: *Variety*, October 23.

St. Paul, Minnesota

After ten hours of deliberation, a six-person jury decided that the film *Youthful Sexual Madness* is not obscene and overturned the conviction of theater owner James Hafiz. "It's a great victory for all who don't want censorship," Hafiz said. "We had fantastic attorneys, a competent, broad-minded judge, and intelligent jurors." Hafiz had been convicted in St. Paul Municipal Court of violating the city's obscenity ordinance last summer. He appealed the conviction to Ramsey County District Court. Reported in: *St. Paul Dispatch*, November 9.

Jefferson City, Missouri

The Missouri Supreme Court upheld Kansas City's obscenity ordinance, ruling that it satisfies provisions of the U.S. Constitution and recent declarations of the U.S. Supreme Court.

Judge Robert E. Seiler said in a separate opinion that the ordinance attempts a definition of obscenity much broader than is possible under the federal Constitution. However, because the court earlier had upheld the ordinance in another case, he said he was forced to concur in the decision.

Judge Seiler noted that if the U.S. Supreme Court had not ruled recently on the movie *Carnal Knowledge*, it would be illegal to show it under the Kansas City ordi-

nance, "as it involves nudity and sex, which is all that would be needed to establish a predominant appeal to prurient interest going beyond customary limits of candor."

Commenting on difficulties in defining obscenity, Judge Seiler added: "It is unfortunate that the Kansas City ordinance continues to be a vehicle for officials to censor what they find distasteful. It is equally unfortunate that this court is willing to make a case-by-case determination with respect to each book, film, play or utterance which comes before us on the issue of obscenity. And our determination of what is and what is not obscene will be based, in actuality, on our own personal notions of 'offensiveness.'" Reported in: *St. Louis Post-Dispatch*, October 15.

New Jersey

Persons who disseminate obscene materials can now be prosecuted in New Jersey, according to a ruling by a three-judge federal panel. Prosecutions by state, county, and local law enforcement authorities were enjoined in August 1973 when the federal panel found New Jersey's obscenity law to be unconstitutional.

On October 15 the federal court reversed itself, lifting the injunction and declaring the statute to be valid as reinterpreted in August by the New Jersey Supreme Court.

"We are bound by the construction of [the state Supreme Court] in the interpretation of New Jersey laws," declared U.S. District Court Judge George Barlow and U.S. Appeals Court Judges Leonard I. Garth and Arlin M. Adams.

The New Jersey Supreme Court rewrote the state's obscenity law, applying what it called "judicial surgery" in order to "salvage" the statute and make it consistent with guidelines established by the U.S. Supreme Court.

Although the issue of the New Jersey law is now on appeal before the U.S. Supreme Court, some observers indicated that the high court may decline to review the case in view of the three-judge panel's decision. Others disagreed, saying that the appeal may go forward since additional legal issues are involved. Reported in: *Newark Star-Ledger*, October 16.

Rochester, New York

The Appellate Division of the New York State Supreme Court reaffirmed an earlier ruling and held that obscenity cases in New York must be decided on statewide standards, not county-wide standards. The unanimous ruling of the five-man panel reversed the obscenity convictions of two Rochester men and ordered new trials for them.

The men, convicted in December 1973, appealed on the grounds that Supreme Court Justice George Ogden had erred in telling the jury to use the contemporary standards of Monroe County in deciding whether the movies the men had shown were obscene. Reported in: *New York Times*, October 26.

New York, New York

Manhattan Supreme Court Justice Thomas Chimera ruled that it takes more than a naked woman on the cover of a magazine to appeal to the prurient interest in sex. The judge turned down Police Commissioner Michael Codd's request that the November issue of *Penthouse* be banned from newsstands. Reported in: *New York Daily News*, November 15.

Greensboro, North Carolina

One month after a judge in Winston-Salem found the movie *Memories Within Miss Aggie* not to be obscene, a Superior Court judge in nearby Guilford County ruled to the contrary. The same experts gave testimony in both cases, but the Guilford County judge declined to attach any significance to it.

Judge Julius A. Rousseau said: "Each of the defendant's expert witnesses were well-educated persons having various degrees and doctoral degrees. Each witness has a specific interest in films . . . and by reason of their training, education, and experience in literary, artistic, and educational fields, they were able to see and perceive distinctions in the film that the ordinary adult would not. . . . The court concludes that their opinions do not reflect the opinion of the ordinary adult as it relates to the average person applying contemporary state-wide community standards to depiction of sexual matters. . . ."

Judge Rousseau ordered Guilford County exhibitors of the film to surrender it to the office of his clerk. Reported in: *Greensboro Daily News*, November 7.

The *Greensboro Daily News* responded to the decision in its editorial columns (Nov. 9): "[We] happen to have different opinions among our editors about whether details in *Miss Aggie* are revolting and also about the movie's artistic pretensions. We have no differences, however, when it comes to opposing censorship of judges. Judges are bound to differ because, like editors, their views about obscenity differ. They have different fracture points, which accounts for the ludicrous situation in which one judge rules one way in Winston-Salem and another judge rules differently in Greensboro. The Burger Court should take a fresh look at the whole subject."

Wilmington, North Carolina

Following the New Hanover County Board of Education's reaffirmation of its decision to authorize use of *The Curious Eye* in county schools, District Attorney Allen Cobb, at the request of County Sheriff H.G. Grohman, filed suit charging that board members and school officials had "unlawfully disseminated certain alleged obscene materials" in *The Curious Eye*.

Ruling on the charge, Superior Court Judge Joshua James rejected the contention that the work was obscene. "From the testimony of the trained and experienced professional educators and teachers, which the court believes is

credible, as well as from personal evaluation of the book as a whole, the court is of the opinion and finds as a fact that the book has serious literary and educational value," James said.

Judge James took pains to emphasize that he had no authority to decide what books should be used in public schools: "Under the law, this court has no responsibility or power to pass judgment upon the general merits or demerits of *The Curious Eye* or any part thereof for use in public high schools or otherwise. This court has no lawful authority generally to substitute its judgment or opinion for that of the New Hanover County Board of Education or its duly appointed employees and agents in determining whether the said books should be approved or disapproved for certain limited use in the high schools. . . ."

Controversy over *The Curious Eye* began when several persons, including Sheriff Grohman, announced their objections to one selection in the anthology—"An Alien Turf" by Piri Thomas.

During the controversy, school officials explained that letters were sent to parents of students giving them the choice of examining the book, and of approving or disapproving its use by their children. According to their reports, only nine out of 200 students were forbidden by parents to read *The Curious Eye*. Reported in: *Wilmington Star-News*, September 12; *Raleigh News and Observer*, October 2, 27.

Toledo, Ohio

An edited version of *Deep Throat* was found to be obscene by Common Pleas Judge George Glasser, who ordered a halt to further showings of the movie in Lucas County. Judge Glasser, who last year held the original version of the movie to be obscene, in a brief decision found that the edited version is also unprotected by the First Amendment.

In the next step in the case, Judge Glasser must hold a hearing to determine whether the operators of the Esquire Theater should be held in contempt of court for showing the edited film in violation of a 1973 obscenity decision and order prohibiting showings of *Deep Throat* in Lucas County. Reported in: *Toledo Blade*, October 21.

In a case involving the Westwood Art Theatre in Toledo, the Ohio Supreme Court refused to hear an appeal from a district court order that the theater post bond guaranteeing that *Deep Throat* and *The Stewardesses* will not be shown again or be closed for a year and have theater contents sold.

The appeals court ruling was based on an earlier decision of the Ohio Supreme Court that the Westwood was to be closed for a year for showing *Without a Stitch*, which was also declared obscene.

An attorney for the Westwood Theatre said that the case involving *Without a Stitch* had been appealed to the U.S. Supreme Court, and that a decision on a similar appeal in the more recent case would soon be made. Reported in:

(Continued on page 19)

New York, New York

Manhattan Supreme Court Justice Thomas Chimera ruled that it takes more than a naked woman on the cover of a magazine to appeal to the prurient interest in sex. The judge turned down Police Commissioner Michael Codd's request that the November issue of *Penthouse* be banned from newsstands. Reported in: *New York Daily News*, November 15.

Greensboro, North Carolina

One month after a judge in Winston-Salem found the movie *Memories Within Miss Aggie* not to be obscene, a Superior Court judge in nearby Guilford County ruled to the contrary. The same experts gave testimony in both cases, but the Guilford County judge declined to attach any significance to it.

Judge Julius A. Rousseau said: "Each of the defendant's expert witnesses were well-educated persons having various degrees and doctoral degrees. Each witness has a specific interest in films . . . and by reason of their training, education, and experience in literary, artistic, and educational fields, they were able to see and perceive distinctions in the film that the ordinary adult would not. . . . The court concludes that their opinions do not reflect the opinion of the ordinary adult as it relates to the average person applying contemporary state-wide community standards to depiction of sexual matters. . . ."

Judge Rousseau ordered Guilford County exhibitors of the film to surrender it to the office of his clerk. Reported in: *Greensboro Daily News*, November 7.

The *Greensboro Daily News* responded to the decision in its editorial columns (Nov. 9): "[We] happen to have different opinions among our editors about whether details in *Miss Aggie* are revolting and also about the movie's artistic pretensions. We have no differences, however, when it comes to opposing censorship of judges. Judges are bound to differ because, like editors, their views about obscenity differ. They have different fracture points, which accounts for the ludicrous situation in which one judge rules one way in Winston-Salem and another judge rules differently in Greensboro. The Burger Court should take a fresh look at the whole subject."

Wilmington, North Carolina

Following the New Hanover County Board of Education's reaffirmation of its decision to authorize use of *The Curious Eye* in county schools, District Attorney Allen Cobb, at the request of County Sheriff H.G. Grohman, filed suit charging that board members and school officials had "unlawfully disseminated certain alleged obscene materials" in *The Curious Eye*.

Ruling on the charge, Superior Court Judge Joshua James rejected the contention that the work was obscene. "From the testimony of the trained and experienced professional educators and teachers, which the court believes is

credible, as well as from personal evaluation of the book as a whole, the court is of the opinion and finds as a fact that the book has serious literary and educational value," James said.

Judge James took pains to emphasize that he had no authority to decide what books should be used in public schools: "Under the law, this court has no responsibility or power to pass judgment upon the general merits or demerits of *The Curious Eye* or any part thereof for use in public high schools or otherwise. This court has no lawful authority generally to substitute its judgment or opinion for that of the New Hanover County Board of Education or its duly appointed employees and agents in determining whether the said books should be approved or disapproved for certain limited use in the high schools. . . ."

Controversy over *The Curious Eye* began when several persons, including Sheriff Grohman, announced their objections to one selection in the anthology—"An Alien Turf" by Piri Thomas.

During the controversy, school officials explained that letters were sent to parents of students giving them the choice of examining the book, and of approving or disapproving its use by their children. According to their reports, only nine out of 200 students were forbidden by parents to read *The Curious Eye*. Reported in: *Wilmington Star-News*, September 12; *Raleigh News and Observer*, October 2, 27.

Toledo, Ohio

An edited version of *Deep Throat* was found to be obscene by Common Pleas Judge George Glasser, who ordered a halt to further showings of the movie in Lucas County. Judge Glasser, who last year held the original version of the movie to be obscene, in a brief decision found that the edited version is also unprotected by the First Amendment.

In the next step in the case, Judge Glasser must hold a hearing to determine whether the operators of the Esquire Theater should be held in contempt of court for showing the edited film in violation of a 1973 obscenity decision and order prohibiting showings of *Deep Throat* in Lucas County. Reported in: *Toledo Blade*, October 21.

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is it legal?



in the U.S. Supreme Court

During its current term the U.S. Supreme Court will decide First Amendment cases involving issues ranging from the rights of student editors to the authority of federal courts to invalidate state obscenity laws.

In cases involving obscenity, the Supreme Court agreed to review the decision of a three-judge federal panel in Los Angeles which invalidated California's obscenity statute. The three-judge panel unanimously ruled that the statute could not pass constitutional standards because it did not specifically define what types of sexual activity could be prohibited in books and movies (see *Newsletter*, Sept. 1974, p. 115). The case involves the issue of whether a federal court may grant an order against state officials when no prosecution is pending under the criminal statute in question.

The Court also took jurisdiction of an appeal by a Florida theater operator from a conviction for maintaining a public nuisance. At issue is the constitutionality of a Jacksonville, Florida ordinance banning the showing of movies revealing bare breasts and buttocks on drive-in theater screens that can be seen from highways.

Another judgment expected this term will decide whether the musical *Hair* is obscene, and whether it was properly banned from the Chattanooga, Tennessee municipal auditorium on the grounds that it violated the city's law against public nudity and Tennessee's obscenity statute. The musical was declared obscene by a U.S. District Court and the U.S. Court of Appeals for the Sixth Circuit.

The Supreme Court has also been asked to decide whether freedom of speech can be curbed in an effort to protect public morality where obscenity is not involved. One case deals with a federal prohibition against broadcasting lottery information, and the other with a Virginia law which makes it a crime to publish advertisements for abortion services.

In 1970 the Supreme Court refused to review a ruling by the U.S. Court of Appeals for the Second Circuit. That court declined to void the broadcast law in a suit brought by the New York State Broadcasters Association. Now, the Supreme Court was prompted to review the issue of the law by a recent decision of the U.S. Court of Appeals for the Third Circuit, which ruled unanimously in a New Jersey case that the statute is an unconstitutional interference with a broadcaster's right to determine the editorial content of news programs.

The question of the constitutionality of the Virginia statute on ads for abortion services arose in a case stemming from the 1971 conviction of Jeffrey C. Bigelow, editor of the *Virginia Weekly*, a Charlottesville newspaper. The U.S. Supreme Court vacated the judgment upholding his conviction, handed down by the Virginia Supreme Court, and remanded Bigelow's case to the state court after the 1973 decisions declaring criminal prohibitions of abortions unconstitutional. The Virginia court then ruled that Bigelow was convicted of abortion advertising, not abortion, and that therefore the conviction was unaffected by the U.S. Supreme Court's abortion decision (see *Newsletter*, July 1974, p. 89).

Among the half-dozen current cases dealing with the rights of public school students is a case involving the rights of editors of student newspapers. The question of whether school authorities can control the content of student publications, and not merely the time, place, and manner of their distribution, arose after the *Corn Cob Curtain*, circulated at an Indianapolis high school, was banned by school authorities as "obscene, filthy, indecent, and defamatory." Indianapolis School System rules require the superintendent's approval before any student publication can be distributed.

The Court will also decide whether an Atlanta television station was within its First Amendment rights in broadcasting the name of a rape and murder victim during a newscast about the indictment of her abductors. The station violated a Georgia statute that makes it a misdemeanor for the news media to reveal names of rape victims.

Attorneys for the station argued before the Court that the statutory prohibition is a violation of freedom of the press. Opposition attorneys contended that a rape victim's name is not newsworthy information, and that disclosure of the name is a highly offensive invasion of privacy.

obscenity

Denver, Colorado

In an effort to block openings of theaters showing sexually explicit films, the Denver City Council passed an ordinance that prohibits within 500 feet of an area zoned for residential use any theater to which persons under eighteen years of age cannot be admitted. The measure also establishes standards under which theater licenses can be

denied, including an indication that the business in question will not be lawfully operated.

Councilman Bill Roberts, a sponsor of the bill, commented: "We aren't tampering with free speech. We're just regulating it." Another sponsor of the bill, Kenneth McIntosh, added: "The time has come when we must consider the rights, wishes, and desires of the community over the rights of the individual."

The city attorney's office offered its opinion that many aspects of the measure, with the possible exception of certain zoning and code requirements, are "unreasonable and arbitrary" and likely to be struck down in a court test. Reported in: *Denver Post*, November 19.

New York, New York

New York City's corporation counsel and the district attorneys of Queens and Brooklyn filed a barrage of civil complaints against the distributors and exhibitors of three films exhibited at theaters in Times Square and elsewhere in the city.

The targets of the drive against pornographic films were *The Life and Times of Xavier Hollander*, *The Love Bus*, and *Lickity Splits*. The civil complaints described the three films as "obscene, lewd, lascivious, filthy, indecent, and disgusting."

The campaign against the films was initiated by Corporation Counsel Adrian P. Burke at the request of Manhattan District Attorney Richard H. Kuh. Brooklyn District Attorney Eugene Gold and Queens District Attorney Nicholas Ferraro both joined the complaints as co-plaintiffs. Reported in: *New York Daily News*, November 1.

Memphis, Tennessee

Eight nationwide film distributors filed suit in federal court asking that the city's obscenity ordinance and its enforcement by the Memphis Board of Review be declared unconstitutional. Their complaint charges that review board decisions have barred Memphis juveniles from *G* and *PG* rated films containing language, sexual activity or violence considered obscene under the ordinance.

Attorneys for the distributors said decisions by the review board have been "arbitrary and capricious." Review board chairman Las Savell said, "I haven't seen a copy of the suit, but I am concerned that there are people who are not concerned enough about our children that they would be willing to subject them to the trash and filth that is contained in some movies, and just for the sake of a dollar."

Plaintiffs in the law suit are Allied Artists Pictures Corp., Avco Embassy Pictures Corp., Columbia Pictures Industries Inc., Paramount Pictures Industries Inc., United Artists Corp., Universal Film Exchange Inc., Twentieth Century-Fox Film Corp., and Warner Brothers Distributing Corp.

Under the Memphis ordinance the board's jurisdiction

extends only to films nationally rated *G* or *PG*. If such films contain "excreta" words, sexual activity, nudity or "excess" violence, the review board requires Memphis exhibitors to clip the offending scenes or bar anyone under eighteen from the films.

The distributors charged that restrictions have been placed on such films as *Paper Moon*, *American Graffiti*, *A Touch of Class*, *The Sting*, *Sleuth*, *Butterflies Are Free*, *Oklahoma Crude*, *Live and Let Die*, *Bananas*, and *Bang the Drum Slowly*. Reported in: *Memphis Commercial Appeal*, October 18.

Houston, Texas

A three-judge federal panel heard oral arguments in a Dallas case which seeks annulment of a state nuisance law used to prosecute sellers of sexually explicit materials. Involved in the Dallas case are defendants from Fort Worth, San Antonio, Austin, Beaumont, San Angelo, and College Station, all of whom obtained federal restraining orders halting enforcement of the law.

Lawyers for the defendants want the court to halt police operations against movie houses as "public nuisances," as well as to stop what movie house operators call "search and destroy" operations conducted by police. Reported in: *Dallas Times Herald*, November 15.

Charleston, West Virginia

The first indictment under West Virginia's new obscenity law was returned October 9 before Kanawha Intermediate Judge George W. Wood. The true bill resulted from complaints filed by Marmet Mayor Bill Pauley and the town's council against the Owens Drive-In Theater.

The operators of the theater were charged with showing obscene films to minors, or showing them in such a place as to allow minors to view them from locations other than inside the theater. Reported in: *Charleston Mail*, October 10.

reading and privacy

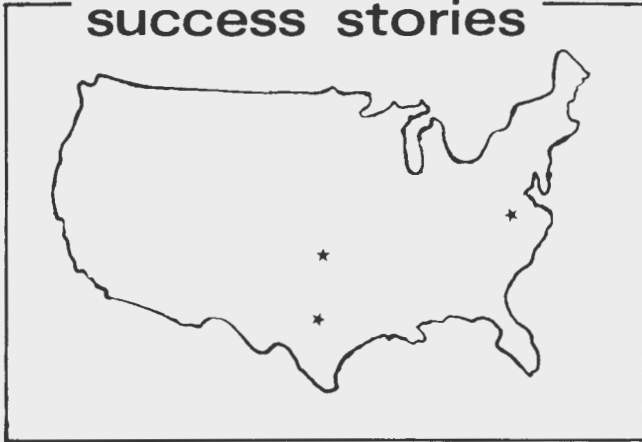
Louisville, Kentucky

The Kentucky Civil Liberties Union has filed suit in U.S. District Court on behalf of Kevin Kane in an effort to recover books which Kane alleges were illegally confiscated in a raid on his apartment. The suit maintains that seizure of his books by Jefferson County police was an invasion of his privacy and an infringement on his constitutional rights.

In August 1973, Kane's apartment was searched by several county policemen who were armed with a search warrant authorizing them to look for marijuana. Kane contends that the police went beyond the scope of their search warrant and confiscated five books from his private library:

(Continued on page 23)

success stories



Montgomery County, Maryland

After a presentation of parental complaints submitted to retiring Board Member John S. Aird, the Montgomery County School Board voted four-to-three not to ban *Biological Science: An Ecological Approach*, a textbook used by approximately ten percent of the county's 10,000 tenth grade biology students. A majority of the board agreed to let individual parents decide whether their children should use the book or an alternative.

Parents had alleged that a section of the book on abortion and contraception violated both local and state board of education policies which require that such topics be discussed in family life and human development courses.

In another four-to-three vote, the board defeated a motion to ban a slide-tape presentation on contraception which none of the board members had seen. Final action on the audiovisual materials, which were approved by a citizens' advisory committee, was postponed until a future board meeting. Reported in: *Washington Post*, November 13, 14.

Liberty, Missouri

A special ten-member committee impaneled to review *Go Ask Alice* decided that the book will remain on library shelves in the Liberty senior and junior high schools. The committee also decided that there should be no restrictions on its circulation.

The committee was established during a controversy which began when a small group of parents protested the availability of the book in the school libraries. The parents were led by Shirley Doores, who filed a complaint against the book, calling it pornographic. Doores' daughter Diane, who chose to read the book after she had watched the television presentation of the work, said before a group of parents that she no longer wanted to read the book. "I didn't know what it had inside until my mother looked at it. Now I don't want to read it," she said.

During National Library Week the work was voted the most popular book in the junior high school library by students in English classes. Reported in: *Kansas City Star*.

Dallas, Texas

A controversy over a school newspaper at Lake Highlands High School resulted in an unanticipated victory over restrictions on student editors. The school's biweekly paper, *The Fang*, was suspended from publication after a controversy arose over the publication of an editorial endorsing more creative methods of raising funds for various student groups.

Five of the newspaper's twenty-five staffers were suspended because they would not leave a conference between Principal A.M. Anderson and Linda McCreight, the paper's sponsor. Their parents were told the following day that the students were not in fact suspended, and the principal called the incident a misunderstanding.

The newspaper was reinstated within the week following complaints from students, inquiries by the local press, and a hurriedly called conference between the principal and the paper's sponsor.

The principal's directive that the paper include more school news gave the paper's writers twenty percent more editorial space. Reported in: *Dallas News*, November 3.

(Censorship Dateline . . . from page 6)

etc.

Concord, New Hampshire

Reacting to what he called the support of "obscurity," New Hampshire Governor Meldrin Thompson withheld a \$750 grant to *Granite* magazine. The grant had been awarded by the New Hampshire Commission on the Arts.

The governor's action stemmed from his response to a poem in an issue of *Granite*, published two years earlier, for which no funds were requested. The poem, "Castrating the Cat" by Michael McMahon, appeared in *Northern Lights*, a special issue of *Granite* devoted to writing from northern New England.

John Coe, executive director of New Hampshire Commission on the Arts, responded in a letter to the governor: "I am certainly no advocate of unlicensed freedom, but it is also my view and the view of the National Council for the Arts and the Humanities that artistic and creative freedom must be protected and not restricted or curtailed simply because one's sensibilities are offended."

Following the action of the governor, the board of directors of the Coordinating Council of Literary Magazines awarded a \$750 emergency grant to *Granite*, and sent a letter of protest to the governor, the text of which read in part:

"Patronage of the arts, and particularly public funding of the arts, has brought with it many problems and difficulties, but certainly one of its strengths is its firm recognition of the creative spirit and the willingness to allow the artist to make the art. This is not to say that government funds—our tax revenue—entrusted to those of us who dispend it, should be allocated with abandon, or is it to suggest that objective, qualitative reviews should not be made. But censorship is altogether another matter and not by any stretch of the imagination part of qualitative review. As we all know, censorship will continue to be an area of struggle for the courts in this country, and, under the circumstances, it seems additionally presumptuous for anyone to make personal and immediately binding interpretations and policies as you have." Reported in: *Newsletter of the Coordinating Council of Literary Magazines*, September 1974.

Ironwood, Michigan

Last summer, the Ironwood Historical Society scheduled Al Gedicks' film *The Shape of an Era* to show at the Ironwood Summer Festival. After previewing the film and advertising its showing, the historical society suddenly decided that the film was not an objective historical treatment and too "controversial" to be shown to the public. The film was previewed in the presence of representatives of the White Pine Copper Corporation, a major producer in the region whose activities were criticized in the film.

After cancelling the showing, the historical society announced that the film had not arrived in time. In a letter to Gedicks, the historical society said that theirs was a young enterprise which depended on business charity for its growth and success. They stated, "In cancelling the showing and declaring that the film 'had not arrived in time for the festival,' we wanted to spare the museum and the society any detrimental publicity." Reported in: *North Country Anvil*, October-November.

Raleigh, North Carolina

Reacting to North Carolina's new obscenity statute, adopted April 1974, trustees of the North Carolina Christian Action League called for a tougher law. One minister said, "If we have to ban *Reader's Digest* to get rid of the real filth, then let's get rid of *Reader's Digest*." The league, a political organization of fundamentalist Protestant churches, will lobby in the 1975 general assembly for a strict obscenity bill.

The North Carolina Independent Baptist Fellowship also announced plans to ask the general assembly to pass a strict obscenity law that reflects "Christian and biblical standards," according to the Rev. E.T. Iseley of Haw River. Iseley, a spokesman for the conservative Baptist organization, charged that obscenity covers the state "like a blanket dripping with corruption." He said, "Christian concepts of

morality are being replaced with debauchery for publishers' profits. Obscenity has reached the classrooms under the sophistry of permissive textbook commissions."

He charged that a textbook used in the Wilmington school system, *The Curious Eye*, was an example. Asked whether the book was obscene, he replied, "Oh, good gracious!" Reported in: *Greensboro Daily News*, October 11; *Durham Morning Herald*, October 16.

Ephrata, Pennsylvania

The apparent success of Dan Neidermyer's novel *Jonathan*, the story of a nine-year-old Amish boy torn between the ways of the Amish order and the ways of the world, was only that: apparent. After a Canadian critic alleged that the book "maligins the Amish by its tone, its emphasis, its theme," Amish leaders in Pennsylvania raised \$4,000 to buy and destroy all available copies of the book.

In turn, Neidermyer's publisher, Herald Press, an arm of the Mennonite Publishing House, promised the Amish that it will print no more copies of the book.

"What aggravates me is that I never was even consulted about it," said an unhappy Neidermyer. "No one even came to me to say they objected to the book."

Neidermyer, a senior at Reformed Episcopal Seminary in Philadelphia and not an Amish, described the criticism of his book as "picayune." He insisted that the story was based on experiences he had living among the Amish people "throughout his life." Reported in: *Philadelphia Inquirer*, October 2; *Christianity Today*, October 25.

Alvin, Texas

Acting in response to a visit from Alvin Mayor Allen Gray and Councilman Asa Yeamans, the manager of a variety store stripped copies of the book *Deep Throat* from his shelves. Speaking before the city council, Yeamans said cryptically, "Somebody has to see it before you know it's there."

At the urging of Yeamans, the city council authorized the mayor to appoint a committee of church groups, the police chief, and other citizens to thwart the sale of pornographic books.

Later, Acting Police Chief Pete Carlson said he examined *Deep Throat* and found no illustrations or obscene language. A small group of citizens said they had seen material more obscene in local grocery stores. Reported in: *Houston Post*, November 8.

(From the Bench . . . from page 12)

Variety, October 23.

Ruling on a request for an order blocking prosecution in Toledo Municipal Court of five persons charged with presenting obscene performances at the Shambles Club and the

Gayety Theatre, U.S. District Court Judge Don J. Young declined to halt the prosecution, noting that the U.S. Supreme Court has held that federal judges should not interfere with state court prosecutions unless there is good cause.

However, Judge Young took the opportunity to say it was, in his opinion, a waste of time of the police and the courts to act as censors "when the police are having trouble coping with crime." He added that "this type of prosecution is an attempt to exercise tyranny over the mind of man." Reported in: *Variety*, October 16.

Erie, Pennsylvania

A U.S. District Court voided as unconstitutional an ordinance passed by Millcreek, a suburb of Erie, which sought to prohibit the display of nudity and sexual conduct on the covers of books and magazines on view to the public. The court dismissed a complaint brought by Millcreek authorities against Martin Siegel, operator of a book and magazine store in a Millcreek shopping center.

Millcreek officials attempted to justify the ban by declaring that "regardless of whether such displays are 'obscene' within the meaning of the penal law and constitutional law, they are not constitutionally protected because they are thrust indiscriminately upon unwilling audiences of adults and children, and constitute assaults upon individual privacy."

Observing that the U.S. Supreme Court has declared that nudity alone is not enough to make material legally obscene, the district court said that the Millcreek ordinance was unconstitutionally vague with respect to covers showing nudity alone, and "overly broad in attempting to regulate other forms of obscenity." Reported in: *Publishers Weekly*, November 11.

Woonsocket, Rhode Island

Twelve films described as having been shown at the Stadium Theater in Woonsocket were declared obscene by Judge Eugene F. Cochran in Superior Court. W. Slater Allen Jr., assistant attorney general, said his department sought the declaration of obscenity as a warning to operators of other theaters in the state against showing the films in violation of obscenity laws.

The charges of obscenity against the films, all sexually explicit, were supported by two witnesses, a police officer, and a writer and critic. No one appeared on behalf of the Stadium Theater or any other theater to oppose the declaration of obscenity. Reported in: *Providence Journal*, November 2.

obscenity: convictions and acquittals

North Haverhill, New Hampshire

Grafton County Attorney John D. Eames and his brother Jeremiah, charged with violating New Hampshire's

obscenity statute by showing *Deep Throat* and *The Devil in Miss Jones* at a theater owned by their family, were acquitted of two of four obscenity charges by an all-male jury. The jurors, described as "very conscientious" by Superior Court Judge William Johnson, announced after more than twelve hours of deliberation that they were hopelessly deadlocked on two of the counts.

Assistant Attorney General Robert Johnson, who prosecuted for the state, said he would delay a decision on whether to try the case again. The jury apparently had difficulty in deciding whether either man was responsible for showing the films on two separate occasions. Prosecutor Johnson said he believed there was "a fair chance" that the jurors considered the films obscene.

County Attorney Eames, who would ordinarily prosecute all cases except murders, was suspended from his duties by New Hampshire Attorney General Warren B. Rudman after his arrest July 1. Reported in: *Manchester Union-Leader*, October 23; *New York Times*, October 24.

Cleveland, Ohio

Five persons found guilty of "pandering obscenity" were fined and sentenced by Cleveland Municipal Judge Hugh P. Brennan. The manager of the Roxy Theater was fined \$300 and sentenced to one year's probation for showing *It Happened in Hollywood*, *Teen-Age Cheerleaders*, and *Memories Within Miss Aggie*. One employee of a bookstore was fined \$200 and sentenced to one year's probation, and employees of various other bookstores were fined \$100 each. Reported in: *Cleveland Plain Dealer*, September 20.

Providence, Rhode Island

Joseph A. Vinacco, indicted by a grand jury in 1973 for sending obscene materials through the mail, was fined \$5,000 and sentenced to two year's probation by U.S. District Court Judge Raymond J. Pettine.

"For this kind of offense, I don't think jail is the answer," the judge said. However, he added, sending obscene materials through the mail is "unlike a controlled theater" since any youngster could write for the material and receive it. Reported in: *Providence Bulletin*, October 7.

Beaumont, Texas

A six-person district court jury found the Sun Family Entertainment Center guilty of exhibiting obscenity after brief deliberations at the close of a two-day trial that included two hours of viewing confiscated films. The misdemeanor charge carries only a fine as punishment and was directed at the corporation operating the entertainment center. Reported in: *Beaumont Enterprise*, October 2.

Fort Worth, Texas

Charged with exhibiting an obscene movie, *The Bet*, theater operator Jerry Mullins was found guilty by County

Criminal Court Judge George McManus. McManus fined Mullins \$1,000 and sentenced him to six months' probation.

Mullins' attorney announced that the conviction for commercial obscenity would be appealed. Reported in: *Fort Worth Star-Telegram*, November 12.

San Antonio, Texas

After deliberating only thirty-five minutes, a six-person jury found Richard C. Dexter, operator of the Fiesta Theater, guilty of charges of obscenity for showing *Deep Throat*.

Psychiatrists and psychologists who testified for the defense said the film was "humorous" and poked fun at sex in a tongue-in-cheek fashion. Blaine McLaughlin, a psychiatrist who testified for the prosecution, claimed that the movie could move certain susceptible persons "toward acts of violence." Reported in: *San Antonio Light*, November 19.

Martinsville, Virginia

Owners of the Martinsville Drive-In Theater were found guilty of showing an obscene movie—*Orgy of Revenge*—and were fined \$2,500 by Henry County Court Judge Kenneth Covington, who said he would suspend \$2,000 of the fine on the condition that the theater not violate obscenity laws in the future.

Defense attorneys announced that they would appeal the court's ruling. Earlier they had asked that the charges be suppressed on several grounds, including the fact that no adversary hearing was held in which a magistrate viewed the film prior to the trial, and the fact that affidavits were improper because they contained opinions and conclusions instead of facts and details as required by law. Reported in: *Henry County (Va.) Journal*, September 19.

the press

Los Angeles, California

Superior Court Judge Earl C. Broady declared that *Los Angeles Times* reporter William Farr was not in contempt of court for refusing to answer fifteen questions in the perjury trial of attorney Vincent T. Bugliosi. The attorney was charged with lying under oath in denying that he gave Farr a transcript of witness Virginia Graham's statement during the 1970 Charles Manson murder trial.

Judge Broady said Farr had legally invoked Section 1070 of the California State Evidence Code, which gives a reporter immunity from contempt citations for refusing to disclose sources. Farr's attorney said that the ruling "finally affirms that a newsman cannot be forced under penalty of contempt to violate the confidences reposed in him in his news-gathering effort." Reported in: *Editor & Publisher*, October 12.

Columbus, Georgia

Ruling on the mass murder conviction of former Army Lieutenant William L. Calley Jr., U.S. District Court Judge J. Robert Elliott said that virulent and accusatory publicity was so massive that Calley's court-martial could not possibly have avoided being contaminated by it. Seventy-eight pages of the court's 132-page opinion were devoted to the issue of pre-trial publicity. In listing the major offenders, Judge Elliott said that the "national television networks demonstrated any eagerness to interview prospective witnesses in the Calley case on their news broadcasts and elicit all types of statements, much of which was hearsay, but of all of which was devastating to Calley."

Although the judge did not suggest that the press should have remained silent about the My Lai massacre, he warned that some court in the future might have to address the question of a press gag. Reported in: *Editor & Publisher*, October 5.

New York, New York

State Supreme Court Justice Nathaniel T. Helman voided an order by New York City's Commission on Human Rights barring the *New York Times* from publishing classified advertisements for employment in racially segregated South Africa. Ruling on a commission order that upheld a complaint charging that the newspaper's practice was racially discriminating against blacks, Justice Helman declared that no discrimination statute was violated by the newspaper.

Justice Helman said: "It is significant that none of the advertisements make any reference to race. . . . For the commission to enter every foreign area where patterns of discrimination appear, by imposing restraints on the solicitation of employees based in the United States through the medium of fair advertising, involves an assumption of jurisdiction which was certainly never contemplated by the legislative body which created the commission." Reported in: *New York Times*, October 30.

students' rights

Brooklyn, New York

U.S. District Court Judge Mark Costantino ruled that administrators at Farmingdale High School had no right to seize copies of a student paper containing a supplement on contraception, abortion, and other sexual matters. Farmingdale High School Principal John McLennan ordered an edition of the paper, the *Paper Lion*, confiscated shortly after it was released to students.

Attorneys for students argued that the seizure was "an interference with student speech" and an infringement on students' First and Fourteenth Amendment rights. Judge Costantino rejected the argument of school officials that the supplement was devoted to a subject in the school cur-

riculum and thus interfered with their authority. "It is extremely unlikely that distribution of the supplement will cause material and substantial interference with school work and discipline. In this court's opinion, no clear and present danger is presented," Costantino said. Reported in: *Editor & Publisher*, November 23.

prisoners' rights

Shohomish County, Washington

According to an agreement reached before U.S. District Court Judge Walter T. McGovern, and made into an order by him, inmates at the Shohomish County Jail will have the right to subscribe to newspapers, periodicals, and books. The judge specified that reading materials "can be denied an inmate only if such censorship furthers one or more of the substantial governmental interests of security against escape or unauthorized entry, or if the publication is obscene." In cases where the authority to censor is exercised, the judge further specified that immediate written notice shall be given to any inmate whose materials are withheld, and that the right of an inmate to protest censorship and receive a response explaining the reasons for it shall be observed.

Conditions at the jail were protested by the American Civil Liberties Union, which filed suit on behalf of several prisoners. Reported in: *Prison Law Reporter*, September 1974.

freedom of information and other matters

Washington, D.C.

The U.S. Court of Appeals for the District of Columbia overruled a lower court's decision in *Washington Research Project, Inc. v. Department of Health, Education and Welfare et al.*, and held that research protocols in approved grants are not protected by the "trade secrets" exception of the Freedom of Information Act and must be made freely available on request. The court did not rule specifically on the status of protocols in applications prior to their approval. The appeals court also set aside the lower court's holding that Study Section Summary Statements and site visit reports must also be made available to the public.

HEW had appealed the lower court's decision, arguing that research protocols are proprietary in nature and should be held as confidential information by the granting agency. Reported in: *Announcement from the Director, National Institutes of Health*, October 17.

Washington, D.C.

According to a ruling by the U.S. Court of Appeals for the District of Columbia, the Federal Communications Commission does not infringe upon the rights of radio listeners when it determines that a broadcast is obscene and

fines the offending radio station. The ruling came in a suit brought by listeners of an Oak Park, Illinois radio station that aired a call-in talk show which on two occasions dealt explicitly with the subject of oral sex.

The FCC fined the station \$2,000 for the broadcast. After the station's owners decided not to fight the fine because of the costs involved in bringing the case to court, listeners and a civil liberties group asked the FCC to reconsider its position and lift the fine because the action deprived them "of listening alternatives in violation of their rights under the First Amendment." The FCC refused to change its position, and the court action followed.

The court's opinion, written by Circuit Court Judge Harold Leventhal and concurred in by Senior Circuit Court Judge Charles Fahy and Circuit Court Judge Spottswood Robinson, made it clear that the listeners of a radio station have a right to bring suit against the FCC. However, the court ruled that the FCC was correct in labeling the programs in question obscene.

"The excerpts cited by the commission contain repeated and explicit descriptions of the techniques of oral sex. And these are presented, not for educational and scientific purposes, in a context that was fairly described by the FCC as 'titillating and pandering,'" Judge Leventhal declared.

The judges observed that the program, "Femme Forum," was broadcast from 10:00 a.m. to 3:00 p.m. during hours "when the radio audience may include children—perhaps home from school for lunch, or because of staggered school hours or illness."

The listeners contended that the FCC, which heard only selected parts of the programs in question, should have listened to the complete shows before issuing a ruling. Judge Leventhal dismissed their argument. Reported in: *Washington Post*, November 21.

Bucks County, Pennsylvania

The first case in which a guilty verdict was rendered against a public official in Pennsylvania for violating the state's new Public Meeting Law was won November 8 by *Bucks County Courier-Times'* reported Kathy Kanavan before District Justice Richard Garber.

Kanavan filed a complaint after she was barred from a closed session of the Middletown Township supervisors. Township Manager James Dillon, who was found guilty and fined \$50, announced he would appeal the decision against him. Reported in: *Editor & Publisher*, November 16.

Philadelphia, Pennsylvania

In a First Amendment case involving Benjamin Spock, the People's Party candidate for President in 1972, the U.S. Court of Appeals for the Third Circuit refused to declare that First Amendment rights are inherently worth more than \$10,000. A federal statute specifies that the federal courts do not have jurisdiction to rule on questions of rights unless those rights have a monetary value in excess of

\$10,000.

The issues in the case arose in 1972 when Dr. Spock attempted to enter Fort Dix, New Jersey to bring his anti-war message to the GIs stationed there. The Army ejected Spock from the base, and the National Emergency Civil Liberties Committee brought suit on his behalf against the government.

In arguments before a U.S. District Court and the U.S. Court of Appeals, attorneys for the government argued that "the First Amendment rights for which plaintiffs seek protection are incapable of monetary valuation . . . [and therefore] the evidence submitted by the plaintiffs in an effort to meet the amount-in-controversy requirement was insufficient, inadequate, and irrelevant."

Spock's attorney, David Kairys, argued that First Amendment rights are priceless, thus being inherently worth more than \$10,000. In the same brief, though, Kairys established the value of the right in question by demonstrating that the cost of communicating the message to the servicemen at Fort Dix through, for example, a full-page ad in *Time* magazine, was more than \$10,000.

In a unanimous decision, the three-judge appeals court ruled in Spock's favor, but they based their decision on a monetary valuation of Spock's right to free speech at Fort Dix.

Legislation pending before the Senate and House Judiciary Committees would grant the federal courts specific jurisdiction in First Amendment cases. Reported in: *The Nation*, September 28.

Hamilton County, Tennessee

In a test of Tennessee's new Open Meetings Law, which took effect May 1, a Tennessee judge ruled that the law is constitutional, but he failed to grant an injunction against further violations which was requested by the *Chattanooga Times*.

In a decision handed down October 25, Chancellor Wilkes T. Thrasher Jr. rejected five challenges to the law's constitutionality by the Hamilton County Board of Education, defendant in the *Times*' lawsuit. The suit charged the Hamilton County Board of Education with barring a reporter from two meetings and requested an injunction against further violations.

Times' Publisher Ruth Holmberg expressed disappointment over the decision and announced that she would consult with attorneys about further court action. Reported in: *Editor & Publisher*, November 16.

Lima, Ohio

A U.S. District Court stipulated that the Lima State Hospital must respect the First Amendment rights of patients. The court ruled that "there shall be no censorship of books or periodicals including newspapers supplied to, purchased by, or given to patients of the institution, and

this would include books or magazines available through the library, except to the extent that the qualified mental health professional responsible for formulation of a particular patient's treatment plan writes an order imposing social restrictions on the use of reading matter." In addition to specifying that restrictions must be reviewed every thirty days, the court said that "no security personnel shall be involved in the review or censorship of reading material," and added that "patients shall have access to legal materials including a complete updated set of the *Ohio Revised Code*." Reported in: *News from the State Library of Ohio*, October 4.

(Is It Legal . . . from page 16)

Child's Garden of Grass, The Sexual Power of Marijuana, The Pot Report, The Marijuana Papers, and Marijuana Reconsidered.

In 1973 a Jefferson Quarterly Court ordered two of the books—*The Marijuana Papers* and *Marijuana Reconsidered*—returned, but Judge Allen K. Gailor ruled that the other books were "instrumentalities used or intended to be used in violation of state drug laws." An appeal of Judge Gailor's decision to the Jefferson Circuit Court was dismissed. Reported in: *Louisville Courier-Journal*, September 21.

the press

Washington, D.C.

According to a report from the office of Senator Birch E. Bayh (D.-Ind.), the U.S. Justice Department may investigate indictments against two *Indianapolis Star* reporters. The newsmen, William E. Anderson and Richard E. Cady, were indicted by a Marion County grand jury which charged them with conspiracy to commit a felony—bribery of a policeman. The newsmen were members of a team of three reporters and a photographer who investigated the Indianapolis police department and political corruption in Marion County for more than a year.

Robert P. Early, managing editor of the *Star*, expressed his outrage following the announcement of the indictments: "The charges are a carefully orchestrated frame-up. As they affect the criminal justice system, they are a farce. And as they affect the public, they are a fraud. We will not be intimidated."

Letters calling for an investigation of the indictments were received by U.S. Attorney General William Saxbe from the Reporters Committee for Freedom of the Press and from Senator Bayh. The Associated Press Managing Editors Association and the American Society of Newspaper Editors declared their intentions to conduct an inquiry of their own into the charges against the two reporters and the possible misuse of power by the Marion

County Prosecutor's Office. Reported in: *Editor & Publisher*, October 5.

FCC standards

Washington, D.C.

Comments on a George Carlin record could prompt a court test of the Federal Communication Commission's authority to discipline broadcasters who air what the FCC considers objectionable material. The chief offender appeared to be WBAI-FM in New York, which reportedly aired the Carlin cut, "Seven Dirty Words You Can Never Say On Television."

FCC staff recommended that the station be fined \$100, but several commissioners wanted to increase the fine in the hope that the charge would be taken to court. Other staff options included a show cause order, a letter of censure, or early renewal hearings for the station. Reported in: *Variety*, November 6.

(Published Word . . . from page 4)

respect for freedom of expression, Athens falls short; it must be pointed out that the same persons who enjoyed Aristophanes' erotic dramas with no inhibiting guilt or shame were willing to put Socrates to death for expressing unpopular opinions on other subjects, and that Aristophanes himself was one of the leaders in the attack on Socrates. Ironically, the accusation against the philosopher, corrupting the morals of youth, is a charge still being made today by censors to justify their insistence that erotic literature is socially harmful and needs to be suppressed—it is a charge which even the generally enlightened Commission on Obscenity and Pornography did not find possible to dismiss altogether.

Oboler himself, of course, is unequivocally opposed to censorship, but he is a realist and does not predict "the end of obscenity" in the near future. He regards the *Report of the Commission on Obscenity and Pornography* as a historic move in that direction, despite its official rejection, but his analysis of the June 1973 Supreme Court decisions is honestly aware that they represent a serious setback after a succession of victories (the book was written before the June 1974 decisions further strengthened the censor's hand).

Appended to the text are "An Anti-Censorship Chrestomathy," a collection of short epigrammatic statements by noted writers in defense of freedom of expression; the text of the recommendations of the Commission on Obscenity and Pornography, together with several statements in support thereof by the American Library Association, singly or in concert with like-minded groups; and the similar, but much more terse, 1969 recommendations of the British Arts Council Working Party. There are

extensive footnotes, a fourteen-page bibliography, and a very thorough index.

This is a scholarly and heavily documented, yet very readable study that everyone concerned with understanding the rationale of censorship will find well worth reading. If he clearly demonstrates that the censor has been with us for a long time, and is not likely to vanish very soon, Oboler still exhibits a firm faith in the basic rationality of Homo sapiens; this is not a pessimistic book in its final impact.—*Reviewed by Paul B. Cors, Chairman, Intellectual Freedom Committee, Wyoming Library Association.*

(Freedom . . . from page 1)

In a statement released by the White House following the veto, President Ford said that he was concerned that "our military or intelligence secrets and diplomatic relations could be adversely affected by this bill." He argued that "the courts should not be forced to make what amounts to the initial classification decision in sensitive and complex areas where they have no particular expertise." Ford also objected to the provision of the bill regarding investigatory law enforcement files.

The section of the measure permitting federal courts to review classified materials *in camera* was included to overrule a U.S. Supreme Court decision in an unsuccessful suit by Congresswoman Patsy Mink and others to obtain scientific reports from the Environmental Protection Agency on the possible dangers of the Amchitka underground nuclear test. The Supreme Court said of the original act that Congress did not intend to "subject executive security classifications to judicial review at the request of anyone who might seek to question them."

The extensive revision of the original exemption of all investigatory records of law enforcement agencies reflected earlier statements of concern similar to the president's. The conference report emphasized that investigatory records must be withheld to protect, for example, the right to a fair trial. But the report noted that the revised exemption should not be construed as a shield to protect, for example, administrative staff manuals and instructions to staff that affect a member of the public.

(AAParagraphs . . . from page 3)

from other quarters, Chairman McCormick spoke for the FTR Committee in a statement calculated to be firm without being inflammatory. Its text:

"Of course we deplore the resort to violence in any public dispute, particularly in a disagreement over a question involving the education of young people. Such matters should be resolved through calm and reasonable discussion. Obviously the first obligation of all public officials and private citizens in Kanawha County, West Virginia,

is to bring the violence to an end.

"We do, however, believe firmly in the right of qualified educators to make professional decisions as to the instructional materials they wish to use in their teaching. That some of the content of some of the materials so selected may at times be offensive to some people is to be expected, but we believe that the maturing mind can learn best by critical evaluation of ideas of all kinds. We are willing to have entrusted to expert teachers the guidance of this evaluative process.

"We find withdrawal of professionally-selected books from school use deeply regrettable, but we trust that the citizens' committee chosen to mediate the current dispute will conclude that true education can be advanced only by full and free exposure to all ideas and ideology.

"If, as we are given to understand, the protest over schoolbooks is being used in part as a pretext to air unrelated economic and industrial grievances, we find it all the more regrettable that young people and their education have become pawns in an adult dispute."

On July 4, 1966, then President Johnson signed the hard-won "Freedom of Information Act," designed to make the vast store of federal government information

more readily accessible to public and press. At first glance, the law might seem to be of greater utility to the journalistic press (which, however, has used it most sparingly) than to authors and publishers of books. But quite aside from the fact that open government benefits everyone, there is the pragmatic consideration that reporters often write books, using the very same government information on which they have based newspaper or magazine writings.

AAP therefore has maintained active interest in legislative—and litigative—developments in the open-government area, including recent efforts to amend and strengthen the FoI Act. Thus it was that Chairman McCormick sent President Ford a telegram, urging him to sign the 1974 FoI Amendments "in the interest of the more open government you have so rightly espoused."

But Mr. Ford, taking exception to several provisions of the Amendments, instead heeded the nearly-unanimous clamor of federal agencies for a veto. A bipartisan effort to override—to which some AAP members contributed support—ensued, and the rest is history: the President's veto was overridden by the House of Representatives, 371 to 31, and the Senate followed suit a day later, 65 to 27, both votes comfortably above the two-thirds margin needed for Congress to overrule a President.

'Cay' broadcast challenged

The Council on Interracial Books for Children protested the presentation of a dramatic adaptation of Theodore Taylor's *The Cay* on the Bell System Family Theater, aired nationwide by the National Broadcasting Company on October 21.

Speaking at a New York press conference held prior to the broadcast, council representatives Beryle Banfield and Albert V. Schwartz asked people to watch the telecast and to protest any "insidiously racist message" to the head of special programming at NBC.

A council position paper on *The Cay* said in part:

"When it was first published by Doubleday in 1969, *The Cay* received several awards, some for its so-called service to the cause of brotherhood. At that time, the Council on Interracial Books for Children was swift to the point out the subtle and not-so-subtle racism inherent in the story. Since then, the most prestigious of the awards given to the book, by the Jane Addams Children's Book Award Committee, has been regretted by the current chairperson of that organization, Mrs. Bertha Jenkinson. Says she: 'I feel that the choice of *The Cay* . . . for our award in 1970 was a mistake.' We take strong exception to the selection of this material for television adaptation.

"*The Cay* is a two-character story about an eleven-year-old white boy and a seventy-year-old black seaman who survive the torpedoing of their boat by Nazis during World War II. The black male character, called Timothy (no last

name), conforms to the traditional stereotype of the faithful slave or retainer who is happy to serve and even sacrifice his life for his 'young bahss'—a term which establishes, at the outset, the man's implied inferiority. Timothy's servility and ignorance juxtaposed with the white boy's gentility, self-assurance and erudition clearly evoke the time-worn conception of blacks as immature, self-negating, unpredictable and, thus, threatening 'creatures' and whites as effectual, commanding and superior beings no matter what their age! . . .

"The choice of a work that has been strongly criticized by groups and authoritative individuals raises questions about the standards and procedures used in the selection of TV material, as well as about the judgment of the decision-makers involved. It is further regrettable that the program is being billed as family entertainment and will be telecast in a prime time slot, assuring it the widest possible audience. Clearly, this implies endorsement of the story's images and values by the network and sponsor, which is bound to spur sales of the original book.

"Media executives must become alert to the fact that their white ethnocentric conditioning severely impairs their sense of what is and is not racially offensive material. They must come to realize that in evaluating race-related themes, input from minority people is indispensable to the exercise of enlightened judgment. Minority people must *actively participate* in the evaluation and decision-making process."

secret surveillance by IRS

As a result of a suit filed under provisions of the Freedom of Information Act by Ralph Nader's tax-reform research group, the Internal Revenue Service has revealed that it established a secret intelligence-gathering unit in 1969, one day after the Nixon White House asked the tax agency to investigate activist groups.

The IRS identified ninety-nine political and activist organizations investigated by its intelligence wing. The list of groups ran the gamut from the American Nazi Party and the John Birch Society to the Communist Party and Students for a Democratic Society.

"I can't understand under what law they did it," said Leon Shull, executive director of the Washington chapter of Americans for Democratic Action, one of the groups on the surveillance list. "It's an absolute outrage that a government agency should do this. It's obviously of a piece with the enemies list and all other Watergate nonsense."

Former Congressman Allard Lowenstein, the ADA's chairman from 1971 to 1973, said the disclosure adds strength to his federal court suit alleging misuse of federal office by several Nixon Administration officials. Reported in: *New York Post*, November 18.

is clerical censorship dead?

In an article on clerical censorship and the power wielded by Catholic bishops, *Church and State* (Oct. 1974) reported that the climate has changed since the 1940s and 1950s "to the point where a major publisher can bring out a book sharply critical of the workings of the Catholic Church." What encouraged the editors of *Church and State* was the publication of Edward Carben's novel *The Diary of a Catholic Bishop* (Crown Publishers).

However, the publication of Carben's book, which exposed operations of the Church and personality types within it, was not without difficulty.

Shortly before the book was to be published, the Rev. William Clancy, provost of the Congregation of the Oratory of St. Phillip Neri in Pittsburgh, obtained an advance set of uncorrected page proofs from a reviewer on a magazine staff in New York. Clancy insisted that a character in the book, one involved in a sex scandal, bore a damaging resemblance to him and threatened legal action. As a consequence, the publisher acceded to Clancy's demands for changes in the text, even though the author claims he never met Clancy, never visited the Pittsburgh Oratory, and never met any member of that particular group of Oratorians.

Following publication, the book was favorably reviewed in *Publishers Weekly*, *Newsday*, the *Buffalo News*, and elsewhere. But if the Catholic diocesan press the reviewers were

sharply negative. In a report to the *Newsletter*, Carben reported other difficulties: "Members of the author's family have also suffered from anonymous and threatening telephone calls. These calls began even before publication of the book. Indeed, they started on the night before Father Clancy appeared in New York at the author's publisher. As Catholic clergymen brought pressure to bear, newspapers which were going to do special features on the author and book suddenly 'lost interest,' as did some television and radio shows. Some bookstores have refused to handle the book, while others have stopped handling it after a visit by a priest or nun."

'devil's day' flames

Calling Halloween the "devil's heyday" and an appropriate occasion for "laying the axe to smut," San Antonio, Texas Evangelist Ed Human led a youth group in what was explained as a burn-in based on a biblical event.

Human and members of the National Youth Moratorium on Indecency committed to their Halloween fire numerous books, including *The Godfather*, *The Last Picture Show*, and *The Exorcist*. They also burned copies of *Playboy* as well as several records, among them the musical *Jesus Christ Superstar*.

Pointing to two verses in the Book of Acts, Human explained that the people of Ephesus once brought their occult literature and books together and "burned them before all men." Reported in: *San Antonio Express*, November 1.

In an unusual variation on a common theme, members of a Battle Creek, Michigan Church of the Nazarene decided to combat "sinful" television by burning their television sets. Citing programs that are "poisoning our children's minds," members threw their sets in the flames.

The protest was spurred by comments from Evangelist Paul Wilde, who spoke at the church on the evils of television programming. Mary Lou Bax, a member of the congregation, said, "I had to censor everything my sons watched. Even on one of my favorite shows, the 'Mary Tyler Moore Show,' they use swear words. [During] the last show I heard the word 'damn.'" Reported in: *Washington Post*, November 13.

Ohioans oppose censorship

Most Ohioans are opposed to laws which prohibit the sale of sexually oriented material to adults, according to an opinion survey conducted by the Ohio Poll, a nonprofit organization financed by Ohio newspapers.

Results of the survey indicate that age is the primary factor in determining Ohioans' attitudes toward censorship

of sexually explicit materials. The younger the respondents, the more they were opposed to current laws on censorship.

Throughout Ohio, there were only two identifiable groups of people who favored legal censorship of adult reading materials. These were persons with no more than a grade school education, who favor censorship laws by seventy-three to twenty-two percent, and people over sixty-five years of age, who favor such laws by fifty-nine to thirty-four percent. Reported in: *Dayton Daily News*, November 21.

suit seeks to void

Nixon-Ford tape agreement

A group of historians, political scientists, and journalists filed suit in U.S. District Court in Washington seeking to void the agreement making former President Richard M. Nixon "the owner . . . with sole right of access" of tapes, documents, and other governmental information connected to his term as president.

The plaintiffs in the action are the American Historical Association, the American Political Science Association, and the Reporters Committee for Freedom of the Press, as well as various individual members of these organizations.

The complaint alleges that the agreement—by giving Nixon exclusive rights to the material—"will deprive individuals engaged in the professions of education, journalism, political science and history" of their rights under the First Amendment to know about policies and decisions of the Nixon Administration.

Filed in October, the suit was assigned to U.S. District Court Judge Charles Richey, who was also asked to rule on a November decision of President Ford to allow the special Watergate prosecutor to decide which of Nixon's White House tapes and documents should be turned over to him in California. Attorneys for Nixon filed a brief with the court arguing that the original agreement should stand.

Earlier, Nixon's attorneys had abandoned court efforts to have the tapes and documents delivered immediately, saying that Nixon's health made it impossible for him to study them. The decision to reactivate the request for immediate enforcement of the agreement apparently stemmed from President Ford's seeming reversal in favor of the special prosecutor.

follow-up: one year later in N.D.

Slightly more than a year ago the school board in Drake, North Dakota burned copies of *Slaughterhouse-Five* which had been assigned by twenty-six-year-old English teacher Bruce Severy. At the end of the school term Severy's con-

tract was not renewed and he and his wife and small child moved to Fargo, where he is now working as a hospital orderly.

During his final months in Drake, Severy said, bottles were thrown at his house, his dog was shot, his garbage was not picked up, and, finally, the school board told parents they did not have to send their children to his classes.

Walfrid B. Hankla, who represented the board, said: "The school board has the responsibility as well as the authority of establishing the curriculum and buying the textbooks, and the board felt that the books he assigned were not proper material for that age group. They were not infringing on his right of free speech. And it was the activities of the teacher Severy not connected with his insertion of the book that led to nonrenewal of his contract." Reported in: *New York Times*, November 17.

FBI requests library records

Librarian Elizabeth Cooper at the Mesa Public Library, Los Alamos, New Mexico, reported to the ALA that agents of the Federal Bureau of Investigation visited the library in October to request access to circulation records. The agents had with them a list of names of persons who allegedly belonged to subversive organizations.

When refused access to the records and told that a court order would be required, the agents said they would return with appropriate authorization. According to late reports, however, the agents appeared to have abandoned their effort.

Earlier in 1974—according to the June 17 minutes of Seattle Library Board—FBI agents asked permission to check the Seattle Public Library's 1970 registration records. The library board approved release of the information requested, but it qualified its action as "not to be particularly considered a precedent for the future" and decided to undertake a review of the library's policy in regard to confidentiality of records.

According to Library Director Willard Youngs, the FBI agents possessed a subpoena—issued in connection with a forgery trial—authorizing them to verify a signature believed to be in the possession of the Seattle library.

ALA Policy

These events should serve as a reminder to all librarians to make certain their institutions have adopted the ALA Policy on Confidentiality of Library Records.

That policy, adopted January 20, 1971 by the ALA Council, states: "The Council of the American Library Association strongly recommends that the responsible officers of each library in the United States: (1) Formally adopt a policy which specifically recognizes its circulation records and other records identifying the names of library

users with specific materials to be confidential in nature. (2) Advise all librarians and library employees that such records shall not be made available to any agency of state, federal, or local government except pursuant to such process, order, or subpoena as may be authorized under the authority of, and pursuant to, federal, state or local law relating to civil, criminal, or administrative discovery procedures or legislative investigatory power. (3) Resist the issuance or enforcement of any such process, order, or subpoena until such time as a proper showing of good cause has been made in a court of competent jurisdiction. (I.e., upon receipt of such process, order, or subpoena, the library's officers will consult with their legal counsel to determine if such process, order, or subpoena is in proper form and if there is a showing of good cause for its issuance; if the process, order, or subpoena is not in proper form or if good cause has not been shown, they will insist that such defects be cured.)"

networks and FCC meet on violence

Told by Congress to produce guidelines on violence and obscenity, Federal Communications Commission Chairman Richard Wiley met in November with three network heads to discuss their differences on the subject. The networks have come under fire for violence in their programming; prominent among the critics is FCC Commissioner Abbott Washburn, who has expressed objection to graphic scenes in *Born Innocent*.

Senate Communications Sub-Committee Chairman John O. Pastore (D-R.I.) is expected to put pressure on the FCC to make the airwaves more pacific. His mail has been flooded with complaints from viewers about violence. Reported in: *Variety*, November 13.

Oregon voters

approve new obscenity law

In the November election, Oregon voters approved Ballot Measure 13 and thus put into effect the state's new law governing the dissemination of sexually explicit materials to adults. Of the 700,000 citizens who voted on the measure, 370,500—fifty-three percent—voted yes.

The law, referred to the voters after adoption by the legislature, revises previous law by incorporating U.S. Supreme Court guidelines established in *Miller v. California* (1973) and by extending reading and viewing restrictions to adults. Formerly, the law governed only display of certain sexual materials to minors.

The Oregon Library Association officially opposed approval of the ballot measure. OLA's Intellectual Freedom

Committee, chaired by Kathleen Wiederholt, worked vigorously to encourage public discussion of its implications after early polls indicated that voters were inclined to approve it. Results of the IFC's efforts included newspaper editorials opposing approval, as well as action by library boards of trustees calling attention to its likely effects on their institutions.

Although discouraged by the vote, Frank Rodgers, president of the Oregon Library Association, said he thought public debate of the adverse aspects of the measure could lead to early amendment of the law, as well as check possible abuses in its enforcement.

commissioner calls for halt to texts that 'insult' parents

In a statement prepared for presentation to the school division of the Association of American Publishers, U.S. Education Commissioner Terrell H. Bell asked textbook publishers to print "only materials that do not insult the values of most parents." Bell's statement urged publishers to concentrate on "good literature that will appeal to children without relying too much on blood and guts and street language for their own sake."

Singling out the Bible, *McGuffey Readers*, and the *Wizard of Oz* as examples of books that present interesting stories, Bell said: "We could use more emphasis on some of those values today."

Bell declared that some current juvenile literature "appears to emphasize violence and obscenity and moral judgments that run counter to the tradition, all in the name of keeping up with the real world. Without having books and materials that are so namby-pamby they avoid all controversy, we must see published materials that do not insult the values of most parents."

A spokesman for the Office of Education said Bell's speech represented an agency policy statement, which was made "without any direction from the White House." In the past the Office of Education has carefully avoided taking any stand on textbook disputes. Reported in: *Chicago Sun-Times*, December 2.

broadcast of congressional sessions recommended

All public sessions of the U.S. Senate and House of Representatives should be open to television and radio broadcast on a gavel-to-gavel basis, according to a task force sponsored by the independent Twentieth Century Fund. Such access to the sessions of Congress would not only strengthen the legislative branch but also serve the people's

right to fuller information about the activities of governments, the task force stated.

The task force recommended that Congress authorize the Corporation for Public Broadcasting (CPB) to make arrangements to provide broadcast coverage of all public sessions of the House and Senate. Under their proposal, a small number of cameras and microphones would be placed in the House and Senate chambers to provide coverage that would then be made available to all commercial and public networks, as well as to other broadcasters who might wish to receive the signal.

In suggesting use of CPB, the task force warned that if Congress itself provided the coverage, the public might suspect "that only what the legislature believed to be the best aspects of the institution were being shown." As proposed by the task force, everything happening in both chambers would be transmitted to a central point, where broadcasters could select as much or as little as they wished for broadcast. "Coverage should reflect the variety of the legislative membership and of the issues it considers," the report states. "Full coverage is the best way to insure that television will not encourage demagoguery."

All of the recommendations of the task force, as well as a factual background paper by Lee M. Mitchell, appear in *Openly Arrived At*, available free of charge from the Twentieth Century Fund (41 E. 70th St., New York City 10021).

news council rules against Knight News

At a September meeting the National News Council upheld a complaint against the Knight News Service and dismissed complaints against the *New York Times* News Service and the Associated Press.

The complaint against Knight News Service was filed by Abraham Bergman, president of the National Foundation for Sudden Infant Death. Bergman contended that there were factual misstatements in an article written by Richard Pothier for the *Philadelphia Inquirer*, a Knight Newspaper, and distributed by the Knight News Service. The council ruled that the article was factually misleading in its discussion of current research on sudden infant death.

The complaint against the *New York Times* News Service stemmed from a February 1974 news article on U.S. aid to South Vietnam. The *Times* reporter who wrote the article had done extensive research but had been denied an interview with U.S. Ambassador to South Vietnam Graham Martin.

After Martin sent a cablegram to the State Department complaining that the article "contained numerous inaccuracies and half truths," the news council decided that the case merited an investigation, although it had not received a complaint from Martin.

The council ruled that the reporter was forced to draw

his conclusions from the facts available to him on the grounds that Martin had refused to allow an interview. But the council criticized the *Times* for not giving the article a "news analysis" label, which the council deemed "in keeping with the practice followed regularly by the *New York Times* and many other newspapers."

Four complaints against the Associated Press were dismissed, including a complaint that an AP article on a speech by Justice William O. Douglas at the University of Mississippi distorted his words when it stated he had said, "The energy crisis was created by the oil industry for its own profit." The complaint was dismissed because of insufficient evidence; no transcription of the speech was made. Reported in: *Editor & Publisher*, September 28.

IAPA protests CIA 'influence'

The Inter-American Press Association has condemned attempts by the Central Intelligence Agency to influence newspapers through financial support. In a statement signed by IAPA President Robert U. Brown, the IAPA said it "deplores reports that the CIA has spent funds in Chile to support the opposition press under President Allende."

In testimony before the Senate Foreign Relations Committee, Secretary of State Henry Kissinger asserted on September 19 that the intelligence agency's involvement in Chile had been authorized solely to keep alive political parties and news media threatened by the Allende minority government. President Ford alleged at a September 16 press conference that "there was an effort being made by the Allende government to destroy opposition news media, both the writing press as well as the electronic press, and to destroy opposition political parties." Reported in: *Editor & Publisher*, September 28.

BBC fears censorship

The British Broadcasting Corporation was threatened with censorship by Labor Party leaders. "No peacetime government has overtly interfered with the independence of the broadcasting organizations. This government has the means to do so and apparently also the will," said D.A. Hearn, general secretary of the Association of Broadcasting Staff, in a letter to the *London Times*.

The broadcast union chief's letter was a reaction to the "astonishing attack" on the BBC's election coverage made by Ron Hayward, general secretary of the Labor Party. Hearn's letter continued: "... following the attacks made during the election campaign by both [Prime Minister] Wilson and [Labor Minister] Michael Foot on the pay settlement reached by the BBC and the unions at the be-

In discussing the party's willingness to chastise the British network, Hearn said: "The BBC's financial difficulties are well known, and it is to a Labor government which appears to be waging a vendetta against it that it must look for an increase in the [set-user] license fee that it so badly needs." Reported in: *Variety*, November 6.

A religious handbook on pornography mailed to all Southern Baptist pastors in Texas in a campaign against pornography was considered obscene by many of its recipients. The book, *Pornography: the Sexual Mirage*, written by John W. Drakeford and illustrated by Jack Hamm (both Baptists), was mailed to 4,200 Texas pastors by the Baptist General Convention's Christian Life Commission. Ministers who called the commission's office said they were appalled at the book's vivid descriptions and frank language. Reported in: *New York Times*, October 21.

Newsletter reviewer Michael T. Fletcher had this to say about the book: "The call for censorship is the *raison d'être* of the work, and this is carried to the point of suggesting that local enforcement officers should not be bound by something as prosaic as laws, proper judicial procedure, etc., when the goal is to stop pornography. The fact that such activity is justified with the idea that people must be against pornography or there wouldn't be so many laws on the books against it does not strike the author as a contradiction."

A leading Yugoslav dissident writer, Mihajlo Mihajlov, was arrested in Belgrade for publishing articles highly critical of the Soviet Union. Charged with participating in activities hostile to Yugoslavia, establishing contact with foreign organizations, and anti-Yugoslav propaganda, Mihajlov faces the threat of a lengthy jail term.

Mihajlov, a former professor of comparative literature, has been imprisoned several times for his writings. In 1972 he was sentenced to jail for violating a ban on publishing his works after the *New York Times* printed an essay and a letter from him. Reported in: *Baltimore Sun*, October 9.

Soviet authorities permitted five nonconformist painters to exhibit their works as part of an annual show of the Moscow graphic artists organization. Several painters regarded the action as an indication of progress toward some official acceptance of contemporary art styles. But others privately expressed concern that it was a tactic to split the group of "unofficial" painters to gain control over them.

The five whose works were accepted were Oskar Rabin, Vladimir Nemukhin, Lydiya Masterkova, Dmitri Plavinsky, and Otar Kandaurov. All were leaders among the group that successfully staged a second outdoor art fair in Moscow after Soviet officials destroyed the first (see *Newsletter*, Nov. 1974, p. 146). Reported in: *New York Times*, November 20.

Meridian Township (Michigan) trustees have begun to think twice about their obscenity law, adopted August 1973. At a meeting in September the trustees revealed that enforcement of the law had cost them more than \$22,000 in unanticipated and unbudgeted legal expenses.

Meridian's law, frequently mentioned as a model for nearby Delta and Delhi Townships and the City of Lansing, controls only the display, not the sale, of sexually explicit material. Reportedly, its effect was the removal of *Playboy* and *Penthouse* from the counters of pharmacies and grocery stores. Reported in: *Lansing Journal*, September 20.

The 1975 Midwinter Meeting of the American Library Association will be held in Chicago, January 19-25, at the Palmer House Hotel. High on the agenda of concerns of the Intellectual Freedom Committee is the rejection of textbooks in Kanawha County, West Virginia and elsewhere in the country.

On the international front, the IFC and International Relations Committee will discuss the removal of Alexander Solzhenitsyn's *Gulag Archipelago* from bookstores licensed to operate on the United Nations' premises at the Palais des Nations in Geneva.

Another major item scheduled for consideration is a proposed revision of the *Library Bill of Rights* submitted by Gerald R. Shields, a former *American Libraries* editor and currently a professor of library science at the State University of New York at Buffalo.

[illegible]

Wednesday, January 22

8:00-12:00 Noon

Thursday, January 23

8:00-12:00 Noon

Registrants at the Midwinter Meeting are also welcome to attend the business sessions of the Board of Trustees of the Freedom to Read Foundation, beginning at 9:00 a.m. on Saturday, January 18.

ABA handbook available

A well organized and clear explanation of the U.S. legal system is available from the American Bar Association. Entitled *Law and the Courts*, the thirty-five-page booklet was designed as a reference source for laypersons. It costs \$.50 and can be ordered from the American Bar Association, Circulation Department 4030, 1155 East 60th St., Chicago, Illinois 60637.

intellectual freedom bibliography

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