newsletter on intellectual freedom

IFC ALA

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ISSN 0028-9485

March 1975 ☐ Volume XXIV ☐ No. 2

NEA panel reports on Kanawha County

Montani Semper Liberi—West Virginia State Motto

The inquiry panel established by the National Education Association to investigate the textbook controversy whose violence disrupted schools in Kanawha County, West Virginia issued its report in February. The statement of the panel not only discusses failures of the school system and causes of the protest, but also presents various recommendations to the people of the troubled county.

Request for investigation

On October 14, 1974, in the midst of the battle of the books, the Kanawha County Association of Classroom Teachers voted to request that the Teacher Rights Division of the NEA "conduct an exhaustive investigation into all facets of the textbook controversy." The NEA responded with appointment of an inquiry panel, which held hearings in Charleston December 9-11.

Members of the panel were Lauri Wynn (president of the Wisconsin Education Association and chairperson of the NEA Ethics Committee), chairperson; John P. Causey (representing the Association for Supervision and Curriculum Development); Todd Clark (National Council for Social Studies); Judith F. Krug (American Library Association); Valerie Russell (National Council of Churches); O. Norman Simpkins (chairman of the department of sociology and anthropology, Marshall University); Dan Wilburn (NEA); and John Wilson (NEA).

Panel's purposes

The panel deliberately eschewed any attempt to evaluate the texts and supplementary books that were in dispute in Kanawha County. Instead, the panel directed its attention to these questions:

- 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 and involvement and at the same time maintain responsible control of the schools.

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

titles now troublesome

Books

Peridocials

Films

Television Shows

On Stage

in response . . .

Dear Editors:

The story on page 9 of the January issue of *NIF* about Glendale's Brand Library is misleading. Certainly, you and the Intellectual Freedom Committee must know that newspapers seldom print all the news. We refused to respond to the *Los Angeles Times* article or the *Glendale News-Press* letter you quote since we generally find that it serves no useful purpose to continue arguments in the press. However, that doesn't apply to a professional publication where my friends will misunderstand my position.

Let me say to you first that I am a defender of intellectual freedom. In fact, your newsletter some years ago referred to me in a year-end summary as one of three or four librarians to be commended for stands against attempts at censorship.

Brand Library, which is this public library's art and music library, has a clear obligation in its gallery exhibitions to present the best available shows we can get. The art exhibits and music programs have received wide acclaim and have drawn visitors from all over the nation because we do insist on high standards. Generally artists exhibiting there are well known regionally.

Incidentally, it is Glendale's library and Glendale's gallery and we have been assigned the task of running them. The artists have no vested right to exhibit there.

Selection is extremely important. Most artists bring

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

IFC report

Delivered to the ALA Council on January 24, 1975, by KATHLEEN MOLZ, IFC Chairman.

For the third time I must indicate to the Council that the report of the Intellectual Freedom Committee will cover both national and international concerns.

On the national scene, the first matter on which I shall report is the textbook controversy in Kanawha County, West Virginia, a controversy which has been widely publicized in the news media and is of great interest to librarians throughout the country. The controversy initially involved the selection of 325 texts and supplementary books for the Kanawha County school system, the state's largest school district. Dispute over the materials occasioned so violent a community reaction that on October 14, 1974, the Kanawha County Association of Classroom Teachers voted to request that the National Education Association conduct an investigation. NEA accepted this request, and the inquiry was conducted under the auspices of NEA's Teacher Rights Division. Lauri Wynn, president of the Wisconsin Education Association, chaired the inquiry panel, which included representatives of the NEA, the National Council of Churches, the National Council for Social Studies, the Association for Supervision and Curriculum Development, and the American Library Association. Judith F. Krug, director of the Office for Intellectual Freedom, was the ALA delegate to the panel.

From December 9 through December 11, the panel held open hearings in Charleston, West Virginia, affording an opportunity for students, educational personnel, and community residents to be heard. The inquiry panel was, in effect, a fact-finding team intended to analyze the origins and development of the controversy 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 the public school.

An initial draft of the NEA inquiry panel report has been written, and February 6, 1975, has been set as the date of issuance from NEA. It is our hope that the report can be distributed from the Office for Intellectual Freedom as soon as copies are received.

The Kanawha County controversy came before the Committee twice during this Midwinter session, the second time in a less direct but nonetheless very important way. I refer here to the speech delivered in the name of U.S. Commissioner of Education Terrel H. Bell, at the meeting of the School Division of the Association of American Publishers on December 2, 1974. Detained in Washington for budget hearings, Bell designated an aide to read his address on "Schools, Parents, and Textbooks." Although he requested his audience not to read into what he said any "implied threat of academic freedom," the commissioner nevertheless proceeded to chart an extremely uncertain course through the muddied waters of current controversies relating to the selection of instructional materials.

Urging the industry and the schools to "chart a middle course between the scholar's legitimate claim to academic freedom in presenting new knowledge and social commentary on the one hand, and the legitimate expectations of parents that schools will respect their moral and ethical values on the other," the commissioner recommended that "without having books and materials that are so namby-pamby they avoid all controversy, we must seek published materials that do not insult the values of most parents."

The commissioner's comments immediately raise the question: which parents? and are they indeed to include those who would now rid our schools of the works of John Steinbeck, Kurt Vonnegut, or J.D. Salinger?

The Committee drafted its statement of concerns in the form of a letter to be sent on behalf of the ALA by President Holley. This letter notes in addition to the intellectual freedom matters, the commissioner's presumed oversight in making no reference to the federal instructional materials program which he administers and the lack of any reference to the policies of his own predecessors in urging both educators and publishers to reduce the cultural, ethnic, and geographic isolation of countless American children in part through the very books and materials which in turn have occasioned some of these recent controversies. The ALA president and the Executive Board have commended this action of the Committee, and the letter will be sent by the president at the conclusion of this meeting to the commissioner requesting a personal meeting with him in Washington to amplify further the present situation affecting censorship and proscription in school libraries.

The Washington scene again precipitated Committee activities this week. I refer here to the enactment of P.L. 93-526, the "Presidential Recordings and Materials Preservation Act." As most of you know, Title I of this statute affects the reception and retention by the federal government of the well-known Nixon tape recordings and the other presidential records. Title II of the statute is perhaps not so familiar, but this title authorizes the establishment of a National Study Commission on Records and Documents of Federal Officials, the latter broadly defined to cover officials in the executive, judicial, and legislative branches of the federal government. The Librarian of Congress is named as one of the seventeen members of this proposed commission. The creation of the commission will ultimately require the Association to give testimony re-

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'75 legislative scene

The reverberations of the U.S. Supreme Court's 1973 obscenity decisions were felt a year and a half later as state legislatures began their 1975 sessions. New bills on obscenity were introduced in more than twenty states. Details were available early for these states:

Arkansas: S. 150. Presents totally new obscenity law for state. Uses definition of obscenity proposed by Supreme Court in *Miller* v. *California.*

Connecticut: H. 5122. Would substitute city and town standards for the state standards adopted in 1974.

Illinois: H. 95. Would outlaw obscene works, advertising, etc. Uses *Miller* definition of obscenity.

Indiana: S. 138. Proposes a new law, using the test outlined by the Supreme Court in *Miller.* Indiana's previous law was declared unconstitutional in 1973.

Maine: S. 54. Proposes a nuisance law that would outlaw businesses involved in acts of "lewdness."

Massachusetts: H. 2940. Would allow establishment of "adult entertainment" districts. H. 1145. Would repeal criminal penalties for distribution of obscene matter to adults. Other bills on licensing have been introduced.

Michigan: H. 4045. A public display bill that would outlaw display of obscene matter in public streets and to minors. Libraries, etc., would be exempted.

Minnesota: H. 30. Would prohibit obscene films at drive-ins.

Mississippi: S. 2263. Would prohibit dissemination of pornographic materials to adults and minors.

Missouri: S. 93. Part of a criminal code revision; prohibits obscene matter as defined in *Miller.*

Nebraska: L.B. 77. Would ban dissemination of obscenity to adults and minors; obscenity defined in *Miller* terms.

Ohio: H. 9. Would outlaw dissemination of obscenity to adults and minors.

South Carolina: H. 2074. Would establish a commission to review state's obscenity law and make recommendations to 1976 General Assembly.

Utah: S. 23. Would prohibit dissemination of obscenity to adults and minors.

Virginia: S. 524. Would outlaw dissemination of obscenity to adults and minors. Libraries and other public institutions are exempted.

States in which obscenity bills were prefiled include California (S. 128), Indiana (S. 46), Massachusetts (H. 1145), North Dakota (H. 1043), and Washington (S. 2001).

Freedom to Read Foundation wins round one

In a decision that was, in effect, the first ruling on the substance of the Freedom to Read Foundation's suit to void California's "harmful matter" law, California Superior Court Judge Robert P. Schifferman declared on January 13 that librarians are exempt from the statute.

The statute—adopted in 1969—makes it a crime to disseminate to minors (under eighteen) any material that appeals to the prurient interest of minors, goes beyond customary limits in depicting sexual matters, and lacks redeeming social value for minors.

Among other arguments, the Foundation contended that the statute is unconstitutional because it forces librarians and others—under threat of criminal penalty—to censor communicative materials in actions that always escape required judicial review. Prompt judicial review of censorship decisions is required according to the U.S. Supreme Court.

Judge Schifferman's ruling establishes that the statute's affirmative defense for dissemination in furtherance of scientific and educational purposes creates an absolute exemption for librarians. His ruling stated:

"The court declares that it was the intention of the Legislature to provide librarians with exemption from application of the Harmful Matter Statute when acting in the discharge of their duties. The court declares alternatively that the availability and circulation of books at public and school libraries is necessarily always in furtherance of legitimate educational and scientific purposes for which these libraries were founded, and accordingly librarians are not subject to liability under the Harmful Matter Statute for distributing materials to minors in the course and scope of their duties as librarians.

"Plaintiff's motion is, therefore, granted to the limited extent set forth hereinabove and is otherwise denied. Defendant's motion is denied. Counsel for plaintiff is directed to serve and file within fifteen days from receipt of this ruling a proposed form of judgment in conformity thereto. Defendant may serve and file within ten days from receipt thereof objections to said proposed judgment, and shall notice such objections, if any, for hearing in this court no later than twenty-five days from receipt of the proposed judgment."

The plaintiffs in the suit—first filed in federal court in 1972—are Everett T. Moore, the Board of Library Commissioners of the City of Los Angeles, Albert C. Lake, Robert E. Muller, Chase Dane, the Rev. Charles J. Dollen, the American Library Association, the California Library Association, and the Los Angeles Public Library Staff Association. The defendant is California Attorney General Evelle J. Younger.

The Freedom to Read Foundation is the legal defense arm of the ALA's intellectual freedom program. It is supported solely by contributions from its members.

council condemns UNESCO action

At the Eighteenth General Conference of UNESCO, held in Paris during October-November 1974, Israel was excluded from UNESCO's European regional group. During its final session at the 1975 Midwinter Meeting, the ALA Council adopted the following resolution.

Whereas, The recent resolutions taken at the eighteenth session of the UNESCO General Conference deny the State of Israel regional affiliation in UNESCO and thereby deny aid in the pursuit of Israel's educational, scientific, and cultural activities; and

Whereas, These resolutions have occasioned the reaction of the international scholarly community in withholding its support to UNESCO in protest to this action; and

Whereas, These resolutions have also influenced the action of the U.S. Congress in withholding funding for UNESCO until such time as UNESCO corrects "its recent action of a primarily political character"; and

Whereas, These circumstances contribute not only to the isolation of a UNESCO member state from participation in educational, scientific and cultural activities but also directly influence the efficacy of UNESCO in furthering universal fundamental freedoms, the explicit purpose of its own constitutional mandate; and

Whereas, The American Library Association on July 12, 1974 specifically referred to Article 19 of the Universal Declaration of Human Rights which assures the right to "impart information and ideas . . . regardless of frontiers" as its own policy of governance in dealing with the rights of foreign nationals; and

Whereas, The Association believes that the UNESCO resolutions of November 1974 single out Israel for exclusion from the express purpose of UNESCO in scientific, cultural, and educational exchange, and may lead to the impairment of all UNESCO programs dependent on U.S. support;

Now, Therefore, Be It Resolved, That the American Library Association, as a member of the U.S. National Commission for UNESCO, record to the Commission its protest concerning UNESCO's action in denying Israel regional affiliation; and

Be it Further Resolved, That the American Library Association urge UNESCO to admit Israel immediately as a member of the European Regional Group with full powers of participation in regional activities; and

Be It Further Resolved, That the American Library Association urge the U.S. Congress to restore U.S. funding for the activities of UNESCO itself as soon as full recognition of the regional affiliation of Israel is achieved; and

Be It Further Resolved, That the American Library Association circularize this resolution adopted by the ALA Council on this 24th day of January 1975 to appropriate bodies dealing with international affairs, namely, the U.S. Department of State; International Federation of Library Associations; United Nations, with copies to the Embassy of the State of Israel and the Israel Library Association.

defending right to read in Oregon

By KATHLEEN WIEDERHOLT, Chairperson, and LINDA WOOD, former Chairperson, Intellectual Freedom Committee, Oregon Library Association.

While Oregon's ex-Governor Tom McCall told the Oregon story on responsible environmentalism to the nation, another story of interest to librarians and civil libertarians was developing. In this saga, Oregon citizens had the opportunity to vote on whether to censor the reading and viewing of adults.

Ballot Measure 13 in the November 1974 general election was designed to restrict the availability of so-called obscene material to adults and minors and to outlaw certain sexual activities in massage parlors and live public shows. Oregonians voted to adopt this measure by a margin of fifty-three percent to forty-seven, and thus incorporated into state law the new definition of obscenity formulated by the U.S. Supreme Court in its June 1973 decisions.

The Oregon Library Association vigorously opposed Ballot Measure 13 and, during the course of the campaign, the OLA's position received wide publicity throughout the state. Although the measure became law, OLA President Frank Rodgers stated after the election, "Perhaps we achieved a victory in losing because we made it known that there is a problem, and people who have no interest in supporting pornography are concerned."

A review of the Oregon experience may prove useful to other state library associations faced with proposed or actual revisions of their states' obscenity laws.

Experiences under the 1971 code

In 1971 the Oregon legislature adopted a new criminal code which included a revised and remarkable obscenity statute. This action followed a decade of confusion in the

legislature and the state courts as they vainly attempted to keep pace with developing constitutional standards on obscenity law. In 1970 a federal district court declared the state law on obscenity unconstitutional. The 1971 criminal code eliminated all censorship for adults and attempted to regulate only the distribution of obscene materials to minors. The code made furnishing, sending, exhibiting or displaying obscene materials to minors a criminal offense. It also made it a crime to display nudity or sex in public for advertising purposes.

The definition of obscene materials in the 1971 law was so broad that it included many materials found in schools, museums, and libraries. Pictures, photographs, drawings, sculptures, motion pictures, films, books, magazines, pamphlets, and other materials were covered. Obscenity was defined to include nudity, slang words generally rejected for regular use in mixed society, and explicit verbal descriptions or narrative accounts of sexual conduct.

Although many library materials were thus legally obscene for minors and their distribution to minors a crime under this law, libraries, schools, and museums and their employees were exempt from prosecution due to an affirmative defense included in the law. The law also provided defenses for parents and guardians of minors, and included a section making its provisions applicable and uniform throughout the state.

While some librarians felt that the definition of obscene materials in this law was far too broad and resented the implication that they were committing a crime, librarians were generally pleased with the affirmative defense. The absolute necessity of the affirmative defense for librarians was clearly revealed in a memorandum dated June 16, 1972, from State Attorney General Lee Johnson to all district attorneys in the state. Johnson stated that "a collection of da Vinci engravings of nudes is equally forbidden to minors as is the worst of the girlie magazines," and that, "outside the consideration of possible defense, the furnishing, sending or selling of *Lady Chatterley's Lover* to minors is just as subject to prosecution as is the furnishing, sending or selling of *Lesbian Roommate* to minors." The memo also stated that it was the attorney general's opinion that magazines "of the *Playboy* character" would have difficulty in successfully defending themselves from prosecution. The attorney general's memo concluded, "In effect, the Legislature has recognized that which we as lawyers have become aware of, that it is an expensive and almost impossible burden to deal by prosecution with materials that are read or viewed by adults."

The adoption of the 1971 code, with its elimination of all censorship of adults' reading and viewing, led to the ready availability of sexually explicit publications and films in the state, especially in the Portland area. At the same time, massage parlors were opened throughout the Portland area bearing such names as "Ginger's Sexy Sauna" and the "Pleasure Palace". As such businesses became more noticeable, an increasing number of public complaints about their existence were heard. The greatest public indignation was reserved for a number of shows in Portland which included live sex acts on stage. Gradually the police and prosecutors began to use the prostitution laws against this activity and succeeded in eliminating it.

Despite vigorous public protests against the adult bookstores, theaters, and massage parlors, a sizeable number of the population obviously patronized these businesses and another sizeable group was indifferent to their existence. Other Oregonians were proud that their state was in the vanguard of civil liberties in adopting the principle that adults should be free to read or view whatever they pleased. However, the people who were disturbed by the presence of adult bookstores, theaters, and massage parlors applied pressure to the members of the legislature to reinstate controls which would eliminate these businesses.

Battling for a new law

Because of this pressure, a number of bills relating to censorship of obscene materials were introduced in the 1973 legislature. The district attorney of Multnomah County, which includes the City of Portland, lobbied strongly in favor of these bills. District Attorney Carl Haas was a member of the 1971 legislature and had supported the revised criminal code then. His support for reinstating censorship for adults in the 1973 legislature was based on his subsequent experience as district attorney in Multnomah County and his fear that the thriving pornography business would attract organized crime. Haas provided no evidence to support the allegation that organized crime was involved, however.

Only one of the bills on pornography which were introduced in the legislature generated any momentum. This was Senate Bill 708. At first the definition of obscenity in S.B. 708 included the "utterly without redeeming social value" test. In addition, the bill included a section which would have allowed local governments to pass ordinances on obscenity and pornography. The Oregon Library Association lobbied strongly against this provision. The Intellectual Freedom Committee felt that different local ordinances would make selection of materials for libraries very difficult and would restrict certain books in one part of the state which would be perfectly legal in another part. Members of the IFC sent letters to the appropriate members of the legislature, and the chairperson of the committee testified at a House Judiciary Committee hearing on the proposed bill. Although the bill passed the Senate with one dissenting vote, there were indications that it would die in committee in the House.

Then during the final days of the legislative session, the U.S. Supreme Court issued its June 1973 decisions on

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the published word

a column of reviews

The American Radical Press, 1880-1960. Joseph R. Conlin, ed. Greenwood Press, 1974. 720 p. [In two volumes, paged consecutively.] $29.95.

In the late 1960s, Greenwood Press reprinted complete runs of 109 radical periodicals. Each reprinted journal was prefaced by a specially-commissioned essay (or review), and these essays—with the addition of ten new ones—have been reprinted in the present volumes. They are signed, dated, clearly-written, well-edited, and generous in length (usually four pages or more).

A typical review includes a biographical sketch of the journal's founder or editor, and offers some background: why the journal was founded; what it tried to accomplish (and whether—in the reviewer's opinion—it succeeded); who contributed to it; salient historical events that took place during its life; the difficulties it ran into; and the causes of its decline and collapse.

Not all of the periodicals are defunct: at least eight—including *Catholic Worker, Partisan Review,* and *Weekly People*—are still in business. It is surprising that *any* have survived, because journals of advocacy face substantial problems: small circulation, few advertisers, frequent factional disputes and schisms, and official repression. (Emma Goldman's anarchist *Mother Earth* was banned from the mails in 1917, as was *Dr. Robinson's Voice in the Wilderness,* a one-man anti-war periodical.) These problems result in high mortality and early demise, making journals of opinion almost as evanescent as literary "little magazines." Although *Weekly People* has been appearing since 1891, most of these periodicals have had relatively short lives: *Marxist Quarterly,* for example, lasted for only three issues in 1937.

Most of the reviewers are past or present professors (often specialists in some aspect of radical history), but there are also periodical editors, antiquarian booksellers, and a former secretary to Leon Trotsky. (Examples: Hannah Arendt, Sidney Hook, Michael Harrington, William Appleman Williams, and bibliographer Walter Goldwater, compiler of *Radical Periodicals in America, 1890-1950.)* A number of them have special knowledge of the periodicals they write about. For instance, the *Catholic Worker* is reviewed (for ten pages) by Dwight Macdonald, who once wrote a *New Yorker* "Profile" of its editor, Dorothy Day; and Day herself adds a four-page postscript. (Macdonald also reviews his own magazine of the late 1940s, *Politics,* which carried contributions by James Agee, Bruno Bettelheim, Albert Camus, Paul Goodman, C. Wright Mills, and Simone Weil.)

These periodicals espoused many causes, some lost and some still contended for. They put forward the beliefs or doctrines of parties, splinter groups, and even individuals *(Upton Sinclair's),* as this brief list shows:

Anarchism: *Alarm,* founded in 1884 by Albert R. Parsons, hanged three years later after a trial following the bomb explosion in Chicago's Haymarket Square.

Unionism: "Wobbly" papers (such as *The One Big Union Monthly)* published by the Industrial Workers of the World during the first three decades of this century. The IWW, whose enemies depicted it as unpatriotic and seditious, was almost crushed by federal prosecutions during World War I. Its *Industrial Worker* ceased publication in 1918 because printers would no longer handle it and the post office took away its second-class mailing privilege.

Menshevism: *Modern Review,* founded with the help of the exiled leader of the Russian Social Democratic Labor party, Raphael Abramovitch. When not incapacitated by migraine headaches, this full-time man of letters also directed *Sozialistische Vestnik* (Socialist Courier), contributed to *Jewish Daily Forward,* and edited the *Jewish Encyclopedia.*

Pacifism: *The Conscientious Objector,* its subscribers "usually vanishing into prison" or into forced-labor camps; and opposition to the draft: *Alternative,* founded by Dave Dellinger and others in 1948, long before Dellinger became well-known for his opposition to the Vietnam War.

Trotskyism: The Socialist Workers party's *International Socialist Review,* now in its second half-century, carried articles by Leon Trotsky, while he was alive. After his murder, it printed writings of his "which were otherwise unavailable or had been inaccessible to the English-reading public. It continues to fill these gaps to the present day."

Communism: The *Daily Worker* (Communist Party, USA), subject of the longest review (twenty pages), was "probably the most important single publication in the history of radical journalism in the United States." This paper, whose strings were pulled in Moscow, was given to strange and sudden shifts in policy. After denouncing Hitler's regime in Germany, it was faced in 1938 with news that the Soviets had signed a non-aggression pact with the Nazis. This "hit the party like a bombshell," but the *Daily Worker* unblinklingly accepted it as "a masterstroke of Soviet diplomacy" and stopped attacking Germany. Several years later, the Germans invaded the Soviet Union, so "the paper reversed itself with hardly a word of explanation," saying only that "the

invasion had changed the nature of the war from what it had appeared to be earlier"!

Muckraking, and the exposure of bureaucratic duplicity and incompetence: George Selde's *In Fact* and *I.F. Stone's Weekly.* (Stone, who gave up his one-man journal several years ago, now writes for *The New York Review of Books.*)

The problems of women: The editor of *Progressive Woman,* Josephine Conger-Kaneko, devoted special issues to women's suffrage, child labor, and white slavery, before factional in-fighting put an end to her magazine.

It would be a mistake to think of these periodicals as the products of obscure zealots, for their editors and contributors included Roger Baldwin (founder of the ACLU), James Burnham, W.E.B. DuBois, Michael Harrington, Sidney Hook, Carey McWilliams, A.J. Muste, Lewis Mumford, Bayard Rustin, Anna Louise Strong, Leon Trotsky, and Vice-President Henry Wallace; poets Max Eastman and Selden Rodman; philosophers Hannah Arendt and John Dewey; historians Gertrude Himmelfarb and Staughton Lynd; librarian Lawrence Clark Powell; and novelists Louis Adamic, John Dos Passos, Theodore Dreiser, Arthur Koestler, Norman Mailer, and John Steinbeck.

These radical periodicals can be primary source material for students of history, political science, and sociology. As the editor of the present volumes, Joseph R. Conlin, puts it in his Introduction, "the radical press *is* the chief source for understanding the radical experience in America. The thought, dreams, and activities of the radicals are recorded there and, to a great extent, only there." Libraries fortunate enough to own back files of the periodicals would do well to add *The American Radical Press* to their collection, but academic and public libraries that *don't* own the periodicals themselves have an even greater need for these essays that illuminate an interesting part of our social and political history.–*Reviewed by Ted Spahn, Assistant Professor, Graduate School of Library Science, Rosary College, River Forest, Illinois.*

Where Do You Draw the Line? Victor B. Cline, ed. Brigham Young University Press, 1974. 365 p. $9.95 cloth; $6.95 paper.

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free speech at Yale: to discuss the unmentionable

One year ago Yale University students disrupted a debate involving Nobel Prize physicist and Stanford University Professor William Shockley, who argues that blacks are genetically inferior to whites.

As a result of the Shockley episode, the Yale University Corporation appointed a committee to study freedom of speech in the university. The committee consisted of thirteen persons–five faculty members, two undergraduates, three graduate students, two administrators, and an alumnus–with historian C. Vann Woodward as chairman.

The Woodward committee's report is uncompromising in its defense of intellectual freedom:

"The primary function of the university is to discover and disseminate knowledge by means of research and teaching. To fulfill this function a free interchange of ideas is necessary not only within its walls but with the world beyond as well. It follows that the university must do everything possible to ensure within it the fullest degree of intellectual freedom. The history of intellectual growth and discovery clearly demonstrates the need for unfettered freedom, the right to think the unthinkable, discuss the unmentionable, and challenge the unchallengeable. To curtain free expression strikes twice at intellectual freedom, for whoever deprives another of the right to state unpopular views necessarily deprives others of the right to listen to those views. . . .

"Without sacrificing its central purpose, [a university] cannot make its primary and dominant value the fostering of friendship, solidarity, harmony, civility, or mutual respect. To be sure, these are important values; other institutions may properly assign them the highest, and not merely a subordinate priority; and a good university will seek and may in some significant measure attain these ends. But it will never let these values, important as they are, override its central purpose. We value freedom of expression precisely because it provides a forum for the new, the provocative, the disturbing, and the unorthodox. Free speech is a barrier to the tyranny of authoritarian or even majority opinion as to the rightness or wrongness of particular doctrines or thoughts. . . .

"Shock, hurt, and anger are not consequences to be weighed lightly. No member of the community with a decent respect for others should use, or encourage others to use, slurs and epithets intended to discredit another's race, ethnic group, religion, or sex. . . .

"[But] even when some members of the university community fail to meet their social and ethical responsibilities, the paramount obligation of the university is to protect their right to free expression. This obligation can and should be enforced by appropriate formal sanctions. If the university's overriding commitment to free expression is to be sustained, secondary social and ethical responsibilities must be left to the informal processes of suasion, example, and argument."

censorship dateline

libraries

Springfield, Illinois

After noting that *How to Avoid Social Diseases: A Practical Handbook* was recommended by several standard review authorities, librarians at Lanphier High School ordered several copies for the school library. Shortly thereafter a councilor examined one of the copies and showed it to the high school principal, who in turn ordered that the remaining copies be brought to his office.

The principal informed one of the librarians that the copies could be returned to the shelves only if two lines which he considered unacceptable for high school students were struck. The librarian responded that because of the precedent that such an action would set, return of the volumes under those conditions would be unacceptable. At last report the books remained in the principal's office.

Syracuse, Indiana

After parents complained about "cuss words" in Steinbeck's *Of Mice and Men,* School Superintendent Don Arnold reported to the local school board that the book had been removed from all required reading lists and from the school library as well.

Seven parents of sophomores had objected to the book as required reading. Reported in: *Elkhart Truth,* November 14.

Grinnel, Iowa

The school board of the Grinnel-Newburg school system ordered *The Godfather, The Exorcist,* and *The Summer of '42* temporarily removed from school library shelves after receiving a complaint from a lay preacher for the Church of Christ.

Ben See, who described himself as the father of five students in the school system and a minister of the gospel, read a statement to the board in which he denounced the books as "vulgar and obscene by most religious standards."

See said the works are on the shelves because of the work of "materialists who defy the finite sciences." His complaint was referred to a committee.

Saginaw, Michigan

Apparently fearing parental complaints about *Go Ask Alice,* an assistant superintendent of schools ordered librarians in Saginaw schools to remove the book from their collections.

The action of the Saginaw administrators followed by a few days a vote of the Kalamazoo, Michigan school board to ban the work from their schools. However, the Kalamazoo decision was later rescinded (see "Success Stories" in this issue).

Cold Spring Harbor, New York

A collection of articles by prison inmates–*Inside: Prison American Style*–has become the object of a feud between the Cold Spring Harbor School Board and the parents of a junior high student. Eugene and Carolyn Mayer, who found the book obscene, refused to return it to the school after their daughter borrowed it from the library.

In December the Mayers sponsored a lecture on pornography featuring the Rev. Charles G. Stalfort of Birmingham, Alabama, who represented Morality in Media. The Southern Baptist minister showed slides reproduced from the *Illustrated Presidential Report of the Commission on Obscenity and Pornography* and told the audience that obscene literature causes sex crimes, ruins children's lives, and destroys marriages. Reported in: *Newsday,* December 12.

Alton, Oklahoma

After an Alton school board member was given what one parent considered an objectionable school library book, the school board discussed the issue of library materials and directed the Alton junior-senior high school faculty to screen the collection for "questionable" works.

The books removed "for further consideration" included *Flowers for Algernon, I Never Loved Your Mind, The Learning Tree, Like the Lion's Tooth, Listen to the Silence, The Man Without a Face, One Flew Over the Cuckoo's Nest, The Pride of the Green Berets, Rachel, Rachel, Soul Catcher, Sticks and Stones, Tell Me That You Love Me, Junie Moon, That Was Then, This Is Now,* and *Two Love Stories.*

Enid, Oklahoma

To Walk the Line, a novel by David Guammen, was banned from all libraries in the Enid Public School System by a vote of the board of education. The decision was made after the mother of a junior high student pointed out to the board several passages of the book which she deemed "unfit

for junior high students to read."

Superintendent of Schools O.T. Autry told the audience attending the school board meeting that all works selected for school libraries were subjected to a screening process. He added, "I'm sure we'll put more emphasis on this thing of screening books as a result of this meeting."

Assistant Superintendent Jack Webb, commenting on the problem of trying to screen a large number of books, added, "We don't try to justify the books that are found to be objectionable; we take them out of circulation immediately." Reported in: *Enid Morning News,* December 3.

colleges-universities

Denver, Colorado

Metropolitan State College administrators voted in November to suspend Margaret Peterson, editor of the campus newspaper, because she had published an anonymous letter critical of black students and the school's black studies program.

The problem, according to the Center for the Rights of Campus Journalists, was resolved administratively with a decision to prepare written guidelines so similar difficulties would not occur in the future.

Subsequently, the editor was threatened with suspension when the newspaper ran a comic strip describing white students who refused to be bussed as "playing hooky." After this comic strip was published, students in the All-African Student Union objected that the strip treated a serious problem frivolously and called for the editor's removal and the removal of the Publications Board. No administrative action was immediately taken. Reported in: *Press Censorship Newsletter,* December-January.

New York, New York

The New York Civil Liberties Union has challenged the efforts of City College to oust Prof. Stanley W. Page and has called upon the institution's president to ask the faculty senate "to restrain itself." Page, a controversial history teacher who has criticized policies and personalities in the college's troubled history department, is threatened with violation of his freedom of speech, according to the civil liberties group.

The faculty senate's executive committee—taking action after submission of an inquiry report called for by the senate—approved a resolution asking the college president to bring charges against Page on the grounds that his alleged attacks on colleges and administrators, "if verified, constitute conduct unbecoming a member of the faculty and, as such, warrant disciplinary proceedings."

"Such a recommendation, if implemented, would in our view clearly violate the First Amendment to the U.S. Constitution and, under existing case law, would constitute an impermissible breach of academic freedom," Ira Glasser, executive director of the New York CLU, wrote in a letter to the college president. Reported in: *New York Times,* January 21.

Davidson, North Carolina

Officials at Davidson College ordered printers not to bind a yearbook containing a picture of male streakers and the words "Fuck P.E." (physical education). Student editors offered to substitute asterisks for the words and to cover the streakers' genitals, but officials said they wanted the objectionable materials removed entirely.

The students brought the matter before the board of trustees, which sent the matter back to the president of the college and the editor of the yearbook for further attempts at compromise. The board also decided to appoint a review board to set up journalistic standards for future publications.

The president and the editor agreed to substitute asterisks for the offending words and to cover the male genitals. Reported in: *Press Censorship Newsletter,* December-January.

the press

Wilmington, Delaware

Of Delaware's three daily newspapers, two are controlled by I.E. duPont de Nemours & Co. Early in 1975, in an upheaval at the Du Pont papers, two editors resigned and two were dismissed in a struggle over control of the gathering and presentation of news.

An expression of concern about the free flow of news in the state came from Common Cause of Delaware, a group of University of Delaware professors, the National Association for the Advancement of Colored People, and the Medical Society of Delaware.

In a statement from Dr. Joseph Belgrade, president of the medical society, the society said it was concerned about "undue restraint of a free press." Similar statements were issued by other groups and individuals. Governor Sherman W. Tribbitt called for formation of a citizen's group to "preserve the intellectual and journalistic integrity" of the papers.

The recent confrontation occurred when the chairman of the board of the Du Pont papers blocked reorganization of newspapers' staffs. The chairman, David H. Dawson, insisted that he "upholds the right of the board to express its point of view on the news operations, and to have it honored."

Reportedly, members of the Du Pont family have been unhappy with recent articles critical of the Du Pont Company and various state institutions such as the University of Delaware.

Ten years ago Creed C. Black, now editor of the editorial page of the *Philadelphia Inquirer,* resigned from a Du Pont

paper in a fight over what he charged were continual attempts by the owners to make the papers suppress news they considered injurious to the Du Pont family or the Du Pont Company, or reflected badly on the community. Reported in: *New York Times,* January 6; *Wilmington Journal,* January 7.

St. Louis, Missouri

The U.S. District Court for the Eastern District of Missouri adopted court guidelines August 29 barring anyone for all time—including the press—from interviewing jury members after a trial is over without the court's permission.

Judge John K. Regan drafted the rules on the basis of similar rules used by federal judges in Texas. Regan explained the rule saying, "There was no intent to interfere with the press. The reason was to protect the jurors—to remove an irritant associated with serving on juries."

Regan told reporters that jurors, especially in negligence cases, had complained to the court about questions from attorneys attempting to discover reasons for their verdicts.

Judge H. Kenneth Wangelin invoked the rule in September, denying reporters the right to interview jurors about their decision to convict Ronald Calvert of mail fraud in a highly celebrated case in St. Louis.

Although most of the ninety-four federal judicial districts have rules regarding juror interviews, very few apply to more than the parties involved in the case, according to Carl H. Imlay, general counsel for the Administrative Office of the U.S. Courts in Washington. Reported in: *Press Censorship Newsletter,* December-January.

California

In 1972, in a case involving the *Stanford Daily,* a federal judge in California ruled that no-notice police search-warrant raids of news offices violated the First and Fourteenth Amendments. He said that police should pursue the less drastic alternative of the subpoena process because it would give news organizations notice and an opportunity to raise First Amendment objections in court before producing required material and would preclude the danger of police sifting at will through confidential news files.

Despite the clear holding of the *Stanford Daily* decision and subpoena provisions of the state shield law, police in California continue to conduct no-notice searches of news offices. In 1974 there were at least four such searches of the *Los Angeles Star,* the *Berkeley Barb* (two warrants were served on the *Barb's* attorneys) and of radio stations KPFA-FM in Berkeley, KPFK-FM in Los Angeles, and KPOO-FM in San Francisco.

The searches of the radio stations were all directed against stations with strong informational links to the radical community and with known policies of protecting confidential news sources. Two of the searches—of KPFK and the *L.A. Star*—were prolonged, massive searches of news offices during which police also seized documents apparently unrelated to their investigations. Reported in: *Press Censorship Newsletter,* December-January.

Atlanta, Georgia

Atlanta Police Chief John Inman refused in August to issue city press identification passes to news staff members of the *Atlanta Voice* and the *Great Speckled Bird.* According to the *Voice,* Inman claimed the issuance of press passes was "privileged." *Voice* staff member Gregg Mathis, however, attributes the denial of passes to "critical investigative reports" of the Atlanta police department by both newspapers.

The *Voice* is the state's largest black newspaper. The *Bird* is one of the oldest and best known underground papers.

Despite Inman's refusal to authorize the passes, Atlanta Mayor Maynard Jackson issued both papers press identification signed by Inman and sent to the Mayor for distribution. Reported in: *Press Censorship Newsletter,* December-January.

radio-television

California

The Public Media Center, a California non-profit advertising agency which produced a series of radio commercials criticizing the oil industry for its high profits, provided Shell Oil Company with a list of the 700 radio stations that had requested the ads. Shell officials then called several of the stations to learn how the ads were being used. Reported in: *Press Censorship Newsletter,* December-January.

New York, New York

On October 23, the Institute for American Strategy announced the completion of a two-year study of the reporting policies of CBS-TV News on national defense issues. Entitled *TV and National Defense: An Analysis of CBS-News, 1972-73,* the report was based on video tapes of evening news broadcasts stored at the Television News Archive of Vanderbilt University Libraries.

The report found that during the two years of the study, CBS: (1) devoted one minute "to the comparative U.S.-USSR military situation"; (2) carried almost no information on growing Soviet military might; (3) directed much critical reporting against U.S. military involvement in Vietnam; and (4) "was an active advocate . . . of a position that implied or called for a lesser commitment to American allies and lower defense expenditures."

Upon the report's release, IAS President John Fisher wrote to Richard Salant, president of CBS, saying that the report may be used as the basis of legal suits against CBS affiliates: "We will send copies to the managers of all CBS-affiliated TV stations. . . . After all, it is their licenses which may be jeopardized if CBS-News fails to provide

them with balanced programming."

Salant responded by saying that the Institute for American Strategy itself was open to charges of bias, since Fisher had discussed his conclusions of network bias several months before the study was completed. Reported in: *Press Censorship Newsletter,* December-January.

New York, New York

Calling the incident "another attack of the sillies" and "one last tango" for him and the American Broadcasting Company's legal department, Dick Cavett protested ABC's censorship of his interview with Gore Vidal.

Cavett, who interviewed Vidal about then Vice President-designate Nelson Rockefeller, said the network cut out not only words of Vidal that the legal department found offensive, but also his visual image and refused to let Cavett add a disclaimer in the opening or any other part of the show informing viewers that a cut had been made.

The censored remarks–about twenty seconds in length–were part of Vidal's answer to Cavett's question: "Where would you find an honest politician–Rockefeller?"

Vidal said no and included in his answer references to Rockefeller's having allegedly "given money to everybody in the state of New York for services maybe rendered or not rendered" and having "bought the entire Republican machine since 1958 in the state of New York." Reported in: *Washington Post,* December 11.

Baltimore, Maryland

The American Broadcasting Company's Baltimore affiliate canceled the premiere episode of "Hot l Baltimore" and said that future decisions on whether to air the program would be made on a week by week basis. A spokesman for WJZ-TV described the program as "marginal in taste" and said the station was "concerned with the image of our city as shown in the program."

ABC preceded the show with an announcement advising viewers of the content of the program and suggesting parental discretion. Similar warnings were used in all newspaper and broadcast advertisements for the show.

In New York, about 100 persons phoned ABC's headquarters, most of them protesting the program's "filthy" content. In Los Angeles, the ABC affiliates said complaints outnumbered compliments by about five to three. Reported in: *Baltimore Sun,* January 25; *Chicago Tribune,* January 26.

trade books

New York, New York

A book printed in 1960 and then destroyed under obscure circumstances by its publisher, Macmillan, was published in late 1974 by Harper & Row and Octagon Books. The work is *The China Lobby in American Politics* by Ross Y. Koen, a specialist on East Asian affairs. The book is strongly critical of the China Lobby, a group of Americans and Nationalist Chinese who sought to influence U.S. Foreign policy toward China in the 1950s.

A few copies of the 1960 book were sent early to reviewers and escaped destruction; Barbara Tuchman, who located a copy while conducting research for her biography of General Joseph Stilwell, said the book was suppressed at the prompting of Chinese Nationalist officials.

In his preface to the 1974 book, Professor Richard C. Kagan of Hamline University asserted that the Chinese Nationalist political organization worked through U.S. agencies to prevent publication of the book. Reported in: *New York Times,* December 10.

New York, New York

An unflattering book about the Du Pont family and its various enterprises was withdrawn by the Fortune Book Club after it received a telephone call from a Du Pont Company executive. An official of the Book of the Month Club, owner of the Fortune Club, denied that the call had influenced its action, and the Du Pont executive said his call did not constitute a threat.

However, Prentice-Hall, the book's publisher, said the club "knuckled under to pressure." Gerard Colb Zilg, author of *Du Pont: Behind the Nylon Curtain,* said the corporation was "trying to limit the book's promotion and circulation."

The book, commissioned in 1972, was praised by Leon H. Keyserling, former chairman of the Council of Economic Advisers, who described it as "a fascinating account of all the main ramifications of concentrated and gigantic industrial power."

When the book was in galley, Harold G. Brown Jr., a spokesman for I.E. du Pont de Nemours & Co., telephoned an executive of the Book of the Month Club. Brown said he informed the club that Du Pont considered the book "scurrilous and unfair." However, he denied that the characterization carried any implication of legal action against the club. Reported in: *New York Times,* January 21.

schools

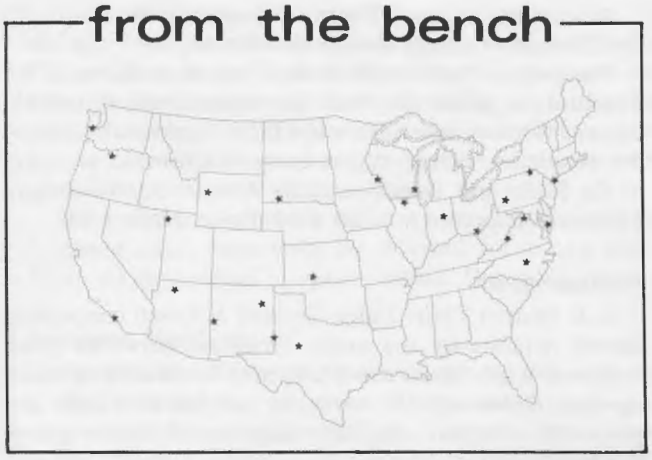
St. Charles, Missouri

Two parents appeared at a meeting of the St. Charles Board of Education to complain about a book which they said contained "lewd, repulsive, and disgusting" language. They demanded that disciplinary action be taken against the teacher who assigned it.

Superintendent Frank E. Colaw denied that the book–

(Continued on page 55)

from the bench



U.S. Supreme Court rulings

In a decision having broad implications for publishers of newspapers, magazines, and books, the U.S. Supreme Court ruled eight to one that the Forest City Publishing Company, publisher of the *Cleveland Plain Dealer,* must pay $60,000 to a West Virginia family for invading its privacy.

Writing for all the justices except William O. Douglas, who dissented, Justice Potter Stewart declared that feature writer Joseph Eszterhas and the *Plain Dealer* had knowingly or recklessly put the family in a "false light."

The case grew out of the 1967 collapse of the Silver Bridge over the Ohio River at Point Pleasant, West Virginia. Among the forty-four people who died when their cars fell into the river was Melvin A. Cantrell, whose death and its impact on his family was the subject of an article by Eszterhas that appeared in the *Plain Dealer*'s Sunday magazine.

Mrs. Cantrell charged that the article, and a later follow-up article, portrayed her family in a way that brought pity and ridicule upon them, and that statements printed by the *Plain Dealer* were false.

The Court concluded that Eszterhas could be held liable because he clearly knew that some of his statements were false, and that the *Plain Dealer* could be held liable because Eszterhas was its employee.

The Court's decision was based on a 1967 ruling involving *Life* magazine *(Time Inc.* v. *Hill)* in which it was declared that a person seeking to collect damages for invasion of privacy must prove that the publicity was false and that it was published with knowledge of its falsity or with a reckless disregard of whether it was false or not. Justice Stewart stated that the Cantrell case afforded the Court no opportunity to consider a more relaxed standard which would make it easier to collect damages from a publisher for invasion of privacy.

In other December decisions involving First Amendment rights, the Court:

- Rejected claims that a U.S. Court of Appeals does not have authority to impose procedural restrictions on judges seeking to curb press coverage of criminal trials. A federal district court judge argued that an appeals court had no power to overrule his gag order imposed during a perjury trial of defendant also under indictment for murder in another state.
- Declined to review a decision of the U.S. Court of Appeals for the Second Circuit which held that William F. Buckley Jr. and M. Stanton Evans must pay dues to the American Federation of Television and Radio Artists. A similar appeal from a New York Court of Appeals case which was decided against commentator Fulton Lewis III was also rejected. Chief Justice Burger and Justice Douglas dissented.
- Let stand a ruling by the Ohio Supreme Court that upheld a Cincinnati ordinance against noisy, boisterous, rude or insulting language. Stephen Karlan, convicted of insulting a policeman and later denied admission to the Ohio bar because of the conviction, challenged the ordinance as so vague as to permit punishment of protected speech. The Ohio court had narrowed the application of the law to so-called fighting words. (Last year a similar argument was used successfully against a New Orleans law because Louisiana courts had not narrowed it to "fighting words.")
- Dismissed appeals of two obscenity convictions—one from Ohio and one from Maryland—"for want of a substantial federal question." Justice Brennan—whose dissent was joined by Justices Stewart and Marshall—would have invalidated both states' obscenity laws as constitutionally overbroad. Justice Douglas also dissented.

the media

Washington, D.C.

The U.S. Court of Appeals for the District of Columbia ruled that an investigative reporter is not protected by the First Amendment against slander charges if he makes false statements about someone during the course of an investigation. The appeals panel found that Theodor Schuchat, a free-lance feature writer, had made slanderous and malicious statements to a source while working on a story about Philadelphia insurance executive Leonard Davis.

Schuchat's investigation of Davis, who founded Colonial Penn, extended to the latter's affiliation with the American Association of Retired Persons and the National Retired Teachers Association, which is affiliated with the National Education Association.

In July 1970 Schuchat told two NEA officials that Davis "had been convicted of a felony in New York," when Davis had in fact been acquitted of charges there in an insurance fraud case.

A lower court had found that slanderous statements had

been made "pursuant to [Schuchat's] admitted technique of throwing a lot of things out in an interview just to get a response." The appeals panel said: "The assertion that there is some special danger of self-censorship because of the allegedly peculiar nature of an investigative reporter's job necessarily assumes that the investigative reporter must be allowed to make statements in interviews that he (or anybody else) would not be permitted to say in a 'final context' . . . but we fail to see why a comment on a matter of public interest should be any more protected in the private sphere than it is in the public arena." Reported in: *Washington Star-News,* January 23.

Tucson, Arizona

The *Tucson Daily Citizen* filed suit in the Arizona Court of Appeals seeking to restrain a lower court order barring the press and the public from the trial of a Tucson gynecologist and obstetrician charged with raping one patient and committing lewd and lascivious acts upon another. Pima County Superior Court Judge Robert Buchanan had ordered the trial closed on a motion by the physician's attorney, who argued that it should be closed due to the "bizarre nature of the allegations of the case."

After the appeals court granted a temporary restraining order and the issue was appealed to the Arizona Supreme Court, which refused to accept jurisdiction in the matter, the appeals court ordered the trial closed on the grounds that it "might appeal to morbid and prurient interests." Reported in: *Editor & Publisher,* January 4.

Boston, Massachusetts

According to a ruling of the Massachusetts Supreme Judicial Court, the refusal of a newspaper to accept advertising for publication is not an unfair trade practice under the Massachusetts Consumer Protection Law. The decision was made in unanimous rulings upholding dismissals of $100,000 suits against the *Boston Globe* and the *Boston Herald American* brought by a Boston company that provides female escort services.

Chief Justice G. Joseph Tauro noted that under Massachusetts law the publication of newspapers is a private enterprise and that newspapers are free to do business with whomever they choose. Reported in: *Boston Globe,* January 7.

Los Angeles, California

After broadcast journalists protested rules restricting federal courthouse news coverage, thirteen of fifteen federal judges in Los Angeles signed an order banning radio and television equipment from the steps of the U.S. District Court.

In the past, reporters were forbidden to bring cameras, recorders or microphones into the courtrooms or the quarters near the courtrooms, but could work on the first floor of the building, where there are no courtrooms.

After reporters protested the extension of the ban to the first floor, the ban was extended to the steps.

The judges' "actions violate the First Amendment of the Constitution, which they have the responsibility of upholding, and we feel their action blatantly discriminates against the broadcast media," stated Larry McCormick, president of the Radio and Television News Association of Southern California. Reported in: *New York Times,* January 24.

Washington, D.C.

U.S. District Court Judge Gerhard A. Gesell temporarily denied requests by the major broadcast networks to air copies of White House tapes played at the Watergate cover-up trial. Gesell said the networks had failed to make any proposals to ensure that the tapes would not be put to "undignified use."

In turning the question over to Judge John J. Sirica, however, Gesell left the way open for broadcasters to propose a new plan.

Gesell's ruling came after the networks requested the tapes and he in turn had requested the networks to supply suggestions on how release of the tapes should be handled.

In denying their request, Gesell said: "The burden is upon the applicants to come forward with a satisfactory plan to be administered without profit by some responsible agency or persons other than the clerk of the court. It is a prerequisite to any plan that commercialization of the tapes for any undignified use of the material be minimized. Applicants have failed even to consider these matters." Reported in: *New York Times,* January 9.

obscenity law

Denver, Colorado

The U.S. Court of Appeals for the Tenth Circuit upheld the 1972 conviction of Alex Harding for receiving obscene books and films which had been transported in interstate commerce. During his 1972 trial before Judge Alfred A. Arraj, Harding stipulated that the materials were "without redeeming social value" and therefore obscene under then-current federal standards.

In an opinion written by Judge William E. Doyle, the appeals panel said it could find no good reason why Harding should be excused from his original stipulation, despite the fact that it was entered before the U.S. Supreme Court's decision in *Miller* v. *California* (1973), which substituted a "serious value" test for the "without redeeming social value" test. Reported in: *Rocky Mountain News,* December 4.

Frankfort, Kentucky

The Kentucky Court of Appeals overturned the conviction of a Louisville movie theater manager for exhibiting an obscene film, although the court said the movie was clearly obscene.

In a unanimous opinion, the court ruled that the manager was entitled to a new trial because Jefferson Circuit Court Judge S. Rush Nicholson failed to give the trial jury complete instructions. According to the appeals panel, the judge should have told the jury that the manager had to know that the film was obscene in order to be guilty of violating the state's obscenity law.

Since Judge Nicholson did not, the court said, "the judgment must regrettably be reversed for a new trial." Reported in: *Louisville Courier-Journal,* December 16.

Baltimore, Maryland

The Life and Times of Xaviera Hollander will be shown in Maryland because the censor board waited too long to decide whether or not it should be licensed. Circuit Court Judge Joseph C. Howard directed the board to license the film because it failed to act within five days after the picture had been submitted for review. The film was submitted for review November 29 and not disapproved until December 6.

A spokesman for the censor board said the license agency had been advised that the state does not have a right to appeal Judge Howard's decision. Reported in: *Baltimore Sun,* December 19.

Columbia, Missouri

In a two-to-one decision, Division One of the Missouri Supreme Court declared that *The Happy Hooker* cannot be considered obscene by contemporary standards, despite the book's use of four-letter words and its explicit descriptions of sexual acts. St. Louis County Circuit Court Judge Drew W. Luten had banned the book in 1973 on the grounds that it was obscene.

In vindicating the book, the court cited the opinions of a *South Bend* (Ind.) *Tribune* reviewer and two university professors. The court noted that another novel, *Fanny Hill,* which the U.S. Supreme Court said was not obscene, used equally explicit descriptions; and that four-letter words are not unusual in contemporary literature.

Dissenting Justice Lawrence Holman said that in addition to using offensive language, the book portrayed two "absolutely false" impressions. "The first is that many men occupying high positions . . . regularly patronize houses of prostitution. The other false impression is that it is usual and ordinary for many persons . . . to practice sodomy . . . and all other forms of sexual perversion. . . ." Justice Holman concluded: "Like [U.S. Supreme Court Justice] Clark, I will not debase our Reports by quoting any of the sordid filth contained in the book."

Austin, Texas

A judgment by U.S. District Court Judge Jack Roberts dealing with the conviction of a California firm charged with violating federal statutes prohibiting use of the U.S. mails to transport obscene material, was reversed by the U.S. Court of Appeals for the Fifth Circuit.

The appeals court held that it was inappropriate for the judge to use a definition of obscenity that was not issued until after the violations took place.

The Ultima Sales Company, charged with mailing advertisements for allegedly obscene films to persons in Texas, was indicted by an Austin federal grand jury in 1972. Reported in: *Austin American-Statesman,* December 14.

Salt Lake City, Utah

Part of a Salt Lake City ordinance designed to fight obscenity through business license revocation was declared unconstitutional in part by Salt Lake City District Court Judge Stewart M. Hanson Jr. The judge ruled that the Salt Lake City Commission cannot revoke a movie theater's license until the courts declare an exhibited film obscene. Reported in: *Salt Lake City Tribune,* December 6.

Madison, Wisconsin

The Wisconsin Supreme Court rejected the state's appeal of a lower court's dismissal of obscenity charges filed against the Parkway Theater in Milwaukee.

After the theater was found guilty of exhibiting an obscene movie, Milwaukee Circuit Court Judge Max Raskin set aside the jury verdict and dismissed the case on the grounds that the prosecution failed to show that those who ran the theater were actually following orders of the corporation.

Chief Justice Horace W. Wilkie, speaking for a unanimous court, said the state's appeal was barred under law. "Where a defendant is discharged on the merits by a court possessing jurisdiction . . . its action is not appealable no matter how erroneous its legal foundation," Wilkie said. Reported in: *Milwaukee Journal,* December 20.

In other action, the Wisconsin Supreme Court voided a portion of the city of Madison's obscenity ordinance. The court ruled that the ordinance's definition of obscenity failed to meet new constitutional standards.

In declaring the ordinance unconstitutional, the court ordered a new trial for the operator of a newsstand, who was originally tried under the old definition. Just prior to the high court's decision, the Madison City Council could not agree on a modification of the city ordinance. One councilman characterized recent U.S. Supreme Court decisions on obscenity as "ridiculous." Reported in: *Madison State Journal,* December 11, 21.

sunshine laws

Reno, Nevada

In the first judicial review of Nevada's Open Meeting Law, Washoe County District Court Judge John Gabrielli ruled that the law "should be construed liberally in favor of

the public." Gabrielli's decision was prompted by a suit brought by the *Nevada State Journal* and the *Reno Evening Gazette* against the Reno City Council to prevent it from conducting private meetings to negotiate a contract with three airlines serving Reno International Airport.

The judge ruled that the Open Meeting Law was intended by the legislature "to be applicable to every assemblage of all public agencies, commissions, bureaus, departments, public corporations, municipal corporations and quasi-municipal corporations, and political subdivisions."

"Tendencies toward secrecy in public affairs have been the subject of intensive criticism and comment. No citation of authority or further elaboration is really necessary as it is a matter of common knowledge," Gabrielli said. Report in: *Editor & Publisher,* January 4.

obscenity: convictions and acquittals

Fitchburg, Massachusetts

The Fitchburg Theater was found guilty of violating the state's obscenity law and fined the maximum penalty, $5,000, by Special Justice Andre A. Gelinas. Subject of the trial was the film *Virgin Awaken,* which Fitchburg police seized in October. Reported in: *Fitchburg Sentinel,* December 29.

Omaha, Nebraska

The manager of the Pussycat Theater and the company operating it were found guilty on two counts each of receiving obscene movies in interstate shipment. The verdict was reached by a U.S. District Court jury of seven men and five women. Reported in: *Omaha World Herald,* November 27.

New York, New York

The operators of a theater showing *The Life and Times of a Happy Hooker* were fined $200 by New York Supreme Court Justice Abraham Gellinoff, who found the operators in contempt of a previous order to withdraw the film.

After the defendants insisted that the second film was an "edited" or "corrected" version, Justice Gellinoff viewed it and concluded that "but with minor differences, the two films are the same." Reported in: *New York Daily News,* December 20.

New York, New York

The New York Court of Appeals agreed with lower courts that the movie *Deep Throat* is obscene, but ruled that the $100,000 fine imposed for showing the movie was too severe.

The state's highest court, in a five-to-two decision, ordered the case returned to lower courts and a new fine levied against the exhibitors, Mature Enterprises Inc. The company exhibited the movie at its theater in Times Square from August 1972 to February 1973 before the film was ruled obscene. Reported in: *New York Times,* December 24.

Columbus, Ohio

In sustaining a defense motion to dismiss obscenity charges against the owner of the Paris Theater, Municipal Court Judge James A. Pearson ruled that *Deep Throat* and *The Devil in Miss Jones* are not pornographic but "merely trash."

However, Judge Pearson added that those charged with enforcing the law should crack down on the theater's false advertising. The judge charged that the theater advertised "the one and only *Deep Throat"* but showed an edited version.

In an unusual footnote to his decision, Pearson commented that people who go to see sexually explicit films and those who view religious films are equal under the law. Reported in: *Variety,* December 18.

Lawton, Oklahoma

Calling *The Animal Lovers* "horribly obscene," U.S. District Court Judge Luther Eubanks sentenced an Atlanta, Georgia book distributor to thirty months in prison and a fine of $5,000 for transporting the book to Oklahoma.

Judge Eubanks sentenced Milton Friedman, who the government contends is president of Peachtree National Distributors Inc., immediately after the jury returned a guilty verdict against him. Judge Eubanks congratulated the jury and noted, "We don't need that kind of book." Reported in: *Daily Oklahoman,* December 10.

Portland, Oregon

U.S. District Court Judge James M. Burns found four persons who operated TLM Inc. guilty of interstate transportation of obscene material and conspiracy to transport obscene material.

At the time of the offenses, TLM published three periodicals—*Ginger and Spice, Whorehouse Gazette,* and *She.* Judge Burns said the fact that the defendants' publications could be disseminated legally in Oregon did not give them the right to send them into states where they were illegal. Reported in: *Oregon Journal,* January 14.

Philadelphia, Pennsylvania

Montgomery County Court Judge Vincent A. Cirillo sentenced John Krasner to a two-year prison term and fined him $4,000 for the sale and exhibition of obscene materials. Krasner, who immediately appealed his conviction stemming from a police raid at one of his bookstores, said he was "treated like a murderer." Krasner added, "I don't believe I've hurt anyone except for a few dyed-in-

the-wool puritans who are a well-organized minority." Reported in: *Philadelphia Inquirer,* January 25.

Pittsburgh, Pennsylvania

The owner of three adult movie theaters in Pittsburgh was sentenced to six months in prison after his conviction on federal charges of interstate transportation of pornographic films. Michael Kutler was convicted by a federal jury which viewed a movie seized by the FBI at the Liberty Adult Theater.

U.S. District Court Judge Barron P. McCune denied Kutler's motion for an appeal bond, noting that Kutler had not heeded the court's admonition to get out of the pornography business. Within a week, however, the U.S. Court of Appeals for the Third Circuit stayed Kutler's incarceration. Reported in: *Pittsburgh Post-Gazette,* January 18.

San Antonio, Texas

County Court-at-Law Judge S. Benton Davies sentenced Richard C. Dexter to ninety days in jail and fined him $750 for showing *Deep Throat.* Dexter was found guilty of commercial obscenity in a jury trial. Reported in: *San Antonio Express,* December 4.

freedom of speech

Washington, D.C.

A $12 million damage suit against the District of Columbia was awarded to 1,200 antiwar demonstrators for what a jury considered an infringement of their rights and their false arrests on the steps of the Capitol in 1971. The American Civil Liberties Union, which brought the suit was said that each of the 1,200 complainants entitled to $7,500 for violation of First Amendment rights. Others were entitled to amounts over $1,000 for false arrest and for false imprisonment.

The complaints stemmed from a police action taken May 5, 1971, when some 3,000 demonstrators were invited to the Capitol by Representatives Ronald V. Dellums of California and Bella S. Abzug of New York.

The police arrested more than 1,200 of the demonstrators when they refused to move along as commanded. Members of President Nixon's administration praised the action of the Metropolitan Police Department, and President Nixon said charges that the mass arrest had violated constitutional rights were "exaggerated." Reported in: *New York Times,* January 17.

Blue Island, Illinois

The "forbidden" mural in Blue Island depicting Mexican-American labor history is no longer forbidden. U.S. District Court Judge Richard B. Austin ruled that the mural is protected by the First Amendment.

The City of Blue Island had sought to ban the painting on the ground that it violated the city's zoning ordinance pertaining to signs (see *Newsletter,* Nov. 1974, p. 155).

Judge Austin ruled: "The Blue Island ordinances regulating signs do not cover the situation. The plaintiff's mural does not 'direct attention to a product, place, activity, person or institution. It seeks to portray an idea and it is exactly this kind of expression that the First Amendment protects from government interference."

The mural was part of a project financed by a grant from the Illinois Art Council and the Illinois Labor History Society. Reported in: *Chicago Sun-Times,* November 29.

Boston, Massachusetts

The U.S. Court of Appeals for the First Circuit ruled that the University of New Hampshire cannot ban the Gay Students Organization from holding dances or other social functions on the campus. The ban was a "substantial abridgment" of the group's First Amendment rights to freedom of association and expression, the court said.

The ban was imposed by university officials after Governor Meldrim Thomson Jr. warned them that if they failed to act "to rid your campuses of socially abhorrent activities," he would oppose "the expenditure of one more cent of taxpayers' money for your institutions."

Chief Judge Frank M. Coffin, who wrote the court's opinion, said the gay organization did not lose the protection of the First Amendment merely because the sexual values of its members conflict "with the deeply imbued moral standards of much of the community whose taxes support the university." Reported in: *Boston Globe,* January 1.

Trenton, New Jersey

The New Jersey Supreme Court ruled that municipalities have the authority to require door-to-door solicitors to register with local police. Ruling on regulations in Collingswood and Oradell, the state high court said that the ordinances do not violate an individual's constitutional right of free speech.

One of the ordinances was challenged by pollsters for radio listening preferences employed by Surveys Unlimited, a New York corporation, who had protested their conviction under the registration law. Reported in: *New York Times,* January 25.

New York, New York

Ruling on a complaint filed by the Young Socialist Alliance, U.S. District Court Judge Thomas P. Griesa ordered the Federal Bureau of Investigation not to conduct any surveillance of the left-wing political group's national convention. The group charged that the FBI's surveillance inhibited people from attending its meetings and from exercising their freedom of speech.

The judge's order barred the FBI from "attending, surveilling, listening to, watching or otherwise monitoring" the

alliance's fourteenth national convention which began December 28 in St. Louis.

Leonard Boudin, a lawyer for the group, said the order marked "the first time in American history that a federal court has prohibited FBI surveillance of any political organization." Reported in: *New York Times,* December 17.

New York, New York

A former New York City Housing and Development Administration employee won a $19,000 out-of-court settlement of a suit filed against the city on his behalf by the New York Civil Liberties Union.

Frank Lichtensteiger, for five years a human rights specialist at HDA, was reportedly fired in 1971 after he appeared before the City Planning Commission to oppose HDA's plans for new housing.

Lichtensteiger brought suit in the New York Supreme Court, but the case was thrown out on the grounds that a provisional employee–like Lichtensteiger–could be fired at any time irrespective of cause. The Appellate Division of the Supreme Court later held, however, that a private citizen "may not be dismissed for a reason which violates his constitutional rights" and returned the case to the Supreme Court for trial. Reported in: *New York Daily News,* January 16.

Richmond, Virginia

A lower court's dismissal of a suit by a member of the Ku Klux Klan who sought to regain his job at a Richmond department store was upheld by the U.S. Court of Appeals for the Fourth Circuit.

Klansman John F. Bellamy Jr. claimed he was fired from his job on the security force at Mason's Department Store solely because of his affiliation with the KKK. He accused the store and its area supervisor of violating his constitutional rights of free speech and free association.

The appeals panel ruled that a person has no constitutional right to protection against private discrimination. The judges said that the First Amendment prohibits only government infringement on the rights of citizens to free speech and association.

"It is perfectly true that the First Amendment now speaks to the states by way of the Fourteenth Amendment," Judge Braxton R. Craven Jr. said, "[but] to say that it also speaks to private persons seems to us an innovation that must come from the Congress or the Supreme Court." Reported in: *Washington Post,* December 31.

students' rights

Columbus, Ohio

High school student newspapers cannot be censored so long as published material does not interfere substantially with school discipline, according to a decision handed down by U.S. District Court Judge Carl Rubin.

The ruling came in a suit filed on behalf of Reynoldsburg high school students by the American Civil Liberties Union. It was charged that Reynoldsburg Principal Joseph Endry unlawfully stopped distribution of an edition of the school newspaper which criticized athletic coaches for tolerating drinking and smoking among players and rebuked Columbus police for conduct at a rock concert. Endry's decision to order copies of the edition burned was backed by the school board. He later ordered all newspaper copy submitted to him for approval before printing.

Last year Judge Rubin dismissed the case against Endry, saying that the principal reasonably thought the edition would have been disruptive. That ruling, however, was declared "clearly in error" by the U.S. Court of Appeals, which ordered the case back to Rubin's court.

In ruling in favor of the students, Rubin ordered the Reynoldsburg administration to produce guidelines on what students may publish. According to the decision, students are still forbidden to publish libelous material, stories inciting illegal acts, and obscenity. Reported in: *Cincinnati Post & Times-Star,* December 32.

etc.

Chicago, Illinois

A U.S. District Court dismissed a $250,007 suit for damages brought by a lawyer who complained that the *PG* rating for the film *Papillon* did not reflect the film's contents. The lawyer, Paul Bernstein, had sought $7.00 in compensatory damages–representing the price of his tickets–and $250,000 in punitive damage on behalf of himself and his three daughters. He complained that the film, which he believed to be a "family adventure film," in fact contained scenes depicting in "explicit detail" a decapitation and a homosexual assault.

In ruling in favor of the defendants, Judge Richard B. Austin said the *PG* rating accurately put the plaintiff on notice that "he should exercise caution in letting children view the movie and he failed to do so." Reported in: *Wall Street Journal,* December 6.

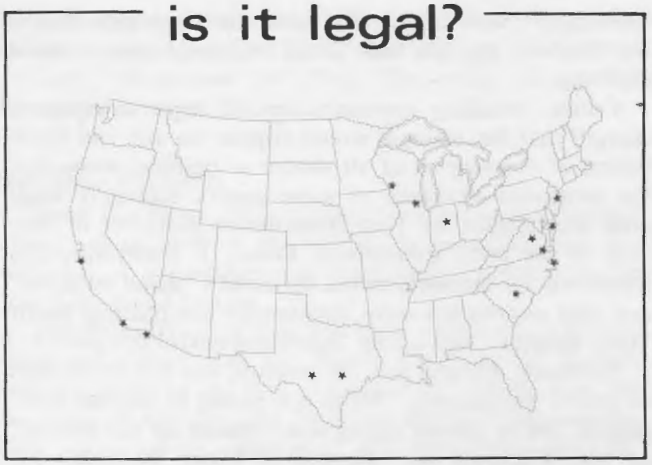
Los Angeles, California

Hearts and Minds, the controversial documentary about the U.S. role in the Vietnam war, was cleared for commercial release by Los Angeles Superior Court Judge Norman Dowds, who ruled against Walt W. Rostow, the former presidential aide, who had sought to bar release of the film until two clips in which he appeared were removed.

Hearts and Minds shows Rostow in three brief excerpts from a four-hour interview with director Peter Davis. Rostow contended that two of the excerpts distorted his

(Continued on page 56)

is it legal?



in the U.S. Supreme court

In recent actions the U.S. Supreme Court:

• Agreed to decide the constitutionality of a Texas law requiring that printed political advertising identify the printer and the source of funds paying for it. A three-judge federal panel invalidated the law on the grounds that it infringed on freedom of the press and was too vague.

• Accepted the case of John Roland Murphy—also known as Murph the Surf—who claims he was denied a fair trial on burglary charges because of prejudicial news coverage before his trial.

• Ordered a U.S. District Court in New Jersey to determine whether a challenge to the state's obscenity law is now moot. After the Supreme Court agreed to review the law, the three-judge panel that found it unconstitutional modified its judgement to permit enforcement of the law as altered by the New Jersey Supreme Court.

schools

Baltimore, Maryland

Actions challenging the Prince Georges County School Board's ban of *The Lottery* (see *Newsletter*, Jan. 1975, p. 7) have been brought by the American Civil Liberties Union and the Prince Georges County Educators Association (PGCEA).

The ACLU filed suit in federal district court in Baltimore to have the board's decision to ban the film declared illegal and to enjoin the board from removing the film from the county school system.

The PGCEA asked the Maryland State Board of Education to reverse the ruling and reinstate the film. The teachers union argued that the action taken by the board was illegal and exceeded its authority. PGCEA President John Gruber said he was confident that the state board would reverse the Prince Georges County board. Reported in: *Prince Georges County News*, January 15.

obscenity

Elizabeth, New Jersey

Marking the first time in New Jersey courts that the New Jersey harmful matter law (i.e., an obscenity statute for juveniles) has been attacked on constitutional grounds, lawyers representing thirty Union County candy store owners arrested during a crackdown on the sale of allegedly pornographic magazines to children argued that the state's law represents unreasonable censorship.

The store owners were arrested by police during a crackdown in April 1973 conducted by the Union County Chiefs of Police Association, which recruited teen-agers to go into stores and buy the magazines.

Defense lawyers contend that the statute lacks constitutionally required criteria and is "defectively vague." Reported in: *Elizabeth Journal*, November 16.

Charlotte, North Carolina

After U.S. Magistrate Joseph R. Cruciani viewed *The Life and Times of Xaviera Hollander*, he ruled that there was probable cause to believe that the movie had been brought to Charlotte in violation of federal statutes prohibiting interstate transportation of obscene materials. His action cleared the way for the U.S. Attorney to file federal criminal charges against a Charlotte theater owner and the North Carolina and national distributors of the picture.

Charles H. Hodges, the theater owner, commented: "They're trying to dry up the source. They want the big produces in New York. How nearly they're going to be able to accomplish that I don't know." Reported in: *Charlotte News*, December 6.

Providence, Rhode Island

Two state senators, acting in "the interest of decency and safety," proposed to the Rhode Island legislature that drive-in theaters be prohibited from showing *X*-rated movies if their screens are visible from public highways.

"I think it is disgraceful," said Senator Louis H. Pastore, "that drive-in theaters with screens which can be seen from roadways are permitted to show these pornographic films. . . . I can see no reason why people who just happen to be driving or walking by such a theater should be forced to look at this type of filth." Reported in: *Providence Journal-Bulletin*, January 15.

radio-television

Los Angeles, California

In December the U.S. Department of Justice reinstated anti-trust suits against the three national television networks, charging them with using their control of network air time to restrain competition in the production, distribution, and sale of television entertainment.

The suits are substantially similar to those filed in 1972 by the Justice Department against the same defendants. Those suits were dismissed without prejudice by a U.S. District Court judge.

The networks argued that the 1972 suits were prompted by the Nixon Administration as a vendetta against the broadcasters because of alleged bias in news reporting. Reported in: *New York Times,* December 11.

Washington, D.C.

In early January Senator William Proxmire (D.-Wis.) announced his intention to introduce legislation to end federal controls on the editorial content of radio and television broadcasts. Proxmire's bill would repeal the equal time rule for broadcasts by political candidates and the legislative authority for the fairness doctrine established by the Federal Communications Commission.

Proxmire, who said he wanted to make sure the electronic media enjoy First Amendment freedoms, declared that his bill would redefine "public interest, convenience, and necessity" as applied to broadcasting to mean that the public is entitled to "the best possible technical quality in broadcasting."

"The intent is to make clear that the FCC cannot require the provision of broadcasting time to any person and to give the FCC no control over the material broadcast," Proxmire said. Reported in: *Christian Science Monitor,* January 2.

Chicago, Illinois

A citizens group called Polite Society Inc. filed suit in U.S. District Court charging that WLS-TV shows too much violence on television. Robert L. Austin, secretary of the group, said the American Broadcasting Company affiliate was sued because it was found to show the most violence of any Chicago television station during a six-week survey period.

Although no programs were cited by name in the suit, Polite Society charged that WLS-TV undermined respect for human life by showing physical violence "without showing its damage to the human spirit, thus implying that mayhem and violence are acceptable and approved means of solving conflicts among men." The suit also expressed concern over the effects of television violence on children. Reported in: *Chicago Tribune,* January 3.

the press

Los Angeles, California

Despite objections from the city attorney, the Los Angeles City Council voted nine to five to approve a ban on coin-operated newsracks from all public ways, including sidewalks. The council had received a letter authorized by City Attorney Burt Pines in which "serious issues of constitutionality" were raised. The letter further stated that it was doubtful that the ban "could withstand constitutional challenge."

Critics, including representatives of major newspapers, charged that the measure would cripple the sale and distribution of newspapers of all shades of opinion, jeopardize the continued existence of some papers, especially small ones, and violate the First Amendment guarantee of freedom of the press. Councilman Robert J. Stevenson, who supported the measure, called the racks a "damn nuisance" and said pedestrians were continually complaining about "their dangers," and having "knees and ankles skinned."

Stevenson insisted that the measure was not an attempt to censor newspapers. "We're not saying to anyone don't publish. We're merely saying don't clutter up the streets," he said. Reported in: *Los Angeles Times,* December 12, 19.

Los Angeles, California

Will Lewis, station manager of Los Angeles Pacifica station KPFK-FM, was held in contempt and jailed last summer for his refusal to turn over to a federal grand jury the originals of a letter and a tape recording sent to the station by radical groups.

After spending sixteen days in solitary confinement at Terminal Island Federal Prison, Lewis was released by Supreme Court Justice William O. Douglas pending his appeal. In July, the Ninth Circuit Court of Appeals affirmed the contempt. Lewis appealed to the Supreme Court.

Lewis' brief points out that many federal courts follow the testimonial privilege law of the state in which they are located and that California has a very strong shield law.

If federal courts are allowed to ignore state privilege laws, the brief argues, "the effect of such a ruling will be effectively to nullify the efforts of the legislature of at least twenty-five states to foster the vigor and freedom of news reporting within their respective borders by protecting the confidentiality of news sources."

The brief notes that most serious crime is subject to investigation by both state and federal grand juries, and that "to allow a federal court to override a state privilege in such circumstances thus would enable a state grand jury to obtain through cooperation with federal authorities precisely what the state legislature has intentionally denied it."

Lewis also maintains that the lower courts failed to follow the test set forth in Justice Powell's pivotal concurring opinion in *Branzburg* v. *Hayes,* which requires courts to balance law enforcement need against freedom of the press claims before deciding a question of reporters' privilege.

The brief points out that Pacifica stations have a unique trust relationship with radical groups which has produced stories of great interest to the general public; and that if

this relationship is interfered with, the public will lose the informational benefits of the Pacifica stations' confidential sources. Reported in: *Press Censorship Newsletter,* December-January.

San Diego, California

Seven San Diego area residents filed suit in U.S. District Court seeking to block the Navy from restricting their distribution of a newspaper on servicemen's rights near the San Diego Naval Station.

The plaintiffs allege that the Navy issued orders barring them and others from distributing *Up From the Bottom* near entrances to the base. Named as defendants were the Secretary of Defense, the Secretary of the Navy, and the base commander. Reported in: *San Diego Tribune,* December 19.

Indianapolis, Indiana

The indictment of two *Indianapolis Star* reporters on charges of bribing a policeman will be investigated by the U.S. Justice Department. The Justice Department entered the case after receiving complaints from Senator Birch E. Bayh (D.-Ind.) and the Reporters Committee for Freedom of the Press charging that the reporters' constitutional rights were violated (see *Newsletter,* Jan. 1975, p. 23).

Indictment of the reporters stemmed from their activities connected with an investigation of corruption in the Indianapolis police force. The reporters alleged that 300 of the city's 1,100 policemen were "willfully and systematically" involved in various forms of corruption.

The Drew Pearson Foundation Award of $5,000 for excellent investigative reporting was awarded to the reporters in December. Reported in: *Editor & Publisher,* December 21.

Dallas, Texas

In July and August, the *Army Times,* distributed to members of the armed services, ran a series of three articles in its bimonthly "Family" magazine section discussing the insurance program run by the Non-Commissioned Officers Association (NCOA).

In August, NCOA filed a $10 million libel suit in federal court in Texas alleging that the articles were "false, misleading and defamatory" in that they suggested "that NCOA is nothing more than a device to bilk noncommissioned officers out of their earnings by selling them high-cost life insurance."

In addition, NCOA sought a permanent injunction against the *Army Times* prohibiting it from "publishing or representing false, misleading, and defamatory material" about the NCOA or its activities.

No trial date has been set. Reported in: *Press Censorship Newsletter,* December-January.

prisoners' rights

San Francisco, California

A San Quentin prisoner has asked a Marin County Superior Court to force correctional officials to deliver copies of a magazine called *The Midnight Special.* Louis Talamantes, one of six prisoners charged with murder in the 1971 San Quentin shoot-out, charged that prison officials have refused to let him have the magazine, published by the New York Chapter of the National Lawyers Guild.

Associate Warden William Nyberg said the publication, regularly mailed free to thirty prisoners, is kept from the inmates because it has advocated violence. In one instance, Nyberg said, the publication called for the kidnapping and slaying of members of prison officials' families. Reported in: *San Francisco Examiner,* December 27.

etc.

Washington, D.C.

A Smith College professor conducting research on Alger Hiss charges that the Federal Bureau of Investigation has heavily censored materials supplied at his request, and that one letter provided by the FBI included only the salutation and the signature.

Professor Allen Weinstein filed suit in U.S. District Court in Washington charging the FBI with arbitrary and discriminatory actions. The suit revived his efforts to obtain bureau reports on Hiss and Whittaker Chambers and the atomic espionage case for which Julius and Ethel Rosenberg were executed.

Weinstein's efforts to obtain documents were made under the Freedom of Information Act and the First and Fifth Amendments. An earlier suit was suspended after the bureau promised to allow scholarly access under an order by then-Attorney General Elliot L. Richardson.

A spokesman for the American Civil Liberties Union, which represented Weinstein, said other scholars had experienced similar difficulties with the bureau. Reported in: *New York Times,* December 8.

Washington, D.C.

In July 1969, Washington, D.C. resident Susanne Orrin returned to the U.S. from a brief visit to Canada, crossing the border at Niagara Falls. Federal customs agents there searched her luggage and confiscated three paperback books printed and published in North Vietnam.

The three publications, *The Vietnamese Problem, North Vietnamese Medicine Facing the Trial of War,* and *Literature and Liberation in South Vietnam,* were burned the same day by the agents, despite Orrin's insistence that they be returned to her and her refusal to sign a waiver

(Continued on page 56)

success stories

Englewood, Colorado

After hearing complaints from the father of a junior high student, the Englewood School Board refused to ban *The Water is Wide* from Englewood schools and reaffirmed its policy that parents can control non-required reading only for their own children.

The parent objected to four-letter words and the "irreverent use of God's name" in the autobiographical work by Pat Conroy. A number of English teachers and librarians commented on the value of the work and defended the right of individual students to read it. Reported in: *Denver Post,* January 14.

Englewood, Colorado

Beastly Boys and Ghastly Girls, an anthology of verse about mischievous children, will remain on the shelves of the Englewood Public Library. A request by some parents to have the book removed was denied by Harriet Lute, head librarian. Lute said the book would remain because many standard guides to children's literature recommend it.

Edited by William Cole, the book includes poems by A.A. Milne, Lewis Carroll, and others. Several parents charged that the book exposed their youngsters to "needless violence" and "out and out gore."

A librarian at nearby Littleton Public Library said no complaints about *Beastly Boys* had been received there, but a principal at a Littleton elementary school said a review committee would be formed because a parent had requested removal of the book from the school library. Reported in: *Denver Post,* January 21; *Rocky Mountain News,* January 22.

Honolulu, Hawaii

According to a report from the Hawaii Library Association, ethnographical researcher Terrance Barrow and Director Roland W. Force of the Bernice P. Bishop Museum have reached an agreement which will permit Barrow normal access to the collections and facilities of the Bishop Museum. For reasons which neither party has revealed, Barrow was barred from the museum's premises for nearly a year (see *Newsletter,* Jan. 1975, p. 10).

The agreement, concluded in December, was part of an out-of-court settlement of a suit filed by Barrow. According to the terms of the settlement, both parties agreed to abandon litigation over the incident.

Montgomery County, Maryland

Four books whose suitability for high school students was questioned by members of Citizens United for Responsible Education (CURE) won unanimous approval from staff review committees and will be retained in Montgomery County public high schools.

The challenged books were *Deliverance, Manchild in the Promised Land, Real Magic,* and *Soul on Ice.* In responding to criticisms from CURE, the review committees noted that complaints were focused on isolated passages and that the complaining parents had failed to assess the overall themes and significance of the works. Reported in: *Learning,* December.

In another review involving the staff of the Montgomery County public schools, including School Superintendent Homer O. Elseroad, D.C. Heath's *Communicating* series of language arts textbooks was reapproved for county-wide use in elementary school courses.

A group called Parents Who Care challenged the series on the grounds that it promoted open-ended discussions that "alienate a child from the values of the Ten Commandments and Constitution by teaching him that he should decide his own values." Reported in: *Washington Post,* January 3.

Kalamazoo, Michigan

The Kalamazoo Board of Education, in a four-to-three vote, reversed itself and decided that students in junior and senior high schools can have access to *Go Ask Alice* through school libraries.

The book was banned in November when a parent objected to six pages in the book. After the board's vote to ban the work, the school administration appointed a committee of five school officials to examine the book. The committee told the board that the six sexually explicit pages could be considered objectionable when taken out of context, but they unanimously reported that the book has literary and social value and is educationally sound. Reported in: *Flint Journal,* December 4.

Cranston, Rhode Island

After learning through the press of complaints about *The Joy of Sex,* trustees of the Cranston Public Library voted to retain the book on library shelves. "We see nothing that happened that was contrary to our policy in regard to

book selection or in regard to access to our collection," said Richard H. Pierce, chairman of the board of trustees.

Local newspapers had reported that John C. Swift, an unsuccessful candidate for the state legislature, objected to the book's ready availability through the library.

After action was taken by the trustees, Swift complained that he had not been notified of the board's plan to take action. He had been sent a complaint form, and apparently some trustees believed that he had been invited to appear at their meeting. Reported in: *Providence Bulletin,* January 15, 16.

Bedford, Virginia

The controversial *Responding* series—earlier reported banned from the Bedford County School System—remains on school library shelves and teachers have permission to assign readings from the books and discuss them in class.

Superintendent Robert Parlier notified teachers of the availability of the books in a December memorandum. He said he had not tried to straighten out confusion over the series because his would have been "a voice lost in the wilderness" of publicity accompanying the school board vote in November.

Parlier said he considered the resolution a compromise. "It strikes a healthy middle of the road approach because it leaves a little more to choice, rather than forcing someone to read material out of the books."

One of those who expressed opposition to the series said he was surprised to learn that the books were still in the libraries. The Rev. Freddie Davidson, who said he was under the impression that the board had banned the books completely, pledged to renew his opposition to their use in the schools. Reported in: *Danville* (Va.) *Bee,* December 11.

Neillsville, Wisconsin

Reacting to complaints from a group of parents headed by Baptist Minister David Webster, the Neillsville school board voted to reject calls for censorship of the collection at the junior-senior high school library. In addition to reaffirming policies adopted earlier, however, the board voted to allow parents to reject specified reading materials for their own children.

The group led by Webster had demanded the power to screen all library and curricular materials before they were made available to students. The works attacked by the group included *Andersonville, The Grapes of Wrath, Of Mice and Men, Catch-22, The Catcher in the Rye, The Fixer,* and *Soul on Ice.*

Canada

Speaking for the Church of Scientology, the Rev. Philip McAiney indicated to the Canadian Library Association that the libel suits brought by the Scientologists against public libraries in Hamilton and Etobicoke would be dropped.

McAiney stated: "We have concluded that our interests are parallel. . . . [W]e agree that the libraries should be free to circulate literature in the public interest of free speech and that intellectual freedom, a basic tenet of our creed, must be upheld." Reported in: *LJ/SLJ Hotline,* December 16.

The scientologists had hoped to stop circulation of *The Scandal of Scientology, Inside Scientology, Scientology: The Now Religion,* and *The Mind Benders* (see *Newsletter,* Jan. 1975, p. 7).

(Censorship . . . from page 44)

Rudy's Red Wagon: Communication Strategies in Contemporary Society—was part of a school library collection and reported that school officials had already dealt with the issue.

Colaw said that the book belonged to the private collection of a language arts teacher who had assigned it before a faculty review committee had found the book objectionable and withdrawn it from further use by students. Reported in: *St. Louis Post-Dispatch,* January 10.

Carson City, Nevada

Carson City school trustees rejected efforts by the Carson City Pro-Life League to have anti-abortion viewpoints presented in the city's high school. "We didn't feel it was a function of the school district to serve as a sounding board for social and moral issues," said Trustee Leroy Rupert.

School Superintendent John Hawkins said at least one pro-abortion group had said it would request equal time if the viewpoints of those opposing the practice were aired in the school. Reported in: *Reno Gazette,* December 19.

etc.

Washington, D.C.

When a pro-abortion group sought to hold a rally on the steps of the U.S. Supreme Court last year, it learned that the policy of the Court, which has jurisdiction over its own grounds, forbids demonstrations in or around the building. The rally was then moved across the street to the grounds of the Capitol.

During the demonstration, Supreme Court Police Lt. James Zagami dressed in plainclothes and, posing as a news reporter, attended the rally with a tape recorder.

Barrett McGurn, the Supreme Court's press officer, confirmed the incident but maintained Zagami acted without the knowledge of court officials. However, according to *New Times* reporter Nina Totenberg, who broke the story, Zagami was acting with the approval of his supervisors and was supplied with expensive camera equipment. Since the story was published, Totenberg said, Zagami has been

"punished by being rotated to night duty." Reported in: *Press Censorship Newsletter,* December-January.

Saginaw, Michigan

After receiving a complaint from E. Brady Denton, Saginaw County prosecutor, Tri-City Airport officials ordered copies of *Playboy, Penthouse,* and *Playgirl* removed from newsracks and hidden under sales counters.

After the magazines were available by request only, newsstand manager Eric Arpagaus said, "People aren't buying them anymore. About eighty per cent of what we order we send back every month." The manager said that before the cover-up the magazines were the newsstand's best sellers.

An attorney for the airport said there was "no question of censorhip, simply a question of good taste. . . ." Reported in: *Saginaw News,* November 28.

Albuquerque, New Mexico

After Albuquerque voters approved a June referendum calling for a new obscenity ordinance, the Albuquerque City Council approved eight to three a new law incorporating the obscenity guidelines established by the U.S. Supreme Court in *Miller* v. *California* (1973).

Unless overturned by the courts, the law will take effect April 1, 1975. Mayor Harry Kinney said the new ordinance would probably require the city to pay $200,000 to $300,000 per year in new enforcement expenses.

One of the councilors who voted against the ordinance, Robert Poole, told the council he thought the burden of enforcement would prove "extremely onerous." He added that he had philosophical problems in regard to what government should do about obscenity: "If I feel I must err as a councilor, I have a preference to err on the side of freedom, and that's what I intend to do because I cannot in good faith vote for this ordinance." Reported in: *Albuquerque Journal,* December 12.

(From the Bench . . . from page 50)

views and that an agreement had been made with the director not to use anything from the interview without Rostow's express permission. Davis denied that such an agreement had been made.

Judge Dowds ruled that Rostow failed to show that he would be "irreparably injured" by the film's release, or that there was "a reasonable probability" that Rostow could establish at a trial that "an agreement had been reached that his filmed interview would be released only with his prior consent, that his right of privacy had been invaded, or that the picture presents him in a false light."

After the decision, Rostow had no comment on the ruling or the possibility of an appeal. Davis said, "It's an affirmation of the First Amendment." Reported in: *Washington Post,* January 23.

New York, New York

Actor James Cagney lost his battle to prevent the publication of an unauthorized biography, *Cagney,* written by a British Broadcasting Company journalist, Michael Freedland.

New York Supreme Court Justice Sidney Fine said that a "public figure" like Cagney cannot prevent the publication of a biography. But Fine ordered publishers Stein & Day to indicate that the book was not authorized.

In a court apperance that had earlier won a temporary restraining order against publication of the biography, Cagney alleged that the work was "full of inaccuracies, falsities, and invented dialogue." Reported in: *New York Times,* January 8; *New York Daily News,* January 22.

New York, New York

The Cooperative Village Auxiliary Police of Greenwich Village lost their suit to ban exhibitions of the movie *Law and Disorder,* which they said depicts them as bunglers. New York Supreme Court Justice Joseph Sarafite refused to enjoin the showing of the movie, which stars Carroll O'Connor and Ernest Borgnine. Reported in: *New York Daily News,* January 24.

Charleston, West Virginia

Kanawha County's controversial textbooks do not violate the constitutional principle of separation of church and state, according to a ruling by U.S. District Court Judge K.K. Hall. The plaintiffs in the case had contended that their religious rights had been violated.

Other plaintiffs, whose case was also dismissed by Judge Hall, contended that the books were anti-Christian and pornographic. Reported in: *New York Times,* January 31.

(Is It Legal . . . from page 53)

form abandoning them. There was no hearing prior to the seizure or destruction.

Customs agents justified their actions by citing violations of the Trading with the Enemy Act. The act prohibits unlicensed business transactions between Americans and North Vietnamese to deny any economic benefit from the U.S. to North Vietnam through the purchase of goods. (The act is one of several hundred statutes giving the president broad economic and social control during periods of "National Emergency." The bill dates back to World War I and was reactivated in 1933 under President Roosevelt. Since then, the existence of a continuous national emergency has been ordered by Presidents Truman, Eisenhower, Kennedy, Johnson, and Nixon.)

Orrin filed suit in federal court challenging the seizure and censorship of the books as an unconstitutional prior restraint of the press in derogation of the First Amendment.

On April 27, 1972, U.S. District Court Judge Barrington D. Parker upheld the government's seizure. The court said it was "sufficiently satisfied that regulation of the non-speech element is being effected in a narrow fashion so as to minimize any possible incidental limitation upon Plaintiff's First Amendment rights."

Orrin appealed to the District of Columbia Court of Appeals, which also upheld the seizure in June 1974.

The case was appealed to the U.S. Supreme Court. Reported in: *Press Censorship Newsletter,* December-January.

Washington, D.C.

One day after the Federal Election Campaign Act Amendments of 1974 went into effect, Senator James Buckley (Con.R.-N.Y.) and former Senator Eugene McCarthy (D.-Minn.) and others filed suit to have the most important provisions of the law declared unconstitutional.

Their suit charges—among other things—that the law's limits on the amount of money a citizen may contribute to a campaign and the limits on the amount of money a candidate may spend are constitutional abridgments of freedom of expression.

The law was adopted by Congress in response to abuses of the Committee to Re-Elect the President which were exposed in the Watergate investigation. Reported in: *Washington Post,* January 14.

Chicago, Illinois

Mayor Richard J. Daley proposed amendments that would modify the city's motion picture policy so that movies could be censored for violence. The proposed amendments to the Motion Picture Ordinance would prohibit the showing of violent movies to youths under eighteen years of age.

Violent pictures would be defined as those in which the plot is "devoted primarily to deeds or acts of brutality, including assaults, cuttings, stabbings, shootings, beatings, and eye-gougings." The proposals were sent to a city council committee for public hearings. Reported in: *Chicago Tribune,* December 2.

New York, New York

An attempt of New York's liquor licensing authority to control "disorderly" performances at cabarets by suspending their liquor licenses will face a constitutional challenge in the courts, according to operators of the Village Gate and the New York Civil Liberties Union.

The New York State Liquor Authority wants to remove the liquor license of the Village nightspot for allowing *Let My People Come* to be performed there. The authority has charged that Art D'Lugoff, owner of the Village Gate, should lose his license because he has allowed his premises

(Continued on page 61)

(NEA panel . . . from page 33)

- Where is the line drawn between legitimate public concern for and criticism of public school curricula and criticism that is illegitimate and educationally destructive?

Racism

After surveying the damages of the controversy—above all the disruption of the education of thousands of students—the panel could single out no one object or group of persons for blame. Among other factors, the panel noted that there was a failure on the part of school officials to anticipate an adverse reaction to the adoption of novel language arts materials, and further, a failure to prepare in advance for the possibility of protest.

In assaying the conflict, however, the panel discovered that undercurrents of racism and the influence of "outsiders" could not be dismissed as minor factors. Of racism, the panel said:

"The situation in Kanawha County presents an extreme, but microcosmic, picture of the cultural conflict that now, as in many troubled eras of the past, threatens to destroy the academic freedom of the classroom in communities across the nation. At this particular juncture in history, it poses another threat to rights that have been newly won: the right of racial and ethnic minority groups to be included in the textbooks; and the right of all students to learn that in the world and in this society, white is not always right; that white, middle-class values are not the only, nor even always the best, values; and that the history of the United States is not one long, unblemished record of Christian benevolence and virtue. Teaching and learning these truths are not acts of subversion or irreligion. But to ignore them is an act of superpatriotism and religious bigotry. . . .

"Spokespersons for the anti-book movement vigorously denied that there was any element of racism in their protest or in their community—except, they alleged, in the 'racial hatred' portrayed in the books. If the protest movement and the community itself are as free from racial prejudice as its leaders claim, then Kanawha County, West Virginia, is indeed unique among all the counties in this country. And if the protest is as free from racism as its leaders claim, then it is difficult to understand why teachers have received complaints from parents about illustrations in textbooks depicting a white female student and black male student together. Or why a minister was called by an irate parent who wanted to know if the minister wanted his daughter to marry a black man. Or why some members of the Citizens Textbook Review Committee who recommended retention of the books received numerous telephone calls that they described as obscene and, in almost all instances, dealing with race. Or why, as reported to the Panel, a building in an outlying area of the county was painted with lettering that

stated, 'Get the nigger books out!' . . .

"It is not surprising, but it is sadly ironic, that racism should enter into this dispute, for in the experience of many of the young people of rural Kanawha County, there is an analogy to the experience of Chicanos, Blacks, Native Americans, and other social and economic 'out-groups.' The dialect of the mountains, like that of the ghetto, and like the language of the Barrio and the reservation, creates a barrier to learning in the middle-class American school. The speech patterns, dress, and behavior of many mountain children, like those of minority children, are different from the standards of speech, dress, and behavior of the middle-class American school. For many, the public school experience is damaging to their sense of self-esteem, demeaning to the traditions of their nurture; it is 'something to get out of when you are sixteen.'

"The public school experience could, if it were permitted to, enable these children to understand that to be different is not to be inferior, and that differences in culture or race or ethnic group have nothing to do with 'better' or 'worse'; they simply have to do with diversity—a condition in this nation to be appreciated and not evaded. . . ."

Right-wing participation

"Without question, some of the imported funding of the Kanawha County anti-book movement has come from individual donors who have sincerely supported the movement's purposes. Other sources of legal, organizational, and financial assistance have been extreme right-wing organizations, either directly associated or in obviously close sympathy with the John Birch Society. Among these organizations have been Citizens for Decency through Law, whose public relations representative, Robert Dornan, has been in Kanawha County helping to organize the protest movement; the American Opinion Book Store in Reedy, West Virginia, one of the outlets for John Birch Society materials, whose manager has printed excerpts from the books and other handouts for the protesters; the Heritage Foundation Inc., of Washington, D.C., one of whose attorneys, James McKenna, has acted as counsel to the anti-book leaders in the preparation of legal suits; Mr. and Mrs. Mel Gabler, self-appointed textbook censors of Longview, Texas; and the National Parents League, an Oregon-based organization dedicated to the proposition that to protect their children from the moral corruption of the schools, Christian parents should teach them in their own homes. (The superintendent of these home schools and president of the National Parents League is Mrs. Mary Royer.) A more recent entrant into the Kanawha County protest has been the Ku Klux Klan, whose Imperial Wizard, James R. Venable, has charged that the objectionable books 'are part of a Communist plot.' As this report was being written, announcement had been made that a group of klansmen from five or six states would conduct an investigation of the controversy in order 'to expose those textbooks.'

"All these groups, of course, have every right to assist the anti-book protest in Kanawha County and in any other part of the country. Similarly, the NEA and the other national organizations participating in this inquiry have every right to send representatives to the county. Just as this country has vast diversity of race, culture, and ethnic groups, it has, and must permit, vast diversity of political and religious thought, including the views of the extreme left and right. . . .

"Without borrowing the tactics of right or left wing extremists, which the NEA and this panel condemn, it is difficult to ascribe motive to their actions or to charge conspiracy as they have done with such abandon. The right wing groups, however, have made no secret of at least one of their purposes—to preserve the American free enterprise system against a Communist takeover, which they have seen as an imminent threat for the past thirty-five years:

> In a volume entitled *The Politician,* (Robert) Welch (founder and president of the John Birch Society) wrote that President Eisenhower's brother, Milton, president of Johns Hopkins University, was "actually Dwight Eisenhower's superior and boss within the Communist Party." Of the President himself Welch wrote that "there is only one possible word to describe his purposes and his actions. That word is 'treason.' " [Jack Nelson and Gene Roberts Jr., *The Censors and the Schools* (Boston, 1973), p. 156.]

"Without questioning the right of the extremists to enter into the public school controversy in Kanawha County, or any other areas of the country, the NEA Panel considers it vitally important for citizens of such communities to recognize that the charges these groups make are groundless and irrational—as reflected in the above quotation—and that their methods of incitement are violative of the democratic principles of this nation, which they purport to defend.

"It is also essential that citizens recognize that the tactics of extremism—right or left—are the tactics of exploitation. The sex education disputes of a few years back, like the textbook disputes of today—particularly in a culturally divided community such as Kanawha County—are just the kinds of issues that can be used by extremists to further their own purposes—whether those purposes are simply to increase their membership—or whether they are of even more pernicious intent. And whatever that intent may be, the forces of extremism in this country are destructive of every advance toward social justice that this nation has made over the past twenty years. In their superpatriotic pose of defending America, the extremists move in devious ways to destroy the very conscience of America—its Constitution and Bill of Rights. . . ."

Recommendations

"It was made very clear to the panel by leaders of the protest that the books were only one of the reasons for

their dissatisfaction with the Kanawha County Public Schools. They expressed grave concern with the methods of instruction, the increasing de-emphasis on the fundamentals of grammar, reading, and mathematics, with the departure from firmly compartmentalized subjects, and with the general permissiveness of the schools. It would appear that alternatives could be formulated to satisfy these concerns.

"One such alternative might be the arrangement within the same elementary schools of separate classes in which certain basic subjects such as English and mathematics could be taught by traditional methods. The students whose parents prefer for them the more traditional methods of instruction could be separated from their classmates in these subject areas only, and could join the other students in such classes as art and music. The logistics of such an arrangement might present difficulty; and the separation of students for these purposes might increase factionalism among them. Morover, the provision of such alternatives within the same school would probably only be feasible in areas where there is a fairly even division between the students desiring fundamental instruction and those who prefer more open instructional methods. . . .

"A major disadvantage of the establishment of traditional public school alternatives in Kanawha County would be that it would tend to further isolate the mountain people of the county. If such a proposal is put into effect, therefore, the panel would urge that the administration assign to the alternative schools staff members who are highly competent in the more traditional methods of instruction. It is also vitally important that the staff members selected for such assignment be individuals from urban as well as rural backgrounds, and that they possess true sensitivity to the culture of the area in which they teach.

"Establishment of the traditional alternatives should be on a pilot project basis and should be regarded as a serious and important experiment, with continuous monitoring to ensure quality instruction that fully meets the state's mandates for public education."

Copies of report available

Copies of the complete NEA report can be ordered from: Office for Intellectual Freedom, American Library Association, 50 East Huron Street, Chicago, Illinois 60611.

(IFC report . . . from page 35)

garding its position affecting the control, disposition, and preservation of the documents of federal officials. Since many papers of federal officials, defined here as those of Senators, Congressmen, Vice-Presidents, jurists of the Courts, often become the property of libraries, the Association must consider this entire matter with great care. Of particular concern to the Intellectual Freedom Committee are the two important matters which affect the privacy and confidentiality of those whose correspondence may indeed become part of official files and records and also the rights of those who wish to have access to the records of their government. The Committee is well aware that there are many units within ALA and also many organizations without it for whom the work of this commission has great relevance. As a beginning, however, I have asked Richard Darling, dean of the School of Library Service at Columbia University and a member of the Committee, to chair a subcommittee to draft a statement for the Committee's consideration in June that sets down first steps for an Association policy. When discussing this matter with the Executive Board, and indicating to them the breadth and scope of the areas to be covered, the Board recommended that the ALA effort should be encouraged through the Committee, and therefore I am requesting that concerned units of the Association submit their comments to Dr. Darling in writing to his office: 561 Butler Library, School of Library Service, Columbia University, New York, N.Y. 10027.

Turning now to the international scene, which will conclude my report, I will remind Council that on July 12, 1974, Council adopted a policy affecting the abridgment of the rights of freedom of expression of foreign nationals. The policy statement indicated that resolutions or other documents attesting to such grievances would be brought to the attention of the Executive Board and Council by both of the Council's committees in this area: the Intellectual Freedom Committee and the International Relations Committee—and would be subject to the joint endorsement of both. Little did any of us envision that we would implement the policy so soon; but the November resolutions taken at the eighteenth session of the UNESCO General Conference denying the State of Israel regional affiliation in UNESCO precipitated a number of letters from ALA members protesting this action. These letters were submitted to Norman Horrocks, chairman of the IRC. The matter was placed on the docket of both committees for this Midwinter Meeting and received serious and weighty consideration by both.

The resolution, which has resulted from our joint dialogues, is before you. Mr. Horrocks has already requested time on the Council agenda for the presentation of this resolution, which comes to you with the unanimous approval of both committees and that of the Executive Board. I am deferring to Mr. Horrocks for the presentation of this resolution, since membership communicated its concerns directly to the International Relations Committee rather than to the Intellectual Freedom Committee. This indication of the IFC endorsement of the action resolution concludes the Committee's report. [The resolution on Israel's participation in UNESCO's regional activities appears elsewhere in this issue.]

Respectfully submitted, Joseph J. Anderson, L. Homer Coltharp, Richard L. Darling, Daniel Henke,

Phyllis M. Land, Minne Motz, H. Theodore Ryberg, Frank Van Zanten, Karl Weiner, Ella G. Yates, and R. Kathleen Molz, Chairman.

ALA President Holley wrote to U.S. Commissioner of Education Terrel Bell immediately after the Midwinter Meeting. The full text of his letter appears below.

Dear Dr. Bell:

With the concurrence of the Executive Board of the American Library Association, I am writing to you in reference to the speech delivered in your name at the meeting of the School Division of the Association of American Publishers on December 2, 1974 in Cherry Hill, New Jersey.

Your speech addressed certain issues relevant to the content and selection of instructional materials for the nation's elementary and secondary schools. Although these issues were taken up within the context of the publishing industry, whose members you were invited to address, there are a number of implications for the library profession which we feel should be noted here.

First, let me comment in the area of intellectual freedom. The librarians who have read your remarks have tried very hard *not* to read into your address the threat of academic censorship. We assume that you would be loathe to lend your high office to any suggestion that censorship of books and materials would provide a proper course of action in any situation. Yet, at the same time you indicate that, in cases of conflict over the selection of instructional materials, parental desires take precedence over the school's authority. On the face of it, such a statement might seem harmless enough, but the question is immediately posed: which parents? and are these parents to include those who would now rid our school library shelves and our classrooms of the works of John Steinbeck, J.D. Salinger, and Kurt Vonnegut, writers recognized by the nation's intellectual community and endorsed by teachers of English and librarians? We join you in a vital concern for the values and wishes of parents, but question whether total acceptance of their demand would not simply wreak havoc in the conduct of a library whether it serves the general public or an elementary and/or secondary school.

As the text of our policy on free access to libraries for minors makes clear, "the American Library Association holds that it is the parent–and only the parent–who may restrict his children and only *his* children–from access to library materials and services." If indeed, every book or film were taken out of the library or removed from the curriculum because of parental pressure, the results in our view would be chaotic. We fully recognize that the problem is not susceptible to simplistic solutions, but total capitulation to parental demands could ultimately rid the schools of any authority at all. Moreover, it would undermine school officials in any attempt to maintain a free school system based on the best current educational principles.

Of equal concern to us is the complete omission of any reference in your speech to the Federal program which has since 1965 made available literally millions of dollars for the purchase of instructional materials, i.e., the provisions of both ESEA Title I and II, which have been used for this purpose. Perhaps, this omission was simply an oversight and you believed the matter so self-evident that no reference was needed. But since you do speak for an Administration which may indeed continue the policies of its predecessor and propose to the Congress that library support programs warrant discontinuance, we are concerned that no reference was made to the Federal program under your direction which has stimulated the school library movement and made possible the provision of countless texts and trade books for the nation's schools where they often did not exist before. We, perhaps, are over-sensitive to this issue, but it bears mention nonetheless.

And lastly, I speak for the Association in calling to your attention the matter of responsibility in the current controversies over curricular materials. The situations in Drake, North Dakota, and Kanawha County, West Virginia, have occasioned national coverage in all of the mass media, but they are by no means isolated cases. Alas, ALA headquarters is deluged daily with reports of proposed or effected suppressions of materials in our schools. Many of these controversial books are written either by or about disadvantaged Americans, some of whom are representative of ethnic minority groups. Reading your speech, we are left to assume that such books resulted solely from new trends in the American book publishing industry. But we are mindful, also, of the objectives openly promulgated by your Office and predecessors as U.S. Commissioners in reducing the cultural and rural isolations of our American children. If the innocuous Dick and Jane series are being replaced by children who may not always use the King's English, children who know crime and pain, and disappointment and insecurity, rather than the neat confines of white picket-fenced houses, was not government not only a willing partner in this redirection of our children's reading but also an active stimulant?

If, in your view, some of these books seem to go too far in expressing the candor and argot of the streets, is the responsibility not a shared one in which the publishers and the government have together fostered a climate of excessive zeal? To us, your speech seems to lay responsibility primarily on the industry for the problems that now confront us. It is our hope that government, the educational field, libraries, and the publishing industry could work together in accomplishing the goal which we believe all of us have in common, namely, the furtherance of the intellectual life of all of our children.

It is my hope that you will agree to visit with me and other members of the Association in an informal meeting to be scheduled at your convenience to review these areas of

our concern and to place before you our views regarding the present situation in school library censorship and proscription.

I hope that my letter will be received in the spirit in which it is sent. We believe there is the commonality of interests which both librarians and educators share for the best education which we can provide for the nation's youth.

Thank you for your attention to these suggestions. We look forward to working with you in this and other areas of mutual concern.

Sincerely,
Edward G. Holley
President, ALA

(In Response . . . from page 34)

many more works than can be hung in our galleries, large as they are. It's significant that Jesus Gutierrez noted that twelve of twenty paintings were not hung. About fifty other paintings submitted by the Gutierrez brothers also were not hung. About eighty paintings and drawings were shown and they included nudes every bit as "bold" as the works Jesus Gutierrez said that we censored. We didn't censor them; they just didn't fit in with the show. Mr. Gutierrez may have a complaint about the design of the show, but I doubt it; and our experience is better than his. The hundreds of people who attended the reception mentioned in the *Times* story and the thousands who visited the show during October saw a well-designed exhibit, and one which was representative of these men's work. Two of the brothers themselves commented to me about the fine design (by Burdette Peterson) and all three of them appeared without incident and with some acclaim at a large civic dinner at Brand Library about a week after the incident you reported.

Probably the publicity generated by Jesus Gutierrez' complaint brought in some visitors who would not otherwise have seen the show. If so, that was good. It was a fine exhibit.

Jack Ramsey
Director, Brand Library
Glendale

(Is It Legal . . . from page 57)

to become "disorderly" by permitting a "lewd and indecent performance." Although the New York Liquor Control Statute does not define "disorderly," the authority has said that "lewd" and "indecent" should be defined in their "plain, everyday" meaning, but has offered no amplification.

Performers in *Let My People Come* used four-letter words and simulated sex acts on the stage of the Village Gate. At intermissions, patrons were sold drinks.

In 1972, the U.S. Supreme Court upheld regulations of the California Department of Alcoholic Beverage Control that prohibited licensed bars from displaying "performances that partake more of gross sexuality than of communication." In *California* v. *La Rue,* four justices joined Justice William Rehnquist, who said that "we would poorly serve both the interest for which the state may validly seek vindication and the interest protected by the First and Fourteenth Amendments were we to insist that the sort of bacchanalian revelries that the department sought to prevent by these liquor regulations were the constitutional equivalent of a performance by a scantily clad ballet troupe in a theater." Reported in: *New York Times,* January 23.

Fort Worth, Texas

A Texas housewife who was sued for $29 million by an Oklahoma textbook publisher sought in turn to have the publisher barred from doing business with the state of Texas. Mrs. Billy C. Hutcheson, sued by the Economy Company after the state board of education unanimously voted not to buy the company's books when Hutcheson and two others objected to their use, also asked for $600,000 in damages resulting from alleged libel, slander, and infringement of her constitutional right to petition her government.

The lawsuit by the company accused Hutcheson of libel, slander, and conspiracy. Hutcheson said Economy's books fostered disrespect for law and order. Reported in: *New York Times,* December 26.

Menomonee Falls, Wisconsin

The Menomonee Falls Village Board unanimously adopted an ordinance prohibiting a local drive-in from showing any movies rated *R* or *X*. The ordinance, which does not raise any question of obscenity, asserts that *R* and *X*-rated films attract crowds that the village considers a public nuisance. Reported in: *Milwaukee Journal,* December 3.

(Right to Read . . . from page 38)

obscenity. When these decisions were announced, the Oregon legislature was under tremendous political pressure for rapid adjournment. It had been the longest session of the legislature in Oregon's history and the legislators had been preoccupied during most of the session with critical issues of school financing. Many significant bills which had been delayed were passed without detailed scrutiny during the final weeks of June and early July. Immediately after the Supreme Court's June 1973 decisions were announced,

the chairperson of the IFC wrote to the House Judiciary Committee suggesting that the legislature delay a decision on the obscenity bill until the Supreme Court's decisions could be thoroughly studied and until the experience of other states operating under the new provisions could be observed. This letter restated the OLA's strong opposition to the provision allowing different local ordinances. The heavy pressure for early adjournment and the legislators' feeling that they were bringing the state law into conformity with the new constitutional standard resulted in immediate passage.

Passed by an overwhelming majority, S.B. 708 dealt with three topics. First, the bill made it illegal for people to perform sex acts in a live public show despite the fact that this problem had been eliminated by enforcement of the prostitution laws. Second, it made disseminating obscene materials a crime, both to adults and to minors. Third, the bill redefined prostitution to include masturbation for a fee—an aspect of the law aimed at massage parlors.

S.B. 708 also incorporated the new definition of obscenity laid down by the U.S. Supreme Court. Thus it provided protection only for works with "serious literary, artistic, scientific or political value." The lobbying efforts of the Oregon Library Association in regard to different local ordinances were successful. The bill removed this provision and included a provision that "state standards" must be considered in determining the obscenity of challenged works.

The referendum

Oregon voters are fiercely independent and frequently use the referendum. No sooner had the legislature adjourned, than an effort was made to refer S.B. 708 to a vote of the people. The petition campaign was sponsored by a group called "People Against Censorship." This group received its financial support and organizational backing from the owners of the adult bookstores and theaters. The Oregon Chapter of the American Civil Liberties Union supported the referendum campaign and distributed petitions to its members. Librarians, journalists, members of the League of Women Voters and other citizens circulated and signed these petitions. Only 26,656 valid signatures were needed to put the law on the November 1974 ballot, and over 50,000 signatures were obtained well in advance of the deadline.

The OLA Intellectual Freedom Committee prepared a position paper on S.B. 708. The position paper expressed opposition to the measure and urged Oregonians to reject it. Three reasons for OLA's opposition to S.B. 708 were given:

(1) Although S.B. 708 was intended by the legislature as an attack on hard core pornography, its definition of obscenity was so broadly phrased that it would allow widespread censorship if applied literally.

(2) S.B. 708 may place librarians in personal liability for distribution of works which they cannot know may be deemed obscene by a jury previous to their criminal trial.

(3) Continuing without legal censorship for adults is the best way to insure the freedom to read of Oregonians.

The position paper noted that the affirmative defense for librarians that had existed in the 1971 criminal code was not repeated in S.B. 708. Because the bill declared that it was "added to and made a part of" the former law, it was unclear whether that defense would apply to offenses under the new law. An attorney was consulted who stated that logical arguments could be presented both in support of the applicability of the affirmative defense and in opposition to it and that only the interpretation of the law in the courts could clarify this issue. However, he did point out that the affirmative defense in the 1971 criminal code seemed to apply only to the distribution of obscene works to minors. He also pointed out that S.B. 708 specifically included an affirmative defense for employees of motion picture theaters but not for librarians, it must not have been the legislature's intent to include an affirmative defense for librarians in relation to the new criminal offenses.

The Intellectual Freedom Committee publicized its position to Oregon librarians prior to the April 1974 OLA annual conference. The committee sponsored a two-day workshop on the freedom to read in October 1973, attracting over 200 librarians from all types of libraries throughout the state. The workshop provided a comprehensive review of the June 1973 Supreme Court decisions on obscenity and their implications for libraries as well as practical suggestions for dealing with complaints about library materials. Following the state-wide workshop, follow-up sessions were held during the winter months in Pendleton, Eugene, Portland, Oregon City, and Medford. Members of the IFC spoke at these sessions and informed librarians of the implications of the Supreme Court decisions and the adoption of the new definition of obscenity in the proposed Oregon law. The IFC's position paper on S.B. 708 was approved by the OLA Executive Board at its January 1974 meeting, and the board ruled that the position paper should be presented to the membership at the April 1974 conference.

A brief special session of the legislature was scheduled for January 1974. Newspaper accounts suggested that the legislature might pass a law during this special session which would advance the election date for the referendum vote on the bill from November to May. At the request of the Intellectual Freedom Committee, then OLA President Kappy Eaton sent letters to the governor and legislative leaders just before this special session to explain the OLA Executive Board's position. This action may have helped forestall efforts to change the vote from November to May.

The position paper was unanimously adopted by the OLA membership at the 1974 conference. The IFC also presented and received membership approval for a proposed

course of action in opposition to S.B. 708, which had been designated as Ballot Measure 13. Recognizing that Ballot Measure 13 might pass and become law, the membership also unanimously resolved that, should it pass, the OLA would work in the 1975 legislature to insure that the affirmative defense for librarians did apply to the new law and also to secure a law requiring that civil proceedings be held to determine the status of challenged works before any injunction barring their distribution or any criminal charges could be filed.

Before every Oregon election, the Secretary of State issues to all voters a pamphlet which includes an explanation of each ballot measure as well as arguments pro and con. OLA President Frank Rodgers wrote to Secretary of State Clay Meyers recommending that Eloise Ebert, Oregon State Librarian, be appointed to the committee of five to write the explanation for Ballot Measure 13. Ebert and Portland lawyer Paul Meyer, a national ACLU Board member, served as "con" members of the committee. Their arguments in opposition to the measure were as follows: (1) existing laws regulate obscenity adequately; (2) censorship for adults is dangerous; (3) enforcement would hurt prosecution of really dangerous crime; (4) organized crime is not involved; (5) sexual conduct should be considered separately. Problems for librarians, booksellers, and educators were mentioned in the text.

In early June 1974, the Intellectual Freedom Committee sent letters to the state chapters of ten professional and civic organizations and to all art museums in the state. The League of Women Voters was the first organization to respond. The League requested that a copy of the OLA position paper and the *Freedom to Read* statement be sent to each of their state board members. At their July board meeting, the state division of the League went on record as opposing this ballot measure. Local chapters were free to take whatever action they wished.

Later in the summer, the Intellectual Freedom Committee sent letters to about twenty-four other organizations, primarily educational groups. Committee members personally contacted a number of the state presidents of the organizations. Some groups sent letters to their local chapters while others informed their membership at their annual fall conferences and encouraged a vote against Ballot Measure 13. The Oregon Federation of Teachers went on record in opposition, as did the state division of the American Association of University Women, the Oregon Federation of the American Association of University Professors, and the executive board of the University of Oregon's chapter of the AAUP.

During the summer two meetings of concerned citizens who opposed the ballot measure were held in Portland. Book publishers and distributors, movie theater owners, civil libertarians, and librarians were represented. The group decided not to actively campaign at that time, but instead to try to determine voter opinion on the measure. Mary Phillips, retired head librarian of the Multnomah County Library, assisted the group by writing to public libraries in the state asking for names of respected citizens in their communities who might be contacted to give their opinions on the ballot measure. Later Phillips and Frank Rodgers cooperated with this group by writing to public librarians and library boards pointing out censorship problems and possible liabilities which could easily arise from this measure and urging their opposition. This proved to be an excellent preparation for later communication with the libraries.

In September the coalition group organized as the "No on 13 Committee" and employed an advertising company to devise campaign strategies. The company prepared radio spots which were broadcast during the last ten days before the election. They also prepared formats for paid political advertisements which were published in the major newspapers in the state.

The last week in August the Intellectual Freedom Committee mailed an information packet to all OLA members. This included a copy of Ballot Measure 13 and a letter with suggestions for local action by librarians: personally contacting newspaper editors and radio and television stations, talking to meetings of civic and professional organizations, informing school librarians and educators about the issues involved, discussing the matter with friends and acquaintances, and writing letters to the editor.

Following the mailing, the Intellectual Freedom Committee sent letters and press releases to all the state's newspapers, radio and television stations, candidates for the legislature, and intermediate educational districts. These told of OLA's opposition to the ballot measure and summarized the reasons from the position paper. At the committee's request President Rodgers sent a similar letter to the two candidates for governor and to the candidates for superintendent of public instruction.

Many librarians throughout the state responded generously to the request for help in the campaign. Some contacted editors, others spoke to a number of organizations, several discussed the measure with local attorneys or their state legislators, while still others prepared materials for the candidates' fair sponsored by the League of Women Voters in several communities. In the larger cities and towns IFC members and other librarians coordinated efforts to defeat the measure.

The media response to letters and press releases was very favorable. News items and editorials in most of the state's major daily newspapers, in Pendleton, Salem, Medford, and Eugene, pointed out the defects of Ballot Measure 13 and the danger inherent in any kind of censorship legislation and endorsed a "No" vote.

The two major newspapers in Portland took a different stance, however. The *Oregon Journal,* the second largest newspaper in the Portland metropolitan area, editorialized in favor of the measure. However, the editorial did recog-

nize OLA's position. The editorial stated that while the *Journal* had complete respect for the librarians, the paper was not persuaded that the proposed law was aimed at or would be used against the kinds of works that might be found in public libraries. The *Journal* was persuaded that the ballot measure would affect only hard-core pornography. This was the position taken by Robert C. Notson, publisher of the *Oregonian,* who wrote that paper's editorial himself. Although the *Oregonian* printed a rebuttal of Mr. Notson's editorial by President Rodgers and a number of letters to the editor from both proponents and opponents of the bill, the *Oregonian's* position had an important part to play in the passage of the ballot measure, since the newspaper is read widely throughout the state.

Several radio and television stations interviewed librarians about the ballot measure. Two of Portland's major television stations, which are seen throughout the state via cable, editorialized in opposition to the measure, while two others editorialized in favor of it.

As the campaign progressed still more organizations took positions in opposition to the measure, including the Executive Board of the Oregon AFL-CIO, and the City Club of Portland.

A factor contributing to the passage of the measure, however, was the strong support it received from several large religious denominations. The Catholic Church, the Church of Latter Day Saints, and one of the Baptist conferences encouraged their members to vote for it.

Opposition to the new law

Needless to say, many Oregonians were disappointed. With the passage of this measure, which became law on December 5, 1974, adult Oregonians lost their right to freely choose their reading and viewing. But the margin was close enough to give some encouragement. The fact that "obscenity" regulation was included with legislation on live sex shows, massage parlors, and prostitution leads one to question whether the measure would have passed if it had dealt only with "obscentiy." Those who opposed the measure feel that at least some "censorship consciousness" has been raised by their efforts. A number of district attorneys have expressed publicly their disapproval of the legislation and announced that they have no intention of becoming censors. Even in Multnomah County, where support for the measure was strong, Chief Deputy District Attorney Gary McClain said "because of its obviously sensitive nature and the specter of censorship, it is necessary to proceed with caution."

Before the law went into effect, a Portland firm, Film Follies Inc., asked the Multnomah County Circuit Court to declare the law unconstitutional. At this writing the case is still pending. The attorney for Film Follies claimed that the measure was unconstitutional since more than one item was included for voter approval. The Portland City Club's report had pointed out this possibility since it is a requirement of state law that legislation embrace no more than one item.

A proposal for amendments to the law has been submitted to the state's legislative counsel to be written as a bill for the 1975 legislature. The content of this proposal was prepared by the IFC chairperson assisted by the OLA Legislative Committee. The proposed amendments focus on reinstating the freedom of adults from censorship and the affirmative defense for libraries, schools, and museums which was included in the 1971 law. The close vote on S.B. 708 and the heightened awareness of censorship problems promise a degree of legislative responsiveness to the proposal.

Within a week of the election, a coalition of college students was organized to amend the law. This group was contacted by the IFC chairperson and has agreed to coordinate its efforts with those of the OLA. The students' coalition has gained attention, support, and financial assistance from interested citizens throughout the state.

By the united efforts of many Oregonians we hope to restore the freedom to read to adults in our state. Thanks to the efforts of librarians and other concerned citizens, a strong foundation of public awareness has been laid.

(The Published Word . . . from page 40)

A new and disturbing phenomenon is becoming evident in American intellectual life: the role of the defender of the censor is more and more being assumed, not by the Yahoos, the illiterate, the taboo-and-emotion-driven members of what H.L. Mencken used to call the "booboisie," but, to an alarming extent, by our social scientists, psychiatrists, and physicians. Witness a medium-sized bombshell from the pristine ambience of Brigham Young University; out of Provo, Utah comes a white-jacketed volume (with the cover-page dramatically bespattered with a raw, red, blood-resembling line ending in a crimson blotch of ink), which is subtitled *An Exploration into Media Violence, Pornography, and Censorship.*

No less than twenty savants, ranging from the editor of *Commentary* to the former Surgeon General of the United States, and including law professors, political scientists, psychologists, psychiatrists, psychoanalysists, and physicians, give us the benefit of their individual and collective thinking on such topics as "The Case for Liberal Censorship" (Irving Kristol), "The Impact of Violence and Pornography on the Arts and Morality" (Robert E. Fitch), "Pornography Effects; the State of the Art" (Victor B. Cline), and "Democracy and Pornography" (Ernest van den Haag). Some of the book's contents have previously been published, even widely printed, and some are new; but all do seem to agree that there really is no answer to the question asked in the title. And not one gives a clear and direct answer to the more important query, *"Why* do you draw

the line?"—which is nowhere asked in the book's 365 pages.

The 58-page section titled specifically "Where Do You Draw the Line" includes a statement by a Stanford psychology professor (Dr. Alberta Siegel) on suggested "Alternatives to Direct Censorship"—among which she includes "an independent monitoring agency to provide regular reports on the level of violence in television entertainment," consumer boycotts of "violence vendors" (both by nonpurchase of products so advertised and by refusal to buy stock in such firms), "increased support for public television," ". . . travel fellowships to the writers and producers of children's television programs," and the appointment of a "child advocate" to the FCC staff. This is a mixed bag, indeed, of constructive and censorial suggestions.

Dr. James Q. Wilson, Harvard government professor, discusses "Violence, Pornography, and Social Science," concluding, without really proving his conclusions, that "in the cases of violence and obscenity, it is unlikely that social science can either show harmful effects or prove that there are no harmful effects. . . . These are moral issues," he says, "and ultimately all judgments about the acceptability of restrictions on various media will have to rest on political and philosophical considerations." Surely this is a counsel of despair!

Miami (Oxford) University political science professor Reo M. Christenson agrees that "statutory-judicial definitions of pornography are rather vague," but, rather vaguely on his own part, argues that "the same applies to numerous other laws," such as monopoly-definition under the Sherman anti-trust law. Kenyon College political science professor Harry M. Clor comes perhaps the closest to answering the book's title-question in his essay on "Obscenity and Freedom of Expression," but he still blurs any distinction between "soft" and "hard-core" obscenity. Dr. Cline concludes with the quite unsupportable claim that "there is no historical instance where control of obscene or violent media materials has endangered other freedoms"; one among many possible answers is to remind Dr. Cline (and anyone else interested) of the classical case of the British persecution for obscenity of American-rebellion-favoring John Wilkes, during the eighteenth century.

But—philosophical, historical, political, and ethical considerations aside—what is more important is that it certainly behooves librarians and library trustees to read this volume, if only in self-defense. With all its imperfections, the volume presents a surface impression of being a seamless web, which the censoriously inclined will undoubtedly welcome for its supply of what look like valid supporting arguments. Those on the other side will find the Goldstein-Kant volume, *Pornography and Social Deviance* (University of California Press, 1973) and H.H. Hart's compilation, *Censorship: For & Against* (Hart Pub., 1971), readily available. (My innate modesty forbids more than a brief reference to a recent publication by the writer of this review, which includes an extended anti-censorship bibliography, as well as some detailed arguments which might seem appropriate in refuting presentations in the Cline collection.) [Our too modest reviewer refers to his *Fear of the Word: Censorship and Sex,* published by Scarecrow Press and reviewed in the January 1975 issue of the *Newsletter.*—*Eds.*]

Brigham Young University Press, incidentally, does not know where to draw the line on common ethics in publishers' advertising; their *Publishers Weekly* advertising for this book quotes a very favorable review by Dr. Fredric Wertham. Unfortunately for one's likelihood to accept his encomia as unbiased, a nineteen-page excerpt from a 1966 book by Dr. Wertham is one of the items reprinted in the very book he recommends!—*Reviewed by Eli M. Oboler, University Librarian, Idaho State University Library, Pocatello, Idaho.*

Questions of Censorship. David Tribe. St. Martin's Press, 1973. 362 p. $12.95.

Two difficulties have habitually frustrated attempts to deal with the issue of censorship in a satisfactory manner. Both relate to the fashion in which the subject has been approached by its numerous investigators. In the first place, those who have concerned themselves with this problem have tended to bring to the discussion a partisan viewpoint. As a result, they have often ignored the historical antecedents to the contemporary situation in their haste to express what they have experienced themselves. The second difficulty derives from the inclination on the part of the Anglo-Saxon world to consider the struggle against censorship largely in oversimplified terms of obscenity and pornography. *Questions of Censorship,* by British journalist David Tribe, attempts to attend to these difficulties by providing an objective, multinational, historically based overview of a topic that has defied analysis to an extent that is unprecedented for a subject of such exceptional interest.

Tribe has chosen to organize his account around the what, when, where, who, how, and why of censorship, approaching each of these topics from a historical perspective. A majority of the material presented relates to the affairs of Great Britain, with a supplementary discussion of events in the United States, the Commonwealth nations, France, and the Soviet Union. The narrative emphasizes legal matters and describes celebrated court cases in detail. The work is distinguished by its up-to-dateness, with coverage extending into the 1970s, and the reader is provided with an impressive array of data. Unfortunately, the impact of the presentation is somewhat diminished by a disturbing lack of clarity. The adherence to a strict chronology, for example, fragments the description of developments occurring within a single case over a period of several years, breaking the case into a series of discreet elements that seem to bear less relationship to one another than to the events of the year with which each is associated. Jumping back and forth from case to case leads to confusion and a disconcerting loss of

continuity. The reader's state of bewilderment is not improved by frequent textual evidence of hasty composition and inadequate editing. Finally, Tribe's decision "to let events and protagonists speak for themselves, to give background colour rather than background comment, to omit no perspective and impose no pattern" forces the reader to struggle with this mass of material without the benefit of an interpretive framework that would have rendered the account more meaningful. We are not allowed to profit from the process whereby he arrived at his conclusions, a process which must have imposed a pattern upon the data presented, at least for his own purposes.

"Censorship," Tribe asserts in his concluding chapter, "is . . . a matter of politics." The fact that the debate has so often centered on questions of obscenity and pornography has merely obscured the true nature of the issues involved. In Great Britain, for example, overt political censorship has not existed for a century and a half, yet Tribe is convinced that the censors, official or otherwise, continue to be motivated by essentially political considerations. The relationship of "morality" to politics as well as to religion is, however, the subject of another of his books, *Nucleoethics: Ethics in Modern Society* (1972), and is accorded only perfunctory treatment in the present volume. Tribe concludes with a statement of his own views regarding the pernicious effects of censorship upon the body politic, but the statement is couched in terms of the censor's own argument. By confining himself to a biological analogy in which the health of the individual, the social order, and the state is seen to depend on the unrestricted dissemination of ideas, he accepts the premise that censorship is to be judged according to its supposed practical effect. Tribe's own account of censorship within a historical context demonstrates vividly that arguments of this type may be summoned to support equally well both sides of the issue. What seems to be lacking here is a philosophical appreciation of the meaning of freedom within the phrase, "freedom of expression." In the end, the value of intellectual freedom must be accepted as a truth we hold to be self-evident, subject to no condition or qualification and dependent upon no consideration other than its inherent good.—*Reviewed by Mary P. Peterson, University of Washington, Seattle, Washington.*

...as Bell was tolled

AAParagraphs

What the U.S. Commissioner of Education said to school publishers about the moral-value content of their books is well known: it was early-December front-page news in many newspapers (although virtually disregarded in New York City).

But what the assembled publishers said in response is less widely known. For one thing, when the press discovered that Commissioner T.H. Bell would not deliver his remarks to the School Division of the Association of American Publishers in person, live coverage plans were dropped and the media relied on the advance text, which was read for Dr. Bell by Elam Hertzler, a special assistant. (Bell had been summoned to the White House for budget talks.)

After the meeting various press attempts were made to characterize the publishers' reaction; all were doomed to be imprecise because the speech produced highly individualized reactions from the three-score publishers assembled at Cherry Hill, New Jersey. Indeed publishers, like college professors, might well be described as people who think otherwise.

The speech in question is the one in which Bell, avoiding direct reference to the violent confrontation over schoolbooks in West Virginia, called on publishers to "produce materials that do not insult the values of most parents," but to do so "without having books and materials that are so namby-pamby that they avoid all controversy." He did cite the Bible, the *Wizard of Oz* and the *McGuffey Readers* as examples of materials presenting the traditional values, but did not, as some have inferred, call for a "back to McGuffey" movement: "While McGuffey's selections from great literature would seem stilted by today's standards," the Commissioner's text stated, "there was certainly nothing wrong with the values they taught. We could have more emphasis on some of those values today."

Publishers even were complimented a bit: citing the nation's diversity, Bell said, "Your companies are doing a fine job in responding to the needs of these various ethnic, socio-economic and religious subcultures and communities. . . . You are also beginning to get a handle on the sex stereotype problem, getting the girls out of the kitchen and boys out of the treehouse—or at least letting the girls join them." And the Commissioner demonstrated sensitivity to the concerns that his remarks were bound to raise over academic freedom and implied censorship: "I feel strongly that the scholar's freedom of choice and the teacher's freedom of choice must have the approval and support of most parents."

How then did the publishers react? Their official statement, issued after the meeting, welcomed the Commis-

This column is contributed by the Freedom to Read Committee of the Association of American Publishers.

sioner's concern with instructional materials and sought "clarification" of his views in an early meeting (being held in January as this *NIF* issue goes to press). "School publishers," their statement continued, "are committed to developing instructional programs which seek to strengthen the ideals and values of our pluralistic society. Publishers believe these ideals and values should reflect not only the traditional goals of our free society but emerging goals of our culture which are clearly supported by a large number of Americans. Responsible publishing for the variety of schools in this country mandates publication of a wide variety of materials. Publishers believe that the selection of particular programs for use in meeting the educational needs of students in different communities should be made by qualified committees of professional educators in consultation with parents and students."

But beyond their formal statement, individual publishers present addressed questions and comments to Hertzler who, having prefaced his reading with the statement that the speech contained nothing with which he disagreed, coped valiantly in his chief's absence. Some of the publishers' reactions:

–How, if we followed the Commissioner's suggestions, are we to satisfy the growing demand for realism in instruction?

–We think we are satisfying "most" parents today–but how is that majority to be determined?

–Does the Commissioner believe that school books ought to be classified *PG, R,* and *X*–like movies?

–The suggestion that schools should offer a "cafeteria" (Hertzler's word) of materials is well and good–but is the U.S. Office of Education willing to go to bat with local school administrators to increase their materials budgets–and with the federal budgeting authorities to provide more aid, in the face of contrary present trends?

–If the Commissioner is serious in suggesting some abdication of responsibility to parents, one listener suggested, "we are going back to the dark ages of education that we left a few years ago–to the kind of education that was turning off 90 per cent of the kids."

–In voicing his views to publishers–a profit-making industry–had the Commissioner perhaps chosen a "relatively safe target on which to draw a bead?" Since curriculum planners, not publishers, determine what values are passed on to students, might the Commissioner's remarks not have been addressed to the wrong audience?

–Said one particularly harried publisher, "More and more we are watching a silent majority being overwhelmed by vocal minorities."

The Commissioner's text was rather widely circulated after the interest stimulated by press accounts, but the Office of Education reported receiving only moderate mail–fewer than 100 letters–about the speech, with a preponderance generally supporting Bell's views. USOE subsequently denied, however, that the speech had been a Ford Administration policy statement–and, indeed, a general federal law prohibits federal intervention in school curriculum or textbook selection. The First Amendment presumably does the same for book content.

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