newsletter on
intellectual freedom
IFC ALA

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ISSN 0028-9485

July 1975 ☐ Volume XXIV ☐ No. 4

new code poses broad threat

On January 16, 1975, a 753-page document was the first bill introduced in the Senate. Known as S.1, it is sponsored by Senator McClellan, Arkansas Democrat, and has several bipartisan cosponsors including Senate Majority Leader Mansfield and Senate Minority Leader Scott. Entitled "A Bill to Codify, Revise, and Reform Title 18 of the United States Code," it is described by its sponsors as a measure "to make appropriate amendments to the Federal Rules of Criminal Procedures; to make conforming amendments to criminal provision of other titles of the United States Code; and for other purposes."

S.1, a modification of code revisions (S.1 and S.1400) introduced in the Ninety-third Congress, would bring about far-reaching changes in the Federal Criminal Code. It would affect everyone involved in the dissemination of ideas and information, and would change existing law in areas ranging from obscenity to national security and espionage.

Typical of the threats buried in the bill is Section 1121, on espionage: "A person is guilty of an offense, if, knowing that national defense information may be used to the prejudice of the safety or interest of the United States, or to the advantage of a foreign power, he communicates such information to a foreign power; obtains or collects such information, knowing that it may be communicated to a foreign power; or enters a restricted area with intent to obtain or collect such information, knowing that it may be communicated to a foreign power."

"National defense information" is defined in terms so sweeping that it covers virtually every kind of military activity. "Interest of the United States" virtually defies limitation.

In a statement filed May 1 with the Senate Judiciary Committee's Subcommittee on Criminal Laws and Procedures, the American Library Association addressed itself to the bill's provisions on espionage and the disclosure of national defense information, as well as to the bill's restrictive sections on obscenity.

(Continued on page 120)

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

titles now troublesome

Books

Periodicals

Films

On Stage

editors form First Amendment education program

In an effort to spread knowledge of First Amendment principles to the public, more than 100 members of the American Society of Newspaper Editors met in April to organize an educational campaign. The program will be led by a subcommittee of the ASNE Freedom of Information Committee.

The theme of the program, as expressed by Warren H. Phillips, incoming president of the ASNE and president of Dow Jones & Company, is to make sure that citizens understand the the First Amendment was designed to protect the press not for the sake of the press, but for the sake of the public. Reported in: *Editor & Publisher,* April 19.

Israel suppresses book on Kissinger

The Israeli government moved quickly in May to block the publication of a manuscript which reportedly contains secret minutes of conversations between Secretary of State Henry A. Kissinger and Israeli ministers in which the U.S. official allegedly made disparaging remarks about the leaders of Syria, the Soviet Union, and other nations.

Written by Matti Golan, diplomatic correspondent of one of Israel's most influential newspapers, *Ha'aretz,* the work is an account of diplomatic developments following the Arab-Israeli War of October 1973.

Official censorship is permitted under authority which the Israeli government has maintained since the end of British rule of the area more than twenty-seven years ago. Reported in: *Washington Star,* May 13; *Washington Post,* May 14.

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: $6 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.

S. 1338

Virtually every program of the American Library Association reveals acceptance of two fundamental premises: first, that the content of library collections is to be determined, ultimately, by the needs of library patrons, who, as individuals, possess certain basic rights including freedom of speech; and second, that is the responsibility of libraries to meet those needs and in part fulfill those rights by the provision of comprehensive and innovative programs of library service.

In accepting these premises, we reject the idea that it is the responsibility of libraries to encourage the adoption of certain ideas. We reject demands upon them that would transform them into tools of subtle social engineering or crass ideological manipulation.

Given the course of our recent national history, a certain question was bound to arise: Whether librarians can accept governmental funding that requires the purchase of materials presenting or defending an idea or point of view which government officials wish to promote.

S. 1338 presents the question. Introduced March 26 by Senator Charles Percy (R.-Ill.), S. 1338 would amend several sections of the Elementary and Secondary Education Act (1965), including sections on libraries and learning resources, and would require that at least five percent of Library and Learning Resources funds be spent "on a priority basis" for the acquisition of "non-sex-biased" materials.

In introducing the bill, Percy stated: "I believe we need a stronger federal effort to combat sex discrimination and sex stereotyping in our education system. . . . The underachievement of American women is a national loss."

It is difficult not to sympathize with efforts to eliminate any form of discrimination and stereotyping that stymies human achievement. But we cannot join in the support of S. 1338 and its intended reform of the acquisition of library materials.

To our knowledge, Percy's bill would, if passed intact, mark the first time that the federal government has attempted to require the purchase of library materials which promote a certain point of view. Federally mandated programs of service to handicapped persons or persons with limited ability in English, for example, do not, in our opinion, present a similar problem. They do not require the distribution of materials which espouse federally approved views.

If Percy's bill is defeated (its prospects do not appear very good at this writing), the basic question will remain unresolved. Unresolved, that is, until librarians let their leaders know they will not take the first step down a very unpromising path. RLF

CBS: 'suspend fairness rule'

Testifying before the Senate Communications Subcommittee, Arthur R. Taylor, president of CBS Inc., proposed in April a one-year trial suspension of the controversial fairness doctrine, which requires broadcasters licensed by the Federal Communications Commission to present all sides of debatable public issues.

Many broadcasters have opposed the doctrine as an infringement of First Amendment rights. The CBS president proposed the temporary suspension in lieu of an act of Congress to abolish the rule entirely.

Taylor noted that the suspension would be "most appropriate" in the U.S. bicentennial year. He pointed out that the presidential election year would offer "an opportune measurement against which to determine the fairness of broadcast coverage freed from the fairness doctrine."

Other broadcast executives appeared before the congressional committee to oppose repeal of the doctrine.

William Sheehan, president of ABC News, said he feared the absence of the doctrine might open the way for a system of mandatory access to broadcast time.

Donald H. McGannon, president and chairman of the Westinghouse Broadcasting Company, argued that the doctrine's importance would increase if the political equal time restrictions were removed from broadcasting. Taylor also argued for repeal of the equal time rules governing the appearance of political candidates on radio and television. Reported in: *New York Times,* May 1.

In an article on the fairness doctrine in the *New York Times Magazine* (March 30), Fred W. Friendly, a professor at the Columbia University Graduate School of Journalism and a former president of CBS News, stated that the Kennedy and Johnson administrations used the fairness doctrine to subdue the criticisms of right-wing commentators. What occurred during the administrations of Nixon's predecessors, Friendly wrote, "ironically . . . emboldened the Nixon White House in its attempts to lean on broadcasters unfriendly to the President."

the published word

a column of reviews

TV Violence and the Child: The Evolution and Fate of the Surgeon General's Report. Douglass Cater and Stephen Strickland. Russell Sage Foundation, 1975 (distributed by Basic Books). 167 p. $5.95.

In 1969, and under the continual pressure of Senator John O. Pastore (D.-R.I.), the Surgeon General of the United States appointed a committee to conduct an inquiry into televised violence and its effect(s), if any, upon children's behavior. The inquiry grew out of a generalized feeling among members of Congress, educators and the public at large, that the television industry, and specifically the three major networks, had done very little to reduce the violence content of their programming. Further, there was considerable opinion expressed that antisocial and delinquent behavior among young people was correlated with, if not actually caused by, the portrayal of violent acts in television programs

In early 1972, and after three years of study, entailing the expenditure of over $1.8 million, the long-awaited Surgeon Generals Report (SRG) was released to the media, and thence to us all. The findings of such a select committee were curiously, if perhaps understandably, inconclusive, and based upon experimental data, at best vague and tentative. So unresolved were the conclusions of the SGR that the next day's newspapers were at odds as to just exactly how their headlines should read.

The *New York Times* (January 11, 1972) read:

> The office of the United States Surgeon General has found that violence in television programming does not have an adverse effect on the majority of the nation's youth but may influence small groups of youngsters predisposed by many factors to aggressive behavior.

At the same time, the television editor of the *Chicago Daily News* reported the following:

> Dynamite is hidden in the surgeon general's report on children and television violence, for the report reveals that most children are definitely and adversely affected by television mayhem.

Other publications contained variations on these two themes, only of interest when one considers that they were conclusions drawn from the *same* press release! Compounding the problem was a series of pronouncements by sociologists and behavioral psychologists over the preceding decade which were ambiguous, at best, and memorable primarily for what they did not say. One example, quoted in the volume here reviewed, comes to us from three pre-eminent men in the field of communications theory, Wilbur Schramm, Jack Lyle, and Edwin Parker:

> For *some* children, under *some* conditions, *some* television is harmful. For *other* children under the same conditions, or for the same children under *other* conditions, it may be beneficial. For *most* children, under *most* conditions, *most* television is probably neither particularly harmful nor particularly beneficial. [Emphasis in original text.]

The authors of this volume, Douglass Cater and Stephen Strickland, no slouches themselves in the communications field, wrote this book to inform all interested persons as to what the SGR did and didn't say, why it was so widely (even generally) misinterpreted, and why, three years farther along, we are still awaiting some form of decisive action on the part of *someone,* whether it is the province of the Congress, the Federal Communications Commission, or the television industry, to decide what is to be done.

Cater and Strickland stated that the principal reason for the confusion as to what the report actually said lies not in the erroneous judgments of members of the press but in the vague, often ambiguous language of the SGR, whose advisory committee members were deeply divided on that which the report was to say or recommend.

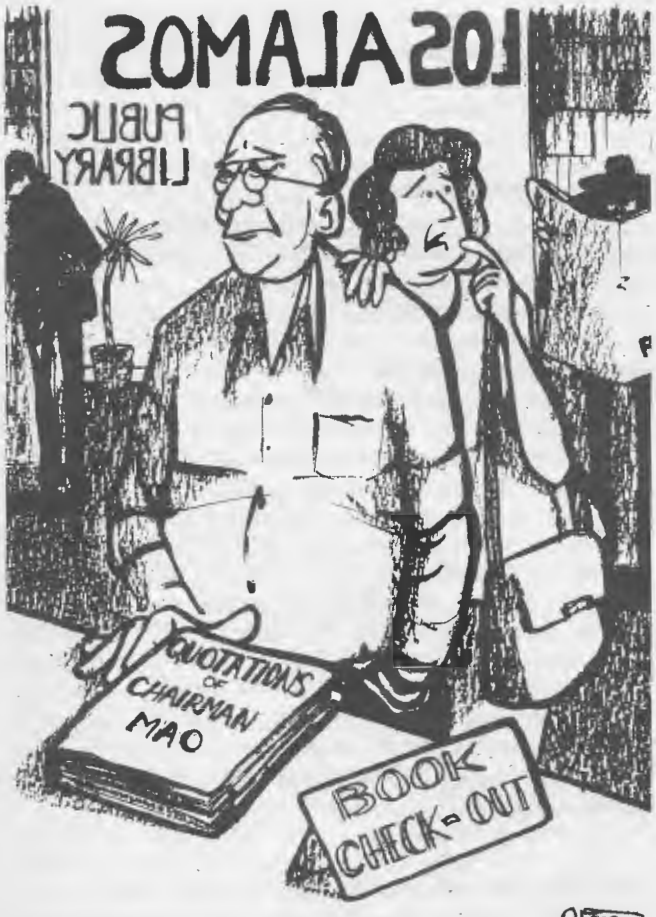
The authors begin, as did the SGR, by asking the important, but impossible question, *is* there any basis to the claim that a causal connection exists between televised crime and subsequent antisocial behavior by individuals, especially children? That was the question as put to the committee by Senator Pastore, along with another, perhaps even more vexing query: once we have evidence one way or the other, what is to be done about it? It is not difficult to appreciate the magnitude of the task before the luckless committee members, despite the more-or-less directed verdict of Senator Pastore and several pressure groups. And it is perhaps even easier to understand why the only statement which committee members could come up with was one so temporizing and so equivocal that all could sign their names to the report.

Cater and Strickland describe the manner in which an uneasy Surgeon General called together a task force of seven social scientists and five network employees or consultants, charging them with the task of coming up

with a few findings, and from these, a few recommendations which would be strongly urged upon the television industry. They decided, in brief, that:

> There is an indication of causal relation between viewing televised violence and aggressive behavior in children.

Despite this, no conclusion was reached as to how many (or which) children are likely to be affected, nor for how long, nor to what extent. Further, as already indicated, The SGR offers little in the way of remedies for the situation, other than the fervent wish that the networks and stations would tone down or eradicate graphic violence on shows with a substantial audience of children.



"DEAR,..WOULDN'T YOU RATHER READ 'CONSCIENCE OF A MAJORITY?"

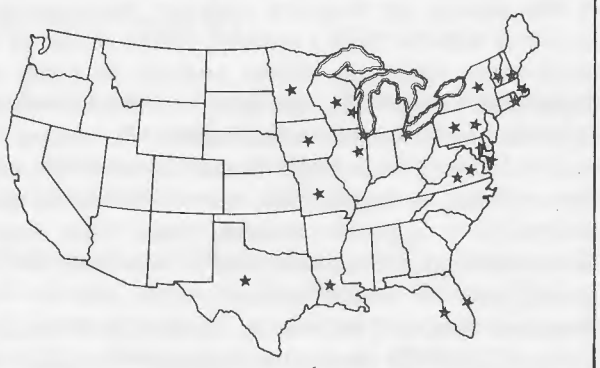
But tests were inconclusive, and the networks point to several reasons (largely self-serving, but all parties are, in this debate) for retaining violence. Methodological problems with the SGR's research design spring up like mushrooms under the skilled analysis of Cater and Strickland. For openers, they point to the acknowledged fact that we know precious little about what makes anyone, child or adult, tick. Given that there is some tentative evidence to suggest that some children are more susceptible to aggressive behavior than others, little in all the reams of data gathered and produced by the committee puts the blame squarely upon the television programs they, and we, watch. Another problem lies in the inability of the committee to measure longitudinally the effect of TV violence on behavior over time. Still another problem is the difficulty of maintaining the objectivity required by adherence to the scientific method so necessary to meaningful research, when a U.S. Senator puts committee members on notice that he will keep pursuing the matter year after year until something (satisfying to him) is done about it.

There is some consensus among the committee members in the report:

- TV violence should be cause for public concern, something which at least bears watching while further study is conducted.
- The TV industry would do well to remove "gratuitous violence" from the programming frequently watched by children.
- Currently, the TV industry may be seen making efforts to diminish the amount of violence shown during children's viewing hours, while stressing family relationships and interpersonal involvement. The 1975 fall season will feature a two-hour segment of "family viewing time" during which violent events and scenes are to be censored, or at least held to a minimum. Another nagging problem is that of distinguishing, if it is possible, among types of violence. Violence, after all, may be seen on the network evening news broadcasts, as well as drama shows, not to mention cartoon series specifically aimed at children (I've always held a sneaking sympathy for the Coyote who industriously attempts to catch the Roadrunner, only to be hoist, inevitably, with his own petard). And if we are to differentiate, how shall it be done, and by whom? Cater and Strickland tell us that as of 1973, ninety-six per cent of American homes contained at least one television set, which was on, at the average, six hours daily. The problem

(Continued on page 122)

censorship dateline



libraries

Howard County, Maryland

A book of poetry, *The Major Young Poets,* was ordered removed from the libraries of four Howard County public schools because some its selections contained "objectionable language" and were "outspoken about sex," according to a review committee.

The book copyrighted in 1971 and published by World Publishing, features poetry by Marvin Bell, Michael Benedikt, Wiliam Brown, Charles Simic, Mark Strand, James Tate, C.K. Williams, and David P. Young.

Dorothy J. Quinlan, supervisor of media services for Howard County public schools, said the media materials selection committee decided to take the book out of four schools. She said it was the first time in the six years she has held her post that a book was removed from a media center.

The eight-member review committee included teachers, vice-principals, parents, and media specialists. According to Quinlan, the book was selected from the *Wilson Senior High School Library Catalog.* Reported in: *Baltimore Sun,* April 5; *Central Maryland News,* April 10.

Montezuma, Iowa

In a quasi-judicial hearing before Richard Ploeger, superintendent of the Marshall-Poweshiek Joint School System, the decision of the Grinnel-Newburg School Board to leave three challenged books on Grinnel school library shelves was attacked.

Howard Life, appearing for the Rev. Ben See and other foes of *The Godfather, The Exorcist,* and *The Summer of '42,* told the superintendent that complaints about the books represented an attempt to prevent "the pattern of collapse of nations where morality has died." Life said retention of the books, which he called "filth," held out a prospect "of women being attacked in the streets by any man" within fifty years.

In February the school board supported a review committee that recommended retention of the books (see *Newsletter,* May 1975, p. 87). F.W. Tomasek, attorney for the Grinnel-Newburg School District, compared the protest over the books to twenty centuries of "deaths caused by misguided and self-righteous persons."

In other action against the books, Poweshiek County Attorney Donald Schild announced that he would ask a grand jury to investigate the distribution of obscene materials to minors in the public schools. Schild said he decided to request the grand jury investigation because "some of the complainants have implied that, not only are educators and library science persons allegedly indoctrinated with the 'right to read' philosophy, those with higher education employed as white collar workers or professionals are similarly tainted." Reported in: *Des Moines Register,* April 5, 10, 19.

Brockton, Massachusetts

The Brockton school committee voted early in May to remove *The Catcher in the Rye* from the city's junior high school library. At the same time, the committee voted to retain the Salinger work, *Catch-22, Manchild in the Promised Land,* and *Down These Mean Streets* in the high school library.

Rita Warren, leader of the opposition to the books, said she would "go to the highest court in the land" to have the works removed from the high school library.

Richard Bergeron, social studies curriculum coordinator for Silver Lake Regional High School, defended the books as having "a valid message." He commented: "These books describe a real world. We are training youths now beyond just reading and writing."

"We are not trying to censor anything," Warren said of the opposition. "We are just trying to hold onto the moral values in America."

The school committee's action came in response to the recommendation of an ad hoc committee that the books be retained in the school libraries. Reported in: *Woonsocket* (R.I.) *Call,* May 7.

Hillsboro, New Hampshire

A controversy erupted in this small New England community when more than one hundred families joined a protest against "obscene" books in the local high school library. The protest was sparked by the complaints of Bernard Nickerson Jr., who discovered that his sixteen-year-old daughter had borrowed a copy

of *Janis* from the library. *Janis,* by David Dalton, is a biography of the late rock star Janis Joplin.

Nickerson, who said he did not want to control the reading of adults, argued that parents ought to have more control over the schools. "We have to support them. We ought to have more to say," he commented

Superintendent Neil Cross said a committee which could "come up with a true evaluation of the books" would be appointed to review a list of controversial works that includes *Janis.* An earlier committee report had exonerated the biography. Reported in *Washington Star-News,* April 10; *Boston Globe,* April 21.

Randolph, New York

Nearly 150 books were removed from the Randolph Central School District's high school library and locked in a safe pending a screening committee's decision on whether they are "fit" reading material for students. The district's school board took the action in April in an attempt to quell complaints of a parents group that wants more say in determining educational policy (see *Newsletter,* May 1975, p. 75).

The probelm in Randolph began in January when a group known as the Concerned Parents Committee seized several high school library books and displayed them in a public building in the center of Randolph. Passages which the group found objectionable were underlined, and passersby were urged to join in an effort to ban the books from the school library.

The policy of the Randolph Central School District requires that challenged materials be removed from the library shelves pending approval by a review committee. The long list of books removed from the Randolph school library in April appears elsewhere in this issue.

Scituate, Rhode Island

Immediately after the Scituate school committee voted four to one to retain a controversial policy on learning materials, a group led by Mrs. Dennis Mulvey objected to the presence of *Listen to the Silence,* by David W. Elliott, in the junior-senior high school library. During the school committee's meeting, a copy of the book was passed around the audience with twelve marked passages that Mulvey maintained are obscene.

The school committee's policy on learning materials says that "censorship of books or reading materials in the schools by outside individuals, groups, or organizations or forces shall be challenged by the school committee upon the premise that no parent or group of parents or individuals has the right to determine the reading matter for students other than their own children."

In response to a question about the policy, School Superintendent Albert A. Manning said at the meeting that the policy originally was provided by a state Department of Education consultant.

The policy was one result of a campaign led by the Rev. Ennio Cugini, pastor of the Clayville Community Church, to rid public schools of books that he considered "obscene, anti-Christian, and anti-America." Reported in: *Providence Journal-Bulletin,* May 7.

Dallas, Texas

After *Jaws* by Peter Benchley, *North Dallas Forty* by Pete Gent, and *Go Ask Alice* were removed from school library shelves, a Dallas school district review committee announced that its recomendation that the books be removed from reading lists had been misunderstood.

The chairperson of the ad hoc review committee, Grace Wilson, a secondary reading program facilitator, said her group was charged only with recommending whether teachers should be permitted to assign the books. The review committee was established after a group of parents objected to *Go Ask Alice* and inquired about procedures to have books removed from library shelves.

Wilson said the committee objected primarily to the use of obscene language throughout the works. "Placement on reading assignment lists implies full approval for study for a large number of students," she commented.

The executive director of Classroom Teachers of Dallas, Herb Cooke, called the school district's action another indication that it has "its head in the sand." Reported in: *Dallas Times Herald,* April 11, 13.

The *Dallas Times Herald* (April 17) responded to the school district's decision in an editorial: "The move by the administration, we assume, was made in good faith. Having made the move, Superintendent Nolan Estes should review the entire process and place those three novels on the shelves and direct his people to leave the other books on those shelves alone in the future."

Waukesha, Wisconsin

In a follow-up report on an item mentioned in the *Newsletter* (Sept. 1974, p. 111), a reporter for the *Milwaukee Sentinel* discoverd in April that *Manchild in the Promised Land* was still unavailable at the Waukesha Central High School library. The book was removed by then-Assistant Principal Donald Paoletti after acomplaint was received from one parent.

Paoletti said in April that he could not recall the name of the complaining parent, but that the objection was to some of the language in the first portion of the book.

The book is available at the city's North High School four year campus and at the South High School, which serves eleventh and twelfth graders. The Central Campus school serves ninth and tenth graders. Reported in: *Milwaukee Sentinel,* April 11.

Wauzeka, Wisconsin

The board of the Wauzeka Public Schools voted May 19 to remove *My House* from the school library. The group of parents which objected to *My House* was so vociferous in its complaints about "filthy" books in the library that the board first agreed to, and then scheduled a meeting on, a request that the group be allowed to "screen" the library collection.

My House, by Nikki Giovanni, appeared on ALA's 1973 list of Best Books for Young Adults.

Hillsville, Virginia

The chairman of the Carroll County School Board appeared at a May board meeting carrying the *Encyclopedia of Witchcraft and Demonology* and *Witches and Their Craft* in a brown bag. He said the books were confiscated from the Carroll County High School library, and added that he wanted to know "who orders books for the library."

The chairman, Dallas Phillips, said he could not understand why prayer was banned from the public schools and "books such as these" allowed.

The library at the county's high school also serves as the county's only public library. Reported in: *Galax Gazette,* May 13; *Roanoke Times,* May 13.

schools

East Baton Rouge Parish, Louisiana

Decisions of school officials, in two similar incidents, to remove books from East Baton Rouge Parish classrooms resulted in the adoption of a new policy for the parish schools.

Norma Klein's *Sunshine* was removed from an East Baton Rouge Parish high school English class in April after the parents of a student said they found the language and content of the book offensive. The school's principal, Thomas Holliman, said he ordered the use of the book discontinued after he read it. He said he, too, found the language offensive. He commented that he acted because he is in charge of the school and has responsibility for what goes on in it.

Sunshine was used in a class on thematic poetry and literature. The teacher, Carolyn Weatherspoon, said she knew of only one complaint, which was filed by parents of one student. She said she had assigned the student another book.

Earlier in the year, the parish board itself voted against the recommendation of a review committee and banned *Mass Media and the Popular Arts,* a communications textbook, from an elective English course taught in four parish high schools.

The controversy over *Mass Media* began when a student enrolled in the elective course complained to her mother about vulgarities and pictures in the book. The mother contacted the local principal, who took all copies from the classroom.

According to district policy adopted in May by the parish school board, "criticisms, objections or challenges of instructional materials or methods shall be taken up with the principal of the school involved. No materials or tests to which objection has been raised may be withdrawn or removed at the local school level without prior approval from the office of the superintendent."

The new policy also calls for the superintendent to submit unresolved complaints about school materials to a review committee established by the school board. Reported in: *Baton Rouge Morning Advocate,* January 29, 30, February 5, 27, April 30; *Baton Rouge State-Times,* April 30, May 9.

Cottage Grove, Minnesota

The April edition of the *Indian Spirit,* the student newspaper at Park Senior High School, was ordered reprinted without an offending editorial on the rights of suspected drunken drivers. School Principal William Moore said he decided that the editorial, written by Bruce Turnquist, a junior, "was not in the best interests of the students of this high school." Moore complained that the article told students how to circumvent the law.

The student editorialist said he got the idea for the article from a guest speaker in a class and had consulted his business law teacher on its accuracy. The article discussed types of drinking tests which are hardest to uphold in court and advised readers to avoid blood tests since their results are usually considered solid evidence.

Washington County Attorney William Kelly said the article was "in poor taste" for a school newspaper. He also said the article included incomplete and erroneous advice. Reported in: *Minneapolis Tribune,* May 1.

West Middlesex, Pennsylvania

Reacting to pressure brought to bear by a "concerned citizens" group, the governing board of the West Middlesex Area School voted this last spring to remove the Encyclopaedia Britannica film *The Lottery* from the curriculum.

Reston, Virginia

After a local television station embarked on a two-part investigation of a social studies course, *Man: A Course of Study* (MACOS), calls were received at the station from parents of school children who both protested and praised the program.

The April 23 broadcast showed scenes of Eskimos killing a caribou, skinning a seal, and a small child eat-

ing the eye of one of the slaughtered animals.

At a meeting of the Fairfax County Board of Supervisors, Joseph Alexander called for an investigation of the program, used by eight Fairfax County elementary schools, saying that the scenes he viewed had "rather turned his stomach a great deal." "I just question whether these gory scenes ought to be shown to children," he commented.

MACOS was developed by the National Science Foundation and is one of a number of programs designed to improve the level of science education in the U.S.

Although there has been strong criticism of the NSF programs, Senators Edward M. Kennedy (D.-Mass.) William E. Proxmire (D.-Wis.) have expressed views strongly opposed to Congressional oversight of the independent scientific agency. Reported in: *Reston Times,* April 30.

In March the Fairfax school board heard a complaint from a North Virginia group of self-decribed "health nuts" who attacked a state-approved health textbook series, *Health and Growth* (published by Scott Foresman), charging that it uses inaccurate information and "attempts to influence students to accept all views and pronouncements of the major food processors and certain government agencies as gospel."

The Organic Living Society, a 150-member association concerned about health, charged that the "four basic food groups" theory, in which foods are divided into groups of meat, fruits and vegetables, cereals, and milk products is "fallacious, invalid, and inconsistent with the scientific approach."

"It would be equally true to say that there are two food groups, yin and yang," or "twenty-six food groups—the foods that begin with A, with B, etc.," the group said. Reported in: *Washington Post,* March 25.

Townshend, Vermont

Our Bodies, Ourselves, prepared by the Boston women's Health Book Collective, was removed from classrooms at Leland and Gray Union high schools. The book was used as reference work in biology classes.

The school board ordered the removal after hearing complaints about portions of the work devoted to sex. Reported in: *Philadelphia Inquirer,* May 25.

St. Francis, Wisconsin

The board of St Francis High School voted to remove Ralph Ellison's *Invisible Man* from the reading list for the freshman English course after hearing complaints from a small group of parents. School Superintendent C.J. Lacke said that the book, which was a National Book Award winner in 1952, was not intended to be read by freshmen or sophomores, and it should not have been put in the hands of freshmen readers.

Wayne Anderson, one of the protesting parents, declined to be specific about his objections to the book. He said he had not read the entire work, but had examined the portions characterized as offensive.

In a related action, the school board unanimously adopted a materials selection and review policy that would permit the school's principal to temporarily remove material from classrooms upon receiving a formal complaint from a parent. Left unresolved by the board was the question of whether the book should be permitted to remain in the school library. Reported in: *Chicago Tribune,* April 10; *Milwaukee Journal,* April 11.

colleges-universities

Tampa, Florida

The sixty-one-member faculty association at Saint Leo College voted unanimously to protest the school administration's attack on the student newspaper for an unfavorable editorial. In another action which they linked to the protest, the faculty also voted to seek immediate affiliation with the American Federation of Teachers.

The faculty supported the staff of the campus newspaper, the *Monarch,* which had revealed inequities between the salaries of administrative and faculty personnel and had editorialized against Saint Leo President Thomas Southard, whose salary was characterized as excessive.

Ten newspaper staff members received letters from the chairman of the college's board of trustees, demanding an apology and threatening not to "invite" the students to return next term. Reported in: *Tampa Tribune,* April 19.

Palos Heights, Illinois

A minister's wife led a protest over the banning of two nude drawings from an art show at Trinity Christian College in this Chicago suburb. "I believe that the human body, which has been depicted in religious art for a long time, can be a beautiful thing," said Sharon Boryk, whose husband is a Methodist minister. Boryk said she decided to "take a stand" after two nude chalk drawings done by a friend, Cynthia Dykstra, were rejected by the college.

Boryk, scheduled for graduation from the college in June, organized a protest among students.

Dykstra, who said she was sorry that people equated nudity with obscenity, commented that she believed that the human body was the most beautiful thing created. "At a Christian college, we believe that God, creator of the universe, made man as the crowning point of crea-

tion," Dykstra said. Reported in: *Chicago Daily News,* April 26.

Hillsboro, Missouri

The March 19 edition of the Jefferson College student newspaper, the *Harbinger,* was seized on orders of the college president, Ray Henry. The edition contained endorsements of two candidates for the college board of trustees.

Henry defended his action, saying it was not an effort at censorship but the result of a college policy against involvement in partisan politics. The endorsements were of two candidates who sought seats on the junior college district board in an April election.

The endorsements were contained in an editorial written by Peggy Eades and Alice Humble. An article in which six candidates for the two uncontested seats answered a set of questions was left undisturbed.

"Under no circumstances was this censorship," Henry said. "I have turned my back on articles of questionable taste, and some which were critical of the college administration. But this was entirely different. The policy against any phase of college activity becoming involved in partisan politics was restated last July and it was widely distributed at that time. The board of trustees set that policy for good reason." Reported in: *St. Louis Post-Dispatch,* April 4.

Poughkeepsie, New York

The removal of the editor of the Vassar College yearbook and the deletion of photographs and other material deemed offensive resulted in a protest by more than 200 students. During a rally in front of the colleg's main building 100 seniors signed petitions withdrawing permission to use their portraits in the abridged version.

Terry Gruber, editor of the *Vassarian,* was removed from his position by Erica Ryland, president of the Student Government Association.

Deleted from the yearbook over the objections of Gruber were photographs of a girl's face in an allegedly "suggestive" pose, a photograph of a nude boy and girl in a shower, and some other photographs whose exact nature was not revealed.

Ryland said she acted after meeting with Rosalind Fultz, president of the senior class, Jack Duggan, vice-president of the college, and Peggy Streit, director of student activities.

"Most of the photographs were innocent," Gruber contended. However, Dugan responded that "what was removed was clearly obscene by anyone's standards." Reported in: *New York Times,* April 3.

Toledo, Ohio

Indignant at the scheduling of performances of the rock musical *Hair* at the University of Toledo, Let Freedom Ring and the Movement to Restore Decency urged local citizens to write letters to the university's administrators and trustees to pressure them into canceling the production.

University President Glen Driscoll told reporters that he had no plans to bring the issue before the university's trustees, but he noted that any trustee could bring up the issue if he wanted.

Let Freedom Ring, founded in Florida, has espoused conservative viewpoints in recorded telephone messages throughout the nation. The Movement to Restore Decency (MOTOREDE) is a project of the John Birch Society.

James Moriarty, who reportedly has been involved in Let Freedom Ring and the John Birch Society for ten years, led the opposition to *Hair.* Moriarty conceded that he had never seen a performance of the musical. Reported in: *Toledo Blade,* April 25.

the federal government

Washington, D.C.

• The Voice of America was condemned by Senator Charles Percy (R.-Ill.) for "censorship" of news about the evacuation of refugees from South Vietnam after the fall of Saigon to the Viet Cong. The senator charged that the censorship extended even to remarks by President Ford.

James Keogh, director of the U.S. Information Agency, of which the VOA is a part, confirmed that "rumor, gossip, and speculation" about evacuations were withheld to avoid panic in Saigon, but the agency denied that it had censored Ford's statements.

Percy charged that Ford's remark at Tulane University in April that the Vietnam war was "finished" for America was eliminated, and that VOA officials also had excised a reference to Ford's request to Congress for authority to use troops for evacuations.

At a hearing of the Senate Foreign Relations Committee, Percy said that USIA officials had violated the VOA's charter to provide accurate, objective, and comprehensive news reports and were making the agency "a propaganda instrument of the State Department."

Percy supports the recommendations of a twenty-one-member commission, headed by CBS President Frank Stanton, that the USIA be abolished and that the VOA become an independent agency. Keogh, who opposes the recommendations, said the VOA could never behave like a privately owned news organization

as long as it was government financed. Reported in: *Chicago Sun-Times,* May 6.

Voicing charges similar to Senator Percy's, Representative Bella Abzug (D.-N.Y.) complained in May before a subcommittee of the Government Operations Committee that the U.S. Ambassadors to South Vietnam and Cambodia asked the VOA to play down news of the deteriorating situation in Indochina in early April.

Abzug produced texts of messages with the requests from John Gunther Dean, the last U.S. envoy to Cambodia, and Graham A. Martin, the U.S. ambassador to Saigon. Neither Eugene P. Kopp, deputy director of the USIA, nor Bernard Kamenski, news dirctor of the VOA, challenged the authenticity of the messages produced by Abzug. Reported in: *New York Times,* May 21.

Washington, D.C.

The Department of State canceled a tour in the United States of Chinese entertainers because their repertoire included a song which says, "We are determined to liberate Taiwan."

The tour was arranged by the National Committee on U.S.-China Relations, which schedules cultural exchanges through the Department of State. A spokesman for the department said the cancellation "does not represent a change in our adherence to the Shanghai Communique" signed by President Nixon. According to the department, the cancellation resulted from a desire to "avoid the kind of controversy which we believe the inclusion of this song would have created." The Chinese refused to remove the work from their program. Reported in: *Variety,* April 2.

art exhibits

Winter Park, Florida

City commissioners of Winter Park, a central Florida community, were not amused when a nude portrait of a female construction worker won the $1,000 top prize in the city's art show. Rather than hang the painting in the city hall, as tradition dictates, the commissioners banished it to the home of art festival director Keith Reeves.

"The workmanship of the portrait is excellent," Mayor James Driver said. "But it is basically not the kind of picture you would want to hang in city hall or I would want to hang in my living room."

Atlanta artist Glen Eden's pen portrait of a woman working in home-building was voted best of the show by a panel of nationally known art judges. Reported in: *Chicago Sun-Times,* April 12.

Chicago, Illinois

Chicago's Museum of Science and Industry found itself embroiled in a public controversy after its officials attached a fig leaf to a life-size male nude charcoal drawing hung on the museum's main floor. The drawing, by New York artist Enrique Feuntes, was displayed in the fourth annual Pan American Festival of the Arts at the museum.

"The museum felt that this had no place in a museum where there are thousands and thousands of children coming through all the time," said Irving Paley, the museum's director of public relations.

"This is ridiculous," countered Feuntes. "I can't conceive of this . . . there are nude women all over the place."

"We try never to show any genitalia," said Paley. "We don't consider it proper for a museum of this sort." Reported in: *Chicago Daily News,* April 21.

etc.

Washington, D.C.

Because "we're a family store," a Safeway spokesman explained, Washington area Safeway stores sent 3,000 copies of the May issue of the *Washingtonian* magazine back to its distributor on the ground that profanity appeared in an article about black street life.

According to Ernie Moore, the spokesman, the profanity was "called to our attention by customers." The article, billed as "An Uncensored Diary of Black Street Life" and titled "Hey Man, What's Happening," contained four-letter words in dialogue which Moore characterized a "unsuitable" for families.

The February 1974 issue of *Cosmopolitan* was also removed from Safeway stores because the magazine featured nude centerfold photographs of actor John Davidson and former football star Jim Brown. Reported in: *Washington Post,* May 9.

Hampton, Pennsylvania

Officials of the Hampton United Presbyterian Church requested the management of two indoor theaters and a drive-in in the community to ban *X*-rated motion pictures "for the spiritual and moral welfare of our members."

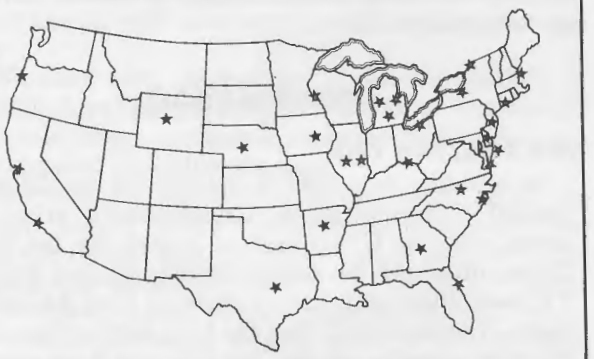
"The Hampton UP Church cannot accept such showings of *X*-rated films in our community," church officials told the owners of Hampton theaters. The church's letter urged the managers to stop booking "these sick films." Reported in: *Pittsburgh Post-Gazette,* April 3.

(Continued on page 119)

Books Removed from Randolph (N.Y.) Central School Library

Kobo Abe. Inter Ice Age 4.
Nelson Algren. The Man With the Golden Arm.
Richard Allen. No Enemy But Winter.
Richard Andrews. The Black Palace.
Maya Angelou. Gather Together in My Name.
Jack Ansell. Summer.
William Arden. Die to a Distant Drum.
Isaac Asimov. Isaac Asmimov's Treasury of Humor.
Margaret Eleanor Atwood. Surfacing.
Peter Baker. A Killing Affair.
James Baldwin. Blues for Mister Charlie.
James Baldwin. Go Tell It on the Mountain.
James Baldwin. No Name in the Street.
John Dudley Ball. In the Heat of the Night.
Richard Bankowsky. The Barbarians at the Gates.
Milton R. Bass. Jory.
George Beare. The Bloody Sun at Noon.
P.A. Bechko. Night of the Flaming Guns.
Stephen Becker. Dog Tags.
Peter Benchley. Jaws.
John Benton. Carmen.
Kenneth Benton. Twenty-fourth Level.
Howard Berk. The Sun Grows Cold.
Anders Bodelsen. Freezing Down.
Paul Bohannan. Love, Sex, and Being Human.
Paul Brodeur. The Stunt Man.
J.E. Brown. Incident at 125th Street.
Anthony Burgess. A Clockwork Orange.
J.F. Burke. Location Shots.
Christopher Bush. The Case of the Prodigal Daughter.
W.E. Butterworth. The Narc.
George Cain. Blueschild Baby.
M.E. Chaber. The Acid Nightmare.
Henri Charriere. Papillon.
Alice Childress. A Hero Ain't Nothin' But a Sandwich.
Larry Cole. Street Kids.
Robert Coles. Riding Free.
Alice Ross Colver. Say Yes to Life.
Richard Condon. Winter Kills.
Connections: Notes from the Heroin World.
Edward Connolly. Deer Run.
Alexander Cordell. If You Believe the Soldiers.
Margaret Maze Craig. It Could Happen to Anyone.
Jack Curtis. Banjo.
L.P. Davis. Genesis Two.
Mildred B. Davis. Three Minutes to Midnight.
Russell F. Davis. Anything For a Friend.
David Delman. He Who Digs a Grave.
Patrick Dennis. Paradise.
Miles Donis. Falling Up.
Mary Dutton. Thorpe.
Janice Elliott. The Kidling.
Ralph Ellison. The Invisible Man.
Martha Wiley Emmett. I Love the Person You Were Meant to Be.
Jeannette Eyerly. Bonnie Jo, Go Home.
Ronald Fair. We Can't Breathe.
Ann Fairbairn. Five Smooth Stones.
Richard Falkirk. The Chill Factor.
Maryann Forrest. Here.
Gillian Freeman. The Alabaster Egg.
Betty Friedan. The Feminine Mystique.
Brian Garfield. Death Wish.
Brian Garfield. The Hit.
Noel B. Gerson. The Sunday Heroes.
John Godey. The Taking of Pelham One Two Three.
Tony Goodstone. The Pulps: Fifty Years of American Pop Culture.
Robin Lee Graham. Dove.
Germaine Greer. The Female Eunuch.
Richard Claxton Gregory. No More Lies: the Myth and the Reality of American History.
Alan F. Guttmacher. Understanding Sex: A Young Person's Guide.
Virginia Hamilton. The Planet of Junior Brown.
Mark Hebden. Mask of Violence.
Robert A. Heinlein. Stranger in a Strange Land.
Nat Hentoff. I'm Really Dragged But Nothing Gets Me Down.
Frank Herbert. Soul Catcher.
Hermann Hesse. Siddhartha.
Annabel Johnson. Count Me Gone.
Richard E. Johnson. Cage Five is Going to Break.
James Jones. A Touch of Danger.
Majorie Kellogg. Tell Me That You Love Me, Junie Moon.
M.E. Kerr. Dinky Hocker Shoots Smack.
Ken Kesey. One Flew Over the Cuckoo's Nest.
Stephen King. Carrie.
Lee Kingman. The Peter Pan Bag.
Hazel Krantz. A Pad of Your Own.
Deborah Landau. Janis Joplin, Her Life and Times.
Jeremy Larner. The Addict in the Street.
Ira Levin. This Perfect Day.
Tom Lilley. The Officer from Special Branch.
Bruce Lowrey. Werewolf.
James Broom Lynne. Collision!
Arthur Lyons. The Second Coming: Satanism in America.
Thomas McAfee. Rover Youngblood: An American Fable.
Norman Mailer. Armies of the Night.
Bernard Malamud. The Fixer.
Man, Myth and Magic; an Illustrated Encyclopedia of the Supernatural.
D. Keith Mano. The Bridge.
George Markstein. The Cooler.
Warren Miller. The Cool World.
James Mills. The Panic in Needle Park.
James Mills. Report to the Commissioner.
Robin Moore. The French Connection.
Desmond Morris. The Naked Ape.
Willard Motley. Knock on Any Door.
John Neufeld. Edgar Allan.
John Neufeld. For All the Wrong Reasons.
Allan E. Nourse. The Bladerunner.
Claire Parker. The Rookies.
Wardell B. Pomeroy. Girls and Sex.
Darryl Ponicsan. The Last Detail.
James Quartermain. The Diamond Hook.
Ruth Rendell. Some Lie and Some Die.
Maia Rodman. Tuned Out.
Erich Segal. Love Story.
Lillian Eugenia Smith. Strange Fruit.
John Steinbeck. In Dubious Battle.
Glendon Swarthout. Bless the Beasts and Children.
Robert Tallant. Voodo in New Orleans.
Alvin Toffler. Future Shock.
John Rowe Townsend. Good Night, Prof. Dear.
Dalton Trumbo. Johnny Got His Gun.
Kurt Vonnegut. Breakfast of Champions.
Kurt Vonnegut. Cat's Cradle.
Kurt Vonnegut. The Sirens of Titan.
Kurt Vonnegut. Slaughterhouse-Five.
Joseph Wambaugh. The Blue Knight.
Joseph Wambaugh. The New Centurions.
Joseph Wambaugh. The Onion Field.
Peter Warner. Loose Ends.
Colin Watson. Kissing Covens.
Harold Wentworth, ed. Dictionary of American Slang.
Barbara Wersba. Run Softly, Go Fast.
Lael Wertenbaker. Unbidden Guests.
Jacqueline Wilson. Hide and Seek.
Burton Wohl. That Certain Summer.
Tom Wolfe. The Electric Kool-Aid Acid Test.
Richard Woodley. Team.
Richard Wright. Native Son.
Malcolm X. The Autobiography of Malcolm X.
Yevgeny Zamyatin. We.
Paul Zindel. I Never Loved Your Mind.
Paul Zindel. My Darling, My Hamburger.
Paul Zindel. The Pigman.

from the bench



U.S. Supreme Court rulings

In a decision announced May 27, the U.S. Supreme Court ruled eight to one that federal courts cannot interfere with congressional investigations despite claims that the probes discourage constitutionally protected free expression. The court overturned an injunction, issued by the U.S. Court of Appeals for the District of Columbia, which barred the Senate Internal Security Subcommittee from acquiring the list of contributors to the United States Servicemen's Fund, which operated coffee houses and published antiwar newspapers near military bases. The subcommittee had issued a subpoena to obtain the financial records of the fund from a New York City bank.

In the opinion written by Chief Justice Warren E. Burger, the Court declared that Congress enjoys an absolute immunity from having to answer "in any other place" to its activities in any "legitimate legislative sphere." The chief justice argued that congressional subpoena power is "an indispensable ingredient of lawmaking," and noted, "The wisdom of congressional approach or methodology is not open to judicial veto."

The lone dissenting justice, William O. Douglas, stated: "It is my view that no official, no matter how high or majestic his or her office, who is within the reach of judicial process, may invoke immunity for his actions for which wrong-doers normally suffer."

Three concurring justices emphasized that congressional power is "is not unlimited." but none spelled out any specific limitations.

• In another important case, the court let stand an appeals court decision upholding the right of the Central Intelligence Agency to order the deletion of material from the *CIA and the Cult of Intelligence,* written by former CIA agent Victor L. Marchetti and former Department of State employee John D. Marks (see *Newsletter,* May 1975, p. 69).

In other action, the Court:

• Refused May 27 to interfere with a U.S. District Court decision which struck down Chicago's ban against the distribution of leaflets at the O'Hare Airport terminal. Attorneys for the city had argued that the O'Hare buildings, although publicly owned, were not public forums, and that passengers should not be made to sacrifice their privacy. The district court ruled that the distrubtion of leaflets did not interfere with airport operations.

• Declined April 16 to review a decision of the Ohio Supreme Court banning an exhibition of *Without a Stitch* and requiring that a bond equal to the value of the theater where it was exhibited be posted for one year to assure that the film not be shown.

The appeal was filed by the Westwood Art Theater in Toledo. The attorney for the theater characterized the Supreme Court's refusal as "one more step back into the dark ages of legislating other people's morality."

the press

Los Angeles, California

Los Angeles City Attorney Burt Pines announced in April that his office would begin prosecuting violators of a city ordinance banning nudity in publications sold in sidewalk newsracks as soon as enforcement became legally possible.

In a letter to City Council President John S. Gibson Jr., who had criticized Pines, the city attorney noted that Superior Court Judge August J. Goebel had not cleared the way for enforcement of the city's newsrack ordinance until April.

A suit to block enforcement of the ordinance was filed last year by Joan Carl, a Sherman Oaks housewife, and the American Civil Liberties Union. In his action, Judge Goebel granted a summary judgment to the city, thus ending the suit. Goebel also dissolved a preliminary injunction against enforcement of the ordinance pending trial of the civil action. Reported in: *Los Angeles Times,* April 18.

St. Petersburg, Florida

A five-month contempt sentence against Lucy Ware Morgan, a reporter for the *St. Petersburg Times,* was invalidated by a Florida appellate court. The court ruled that the prosecuting attorney in the case was in error when he subpoenaed her to testify and identify a news source for a story which revealed grand jury action two years ago.

The court's opinion, written by Judge Stephen H. Grimes, said the action under investigation was not described in state statutes as either unlawful or consti-

tuting a misdemeanor. "One cannot be held in contempt for refusing to answer questions propounded by a state attorney in an unauthorized investigation," Judge Grimes said. Reported in: *Editor & Publisher,* April 5.

Trenton, New Jersey

Admitting that he had made 'a regrettable error," Hudson County Court Judge Richard F. Connors reversed himself and struck down his order requiring that a newspaper editor print anti-handgun editorials as a condition of his probation.

Alfredo Izaguirre Horta, editor and publisher of the Spanish-language *El Mundo de Hoy,* a New York City weekly, agreed to the editorial task as a part of a plea-bargaining over charges of illegal posession of a handgun.

Judge Connors' order was withdrawn after he held a conversation with New Jersey Supreme Court Justice Richard F. Hughes.

"I told him the best thing to do is correct an error and he has done so," said Justice Hughes. "He said he had been quite upset about the proliferation of illegal guns and crime in the streets and that it did not occur to him that an order would impact upon the First Amendment." Reported in: *New York Times,* May 10; *Philadelphia Inquirer,* May 13.

Niagara Falls, New York

Criminal contempt of court charges against the *Niagara Gazette* and three of its employees were dropped in a case stemming from the paper's publication of material contained in a sealed grand jury report.

Erie County Court Judge William G. Heffon declared that there was no proof which indicated that the *Gazette* was covered by a previous order to return all copies of the "sealed forever" report. Judge John V. Hogan of Niagara County Court had previously ordered all copies of the sealed report returned to the Niagara County District Attorney.

Judge Heffon declared that the order did not include the newspaper since it did not receive a copy of the original report from the court. Reported in: *Editor & Publisher,* April 5.

High Point, North Carolina

The North Carolina Court of Appeals ruled that a lower court judge should not have barred radio and television recording of an investigatory hearing conducted by the High Point City Council. In its decision, the appeals bench noted that newspapers were permitted to cover the hearings into alleged corruption in the city's police department.

"The different treatment of competing forms of communication is hardly justified," said the unanimous opinion written by Judge Edward B. Clark. Reported in: *Variety,* April 30.

broadcasting

New York, New York

In a ruling in which it refused to invalidate the Federal Communications Commission's prime time access rule, the U.S. Court of Apeals for the Second Circuit dismissed the claims of CBS, Warner Brothers-TV, and others that the rule abridges First Amendment rights. The court held that the FCC may enforce broad program category rulings, but may not issue program-by-program decisions.

The prime time access rule restricts television networks to three hours of programming per night, but broadly exempts network news shows, sports runovers, and on-the-spot news and political broadcasts.

In writing for the appeals bench, Judge Murray Gurfein said: "The commission . . . is not ordering any program or even any type of program to be broadcast in access time. . . . We must start with the assumption that no matter how dedicated [the networks] may be to the 'public interest' and no matter how sincere in their abhorrence of censorship, the parties advocate what they think is essentially in their own economic interest." Reported in: *Variety,* April 23.

students' rights

Baltimore, Maryland

In a case involving the First Amendment rights of of public school students, the U.S. Court of Appeals for the Fourth Circuit rejected as unconstitutionally "vague and overbroad" the Baltimore County school board's regulations for papers published by high school students. The regulations rejected by the appeals court had been accepted by a U.S. District Court judge, but only after county officials had submitted a fourth revision in a series in which school authorities were required to become increasingly more precise (see *Newsletter,* Sept. 1974, p. 122).

The American Civil Liberties Union brought suit in federal court in December 1973, on behalf of three Woodlawn Senior High School students, Sam Nitzberg, Richard Smith, and Rodney Q. Jackson, who had been ordered by school authorities to halt distribution of two private newspapers, the *Woodlawn Lampoon* and *Today's World.*

The three-judge panel—composed of former Supreme Court Justice Tom Clark, sitting by special assignment; Senior Circuit Court Judge Albert V.

Bryan; and Chief Judge F. Clement Haynsworth—said: "We cannot remain silent when we truly believe that the regulations as presently written [by the county school board] will raise more problems than they will solve.

"We have both compassion and understanding of the difficulties facing school administrators, but we cannot permit those condition to suppress the First Amendment rights of individual students.

"Nor will any intolerable burden result from our decision. Indeed it may ameliorate the relationship between the student and the disciplinarian and lead them to empathize with each other." The decision in effect left Baltimore schools without any regulations on student newspapers or any valid form of prior censorship. Reported in: *Baltimore Sun,* April 25.

teachers' rights

Little Rock, Arkansas

The Arkansas Supreme Court declared unconstitutional an anti-Communist law under which a University of Arkansas professor had had his salary terminated in April 1974.

Grant Cooper, an assistant professor of history at the university's Little Rock campus, lost his pay and was later dismissed after he announced to his classes that he had joined the Progressive Labor Party and would teach from its "viewpoint."

His pay was severed by court order after twenty-three state legislators filed suit against the university. They charged it with violating the now invalid state law, which prohibited the payment of state funds to anyone "who is a member of the Nazi, Fascist, or Communist society or any other organization affiliated with such societies."

The high state court overruled the lower court order and declared the law unconstitutional for overbreadth. The court said that invalidation of the law was required by U.S. Supreme Court rulings against similar laws in other states.

The court left unresolved the question of whether Cooper would get his back pay for the period. Reported in: *Chronicle of Higher Education,* April 14.

San Francisco, California

In the first interpretation of California's 1972 constitutional amendment guaranteeing the "right of privacy," the California Supreme Court ruled that police officers cannot pose as students merely to compile intelligence reports on the activities of university professors and students.

Ruling on a suit filed by Hayden V. White, a UCLA history professor, the unanimous court held that—in the absence of a "compelling state interest"—such undercover surveillance violated state and federal constitutional guarantees of freedom of speech, as well as the state's privacy amendment. The opinion written by Justice Mathew O. Tobriner called such action "government snooping in the extreme" and said that the "censorship of totalitarian regimes that often condemns developments in art, politics, and science is but a step removed from the surveillance of free discussion in the university."

White's original suit seeking a court order prohibiting Los Angeles Police Department Chief Edward Davis from spending public funds for such surveillance was dismissed in Los Angeles Superior Court.

The police did not admit the allegations in White's suit, but for the purposes of deciding the issues raised in the appeal to the State Supreme Court, defended the alleged practices as no different from other routine, court-sanctioned undercover activity.

After the decision was announced, a spokesman for UCLA said that at least one police sergeant registered as a student in 1970, enrolling in three undergraduate history classes, including White's.

The officer, H. Theodore Kozak, joined several radical groups and wrote articles for the campus newspaper in support of the Students for a Democratic Society, and was once taken into custody by other Los Angeles policemen who were unaware of his assignment.

The effect of the court's decision was to send the case back to trial to determine whether any government interests for police intelligence work on campuses can be shown. Reported in: *Los Angeles Times,* March 25; *New York Times,* March 31.

Macon, Georgia

A ruling by a U.S. District Court awarded Norma Jean Smith $2,500 in damages from the Houston County (Georgia) school board. A substitute teacher, Smith was fired last fall after she had written a letter to the editor of a local newspaper in which she criticized the school board's redistricting plan on the ground that it would cause overcrowding. The court ruled that the teacher's First Amendment rights had been violated. Reported in: *DuShane Fund Reports,* March 31.

Warren, Michigan

A National Labor Relations Board arbitrator ruled in May that the Warren Consolidated Schools board of education had the authority and right to ban the eighth grade text *Promise of America,* both as a textbook and as a supplemental reading source.

The Warren Education Association maintained in a grievance that the removal of the book violated the academic freedom clause of its contract with the school

board. Arbitrator Richard I. Bloch said the board has the right "generally to manage the school system and specifically to choose appropriate texts." Reported in: *Macomb Daily,* May 15.

Freehold, New Jersey

A journalism teacher who was fired by Brookdale Community College was ordered reinstated by New Jersey Superior Court Judge Merritt Lane and awarded more than $104,000 in damages.

Patricia Endress was dismissed in June 1974, just before she would have been granted tenure, as a result of a news article and an editorial that appeared in the student newspaper, *The Stall,* of which she was the advisor.

The award included $10,000 in punitive damages to be paid by the college president and each of six trustees. "Punitive damages are absolutely necessary to impress people in authority that an employee's constitutional rights cannot be infringed," said Judge Lane.

The issue of the paper which led to Ms. Endress' dismissal accused the chairman of the college trustees of arranging to have the college award a contract to a firm run by his nephew. It was later revealed that the chairman himself was a director of the firm.

In his decision, Judge Lane ruled that the college had violated Endress' constitution right to free speech as well as freedom of the press. He also ruled that the article and editorial were not libelous. Reported in: *Baltimore News American,* May 1; *Chronicle of Higher Education,* May 12.

Cincinnati, Ohio

The U.S. Court of Appeals for the Sixth Circuit ruled in April that a Tennessee textbook law unconstitutionally established a preference for the teaching of the biblical account of creation over the theory of evolution.

The appeals court called the case a new version of "the legislative effort to suppress the theory of evolution which preceded the famous Scopes Monkey Trial of 1925." The court pointed out that while the 1973 act of the Tennessee legislature did not directly forbid the teaching of evolution, the purpose of the law was the same as the 1925 law that resulted in the Monkey Trial. Reported in: *Washington Post,* April 11.

freedom of expression

Raleigh, North Carolina

A Raleigh man was convicted in May for putting tape over the "First in Freedom" slogan on the 1975 North Carolina auto license plate, despite the state Attorney General's recommendation against prosecution of such cases.

The North Carolina Civil Liberties Union agreed to sponsor Walter Williams III in the appeal of his conviction. Williams, who explained that he does not believe North Carolina offers equal freedom to blacks, will base his appeal on the First Amendment. Reported in: *New York Times,* May 26.

obscenity rulings and related findings

Washington, D.C.

The U.S. Court of Appeals reversed a finding of obscenity because instructions given to the jury by U.S. District Court Judge June L. Green were in error.

In December 1973 a federal jury found the film *Hot Circuit* obscene after Judge Green told them to consider it in the light of the 1973 *Miller* decision of the U.S. Supreme Court.

The appeals court ruled that the *Miller* test for obscenity was more favorable to the government than its predecessor, and that the 1973 standards could not be applied due to the fact that the film was seized by FBI agents in 1972, well in advance of the *Miller* decision.

"It is a fundamental principle that a person must have notice of what activity is prohibited before he may be held criminally liable for his actions," the appeals panel said. Reported in: *Washington Star-News,* May 16.

Los Angeles, California

Superior Court Judge Parks Stillwell refused to close the headquarters of a publisher of sexually explicit materials under California's 1913 Red Light Abatement Law.

Deputy District Attorney Thomas King Elden had attempted to prove that the building had been used for the "purpose of prostitution." Under the provisions of the law, a building used for such purposes could be shut down for one year and its equipment sold. Reported in: *Los Angeles Times,* April 25.

Los Angeles, California

After suggesting that federal prosecutors were shopping around for a "hanging jury," U.S. District Court Judge Hugh H. Bownes granted a defense motion to have the trial of Jack Ginsburgs of Los Angeles moved from New Hampshire to his home city.

Ginsburgs was charged by a New Hampshire federal jury in 1973 with eight counts of sending obscene materials through the mail to Woodsville, New Hampshire.

The government admitted that the prosecution of Ginsburgs was initiated by postal officials in Washing-

ton, D.C., who sent for advertised "adult material" and had it delivered to a pseudonym in Woodsville. No complaints from New Hampshire citizens had been received over the material, the government conceded.

Ginsburgs' attorney, Norman R. Atkins, sought dismissal of the indictment on the grounds that the New Hampshire grand jury could not have had probable cause to believe that Ginsburgs violated California community standards on obscenity.

In a similiar case, U.S. District Court Judge E. Avery Crary ruled that a case moved to Los Angeles from Iowa would have to be tried on the basis of Iowa "community standards" on sexually explicit materials, and then dismissed the charges on the grounds that a Los Angeles jury could not determine Iowa standards. Reported in: *Los Angeles Times,* May 21.

Pueblo, Colorado

Pueblo County District Court Judge Thomas Phelps declared the Colorado obscenity law unconstitutional because of its failure to spell out explicitly the meaning of "nudity, sex, sexual conduct, sexual excitement, excretion, sadism, masochism or sadomasochistic abuse." Judge Phelps said the terms used in the law can mean different things to different people and are so general and ambiguous that they fail to provide adequate fair notice of the criminal conduct to be regulated.

In a parallel development, Mesa County District Attorney Terrance Farina said he would continue in his prosecution of two booksellers because Judge Phelps' ruling "has no precedential value at all" for Mesa County courts.

The Pueblo County District Attorney indicated that Judge Phelps' decision would be appealed to the Colorado Supreme Court. Reported in: *Grand Junction Sentinel,* April 12.

Lansing, Michigan

In a decision in a suit filed by Alan Suits and the Suits News Company against Meridian Township officials, the Michigan Court of Appeals declared April 9 that a township ordinance regulating the public display of "offensive" sexually explicit material is constitutional and does not conflict with state law.

The three-judge court ruled unanimously that the ordinance is not vague and can "be understood by men of common intelligence." The decision also held that the Michigan obscenity law did not preempt the local ordinance because "the state statutes do not regulate public display" of explicit sexual material.

Suits challenged the local ordinance after merchants began keeping copies of *Playboy* and *Penthouse* under their counters to avoid prosecution. Although the township has stopped enforcement of the law due to excessive costs, Suits announced that he would appeal the decision to the Michigan Supreme Court in order to test the questions of principle involved in the suit.

Lansing, Michigan

In a ruling on Michigan's obscenity law, the state Supreme Court sidestepped a clear decision and called upon the legislature to act.

The high court ruled unanimously that the law is "valid and enforceable" for prosecuting persons who provide "lewd" materials to juveniles or to adults who do not want them.

However, the court added: "We are divided as to whether such statutes can properly be construed by us without further legislative expression as proscribing the dissemination of 'obscene' material to consenting adults."

In its decision, the court overturned the conviction of Floyd Bloss, a former Grand Rapids bookseller who served six months of a nine-month jail sentence in 1968 for selling magazines and novels judged to be obscene.

The justices said Bloss' conviction could not stand because he committed the acts before the court had interpreted state law to forbid such conduct.

The state Supreme Court had once before reversed the conviction of Bloss, and that ruling was appealed to the U.S. Supreme Court, which remanded the case for consideration under guidelines established in *Miller* v. *California* (1973).

One legislator commented that prosecutors "will have to take their chances" until the legislature enacts a law that is consistent with *Miller.* Reported in: *Flint Journal,* May 1; *Lansing State Journal,* May 1.

Des Moines, Iowa

In its first ruling on the question of whether Iowa's nuisance statute can be used as a means of keeping sexually explicit films from being shown, the Iowa Supreme Court declared that injunctions against showing such fare at the Marion Adult Theater in Marion were unconstitutional.

A lower court declared the films nuisances and enjoined the Marion theater from showing the films on the ground that they were offensive to the senses and involved "lewdness."

In 1974 the Iowa legislature passed a law that permits adults to view and read whatever sexually explicit materials they wish. Reported in: *Variety,* April 23.

St. Paul, Minnesota

The Minnesota Supreme Court ordered the Duluth City Council either to repeal two obscenity ordinances or let the people of the city decide in a referendum

whether they want the measures. In an opinion written by Justice Lawrence Yetka, the court admonished lower courts and, by implication, city councils to respect requests for referenda even if they do not conform precisely to the applicable laws.

Two years ago Duluth citizens filed petitions with their city council in an effort to repeal two new laws regulating the sale of obscene materials and banning the use of "sexual material" in advertising.

The city council ignored the request for a referendum on the grounds that a separate petition was required for each ordinance. A district judge agreed with the city council when the petitioners asked him to order the council to act.

Petitions for referenda frequently are prepared by people who are not lawyers, Justice Yetka noted, adding, "Courts should exercise extreme caution in ruling out, on mere technicalities, such documents which are the result of democracy working at the grassroots level."

"Public officials rule with the consent of the goverened," Justice Yetka said. "What possible harm could result in requiring a referendum? If the voters vote down the ordinance, it will be the majority of the people themselves and not merely their elected representatives making that decision." Reported in: *Minneapolis Tribune,* May 3.

Lincoln, Nebraska

U.S. District Court Judge Warren K. Urbom declined to rule on the constitutionality of Nebraska's obscenity statute. He was asked to declare the law null and void on the grounds that it is overbroad, vague, indefinite, and uncertain.

Judge Urbom dismissed the suit because the plaintiff, the manager of the Lincoln Adult Book and Cinema Store, had demonstrated "no genuine threat" that the law would be enforced against him. He "has not been arrested while managing the store, and in fact, has not been threatened with arrest by any local or state officials," the judge wrote. Reported in: *Lincoln Star,* May 9.

Newark, New Jersey

A three-judge federal panel declined to block a fornication case filed by the Passaic County prosecutor against the makers of *Deep Sleep.* The unanimous decision, written by U.S. District Court Judge Herbert Stern, cited the doctrine of comity between federal and state courts. Judge Stern declared that the issues before the state court could not be "relitigated" by a lateral defense move into another court system.

The filmmakers were indicted under New Jersey's fornication statute because the state's obscenity law was in legal limbo when Prosecutor Joseph D.J. Gourley decided to move against them. Reported in: *Passaic Herald-News,* May 6.

New York, New York

City Corporation Counsel W. Bernard Richland won the right to ban showings of *The Life and Times of a Happy Hooker.* In an action brought by Richland's office and Brooklyn District Attorney Eugene Gold, Manhattan Civil Court Judge Louis Kaplan ruled the film to be "eighty percent to ninety percent" explicit sex and therefore obscene. Reported in: *New York Daily News,* April 1.

Raleigh, North Carolina

The North Carolina Sureme Court upheld the convictions of two Burlington men on charges of selling obscene materials.

Dillard P. Hart and Drewry Hall had pleaded guilty in Alamance Superior Court to charges of selling obscene books, but they contended before the Supreme Court that a revision in the state's obscenity law, enacted after their arrests, should have been applied to their cases. The new law restricts prosecutions on charges of obscenity to cases in which material is disseminated after a judicial determination of obscenity in civil proceedings.

The high state court overturned a court of appeals decision voiding the convictions. The court said the appeals court was wrong to apply the new law to the case. Reported in: *Raleigh News & Observer,* April 15.

handbilling by GIs

Washington, D.C.

Service personnel in combat zones do not have a right to circulate antiwar petitions without the approval of their commanding officers, according to a ruling by the U.S. Court of Appeals.

The two-to-one opinion of the appeals court said: "We believe the requirement that a serviceman obtain his commanders's approval before circulating a petition is eminently reasonable; the exigencies of the combat mission can yield no other result."

The ruling came in the case of three service personnel who either were arrested in Vietnam while circulating antiwar petitions or were denied permission to circulate them. U.S. District Court Judge Barrington D. Parker had earlier ruled that the regulation governing the circulation of petitions was unduly broad and ordered the armed services to expunge the arrest records.

In the appeals court ruling, U.S. Circuit Court Judge Edward A. Tamm and U.S. District Court Judge Charles R. Richey reversed the lower court decision.

The dissent was filed by the Chief Judge of the U.S. Court of Apeals for the District of Columbia, David L. Bazelon, who said the military action approved by the majority "augurs poorly for the future of the First Amendment rights of American soldiers." He argued that the circulation of petitions did not compromise military duty in Vietnam under the circumstances described.

Judge Bazelon added: "The terrible irony is that, like the oft-mentioned Vietnamese village, we have chosen to destroy American constitutional traditions in order to preserve our way of life. The pity is that here the 'threat' is much too trivial for the price we pay. . . . We use a sledge hammer to chase a gnat." Reported in: *Washington Post,* April 26.

obscenity: convictions and acquittals

Washington, D.C.

The manager of the Mark II Theater was found guilty of fifty-five counts of obscenity for exhibiting the unedited version of *Deep Throat.* Immediately after hearing the verdict from the jury, Superior Court Judge Joseph M. Hannon praised them for defending "decency here," adding, "Ordinarily I don't comment on a jury verdict, but I thank you all very much." Reported in: *Washington Post,* March 28.

Champaign, Illinois

After deliberating less than two hours, a circuit court jury decided that the film *Deep Throat* was not obscene, thus acquitting the owner of the Art Theater of charges of obscenity for showing the movie.

A second charge, stemming from an exhibition of the film *The Lecher,* was dismissed by Circuit Court Judge Birch Morgan.

The defense attorney argued that *Deep Throat* did not violate existing community standards and that sexually explicit films were not foisted upon unwilling adults or made available to juveniles by the theater. Reported in: *Champaign-Urbana News Gazette,* May 16.

Boston, Massachusetts

Charles Ferro was convicted for possession of obscene magazines with intent to sell and was sentenced to two and one-half years in the Deer Island House of Correction. Suffolk County Superior Court Judge Paul A. Taburello also ordered Ferro to pay a $3,000 fine and a special $750 assessment to the Law Enforcement and Criminal Justice Training Fund.

The fund, established by legislation enacted last year, provides for an additional twenty-five per cent to be added to any fine imposed for a serious crime and is to be used for programs to improve law enforcement. Reported in: *Boston Globe,* April 10.

Flint, Michigan

Harry V. Mohney, described by the Federal Bureau of Investigation as the head of a ten-state empire of adult bookstores and movie theaters, and co-defendant Gary P. Andre were aquitted by a U.S. District Court jury of charges of shipping allegedly obscene magazines in interstate commerce.

During the trial, which lasted two weeks, a parade of witnesses testified that magazines seized by the FBI in May 1973 were obscene. A ruling by Judge James Harvey required the prosecution to meet legal standards for obscenity which were in effect prior to the ruling of the U.S. Supreme Court in *Miller* v. *California* (1973). Judge Harvey declared that the government had to show that the magazines were patently offensive to the community standards of the average person living in Flint and also that they were utterly without redeeming social value. Reported in: *Flint Journal,* May 17.

Buffalo, New York

A Depew book wholesaler was convicted on charges of obscenity and was sentenced to three years in prison by Erie County Court Judge William G. Heffron. The judge stated that he imposed the severe prison term as a deterrent to others. Reported in: *Buffalo Courier Express,* May 14.

Cleveland, Ohio

Dalene Burgun, an employee of a Cleveland bookstore, was convicted by a Cleveland Municipal Court jury on charges of pandering obscenity. A jury of six women and two men deliberated four hours before announcing the verdict. Reported in: *Cleveland Plain Dealer,* April 25.

Portland, Oregon

Tony A. Liles and Ralph Alexander Bremner were each sentenced to thirty days in jail and ordered to pay $1,000 fines for disseminating obscene material. Multnomah County Circuit Court Judge Pat Dooley found the men guilty of selling obscene films to undercover policemen at their Portland shops last December.

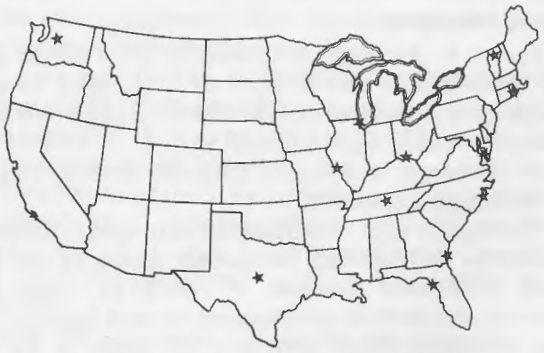
The convictions were the first under Oregon's new obscenity law, which took effect December 5. Reported in: *Portland Oregonian,* March 27.

Austin, Texas

The Texas Court of Criminal Appeals overruled the

(Continued on page 19)

is it legal?



in the U.S. Supreme Court

• The U.S. Supreme Court agreed in April to review a libel judgment against *Time* magazine for reporting that Mary Alice Firestone, former wife of tire and rubber heir Russell Firestone, had been divorced "on grounds of extreme cruelty and adultery."

Mrs. Firestone sued *Time* when the magazine refused to retract its account of her divorce. The Florida Supreme Court called the report in a December 1967 issue of *Time* "convincing evidence of the negligence of certain segments of the news media in gathering the news."

• The Court also agreed in April to decide whether military commanders may stop politicians from campaigning on bases of the armed forces. Secretary of Defense James R. Schlesinger and the commander of the Army post at Fort Dix filed the appeal to challenge a ruling of the U.S. Court of Appeals for the Third Circuit permitting political speeches and distribution of political literature at Fort Dix (see *Newsletter,* Jan. 1975, p.22).

• In its review of a North Hempstead, Long Island ordinance prohibiting topless dancing in bars, the Court heard the contention of the deputy attorney for North Hempstead that such dancing is "commercial exploitation of nudity" and not expression protected by the First Amendment.

The law was struck down by U.S. District Court Judge John R. Bartels, who said it was too broadly worded and could be applied to conduct protected by the Constitution.

the press

Fresno, California

Four *Fresno Bee* employees were cited for contempt of court by Superior Court Judge Denver C. Peckinpah for their refusal to tell him how they gained access to a transcript of grand jury testimony that the judge ordered sealed last November.

In articles carrying the joint byline of William Patterson, the paper's legal affairs reporter, and Joe Rosato, the county government reporter, the *Bee* printed an article each day on January 12, 13, and 14 based on testimony given before a county grand jury which had investigated official corruption.

Cited for contempt were the two reporters and the *Bee's* managing editor, George Gruner, and the city editor, James Bort. All faced sentencing in late May.

Both the California Supreme Court and the U.S. Supreme Court declined to intervene in the case, although Justice William O. Douglas at one point ordered a stay of state court proceedings which was later vacated by the Court.

As it shaped up, the case promised to present a strong test of the state's shield law, which provides that news reporters and editors cannot be held in contempt by a judicial body for refusal to "disclose the source of any information" obtained in the process of gathering news. Reported in: *Editor & Publisher,* April 5; *Sacramento Bee,* May 4; *New York Times,* May 14.

freedom of speech

Providence, Rhode Island

The American Civil Liberties Union filed suit in U.S. District Court against Lincoln school officials in connection with a student's right to remain seated during the Pledge of Allegiance to the flag.

The suit charges that school officials violated the First Amendment rights of John Gluckman, a high school sophomore, by requiring him to stand during the pledge. The ACLU said the youth's wish to remain seated was "based upon his personal and deeply held feelings that there is not yet liberty and justice for all within this country." Reported in: *New York Times,* April 8.

Chicago, Illinois

Chicago members of the Communist Party U.S.A. threatened to sue the Chicago Transit Authority for its refusal to accept the group's advertising. Ted Pearson, press coordinator for the party, said the CTA refused to put 1,000 cards in its buses to advertise a June 29 meeting in the International Amphitheatre, booked for the party's national convention.

The CTA responded to the party's request in a letter: "The CTA has a firm policy which precludes acceptance of political slogans where there is no official election. We cannot be in a position where it appears the CTA

endorses a candidate or political party. . . ."

The U.S. Supreme Court held in 1974 that refusals to carry political advertisements on public transit do not violate free speech guarantees. Reported in: *Chicago Sun-Times,* May 17.

obscenity and related matters

Tampa, Florida

U.S. District Court Judge Ben Krentzman ordered the city of Tampa to temporarily halt enforcement of its new obscenity ordinance on the grounds that the law could be proved unconstitutional. The temporary restraining order was issued in response to a law suit filed by a Tampa news company and the owner of a bookstore.

Their suit charged that "under threat of criminal prosecution" stores were ordered by Tampa police to remove from their shelves the March 17 issue of *Time* magazine, which featured a picture of Cher Bono on its cover (see *Newsletter,* May 1975, p. 79).

The suit also contended that such books as *Jaws, Couples, Fear of Flying,* and *The Joy of Sex* were ordered removed from displays by police.

Assistant Tampa City Attorney Matias Blanco Jr. told Judge Krentzman that the ordinance "was not meant for *Time* or magazines of that type" and denied that police had ordered it off newsstands. In response to a question from Judge Krentzman, Blanco said it was the "individual officer" who decides which magazines and books are covered by the law.

"An ordinance may be unconstitutional either on its face or in its enforcement," Judge Krentzman noted. Reported in: *Tampa Tribune,* March 29.

Concord, New Hampshire

The New Hampshire Supreme Court was asked in April to decide the constitutionality of a bill to prevent public school teachers from requiring pupils to read books containing obscentiy. The bill was sent to the court for a ruling after the measure failed in the New Hampshire House on a 190-to115 vote.

The bill would subject any teacher who requires pupils to read books containing obscene words to a $1,000 fine and a one-year jail sentence. Reported in: *East St. Louis* (Ill.) *Metro-East Journal,* April 24.

St. Louis, Missouri

A proposed obscenity law for the unincorporated areas of St. Louis County was sent to the county council by a five-to-two vote of the county's virtually unknown Decent Literature Commission. The proposal was designed to give the county a statute in conformity with recent U.S. Supreme Court guidelines.

Alan Kraus, a commission member and an English instructor at Forest Park Community College, commented: "I think it's important to give the council and the prosecutor something to work with. I'm against censorship per se, and I really don't think this is a censorship bill. But people need something that will attempt to put the lid on blatant pornography."

The dissenting votes were filed by William Landau, a professor at Washington University Medical School, and, Teel Ackerman, dirctor of the Social Health Association. They contended that "it is impossible to legislate against the offensive tastes of a fellow citizen." Reported in: *St Louis Post-Dispatch,* May 14.

Charlotte, North Carolina

After reviewing a proposed obscenity ordinance vigorously supported by Attorney Allen Bailey, City Attorney Henry W. Underhill Jr. told the Charlotte City Council that it lacked the authority to enact an ordinance banning obscene films and publications. Underhill explained that the state had preempted the authority to adopt obscenity measures and that the proposed ordinance might violate the U.S. Constitution.

Bailey, a recognized authority on criminal law, is president of the State Baptist Convention and helped lead a successful fight against liquor by the drink in a 1973 North Carolina referendum. Reported in: *Charlotte News,* April 16, 25.

Cincinnati, Ohio

A motion was filed in U.S. District Court to prevent Springdale Mayor R.W. Norrish and other city officials from interfering with an exhibition of the motion picture *Emmanuelle.* Columbia Pictures, the distributor of the film, sought a preliminary injunction to restrain Springdale officials "from threatening, coercing or intimidating" theater owners who show the French-made move.

Charles G. Atkins, attorney for Columbia Pictures, said Norrish had threatened to prosecute the manager of the Springdale theater if the film were shown. Reported in: *Cincinnati Inquirer,* May 5.

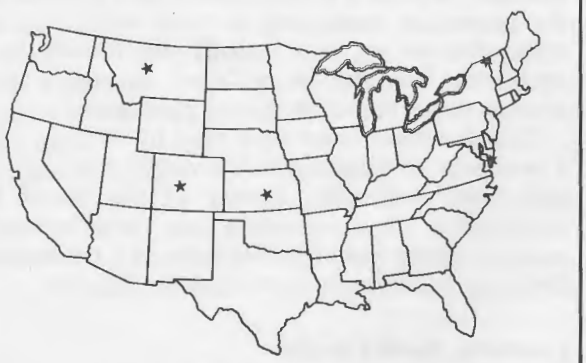
Nashville, Tennessee

After District Attorney General Thomas Shriver filed a series of chancery court suits against Nashville bookstores, bookseller Kenneth C. Kaufman responded with a counter suit in which it was argued that the First Amendment protects the sale of so-called adult reading materials.

The suit said: "Some vocal part of the community has

(Continued on page 119)

success stories



Denver, Colorado

The Colorado House twice in April killed proposals to rewrite the state's obscenity laws along lines suggested by the U.S. Supreme Court. Representative Kenneth Kramer, whose proposed revision was first defeated in the House Judiciary Committee and later on the House floor, said that without his measure it would be "impossible to prosecute pornography cases."

One day after Kramer's bill was killed by the House committee, a Pueblo District Court held the state's obscenity law to be invalid. Reported in: *Denver Post,* April 9; *Rocky Mountain News,* April 12, May 1.

Honolulu, Hawaii

A number of bills designed to regulate Hawaii's newspapers were killed by the Hawaii legislature during the annual sixty-day session which ended in April. The only surviving bill, which would require annual filing of financial records by the two Honolulu newspapers, the *Star-Bulletin* and the *Advertiser,* remains in the Senate Judiciary Committee for final action during next year's session.

The major sponsor of the bills was Senator Duke Kawasaki. Last year, at the request of Honolulu Mayor Frank Fasi, Kawasaki introduced a measure to put the Honolulu dailies under the state public unilities commission for regulation of advertising and circulation rates. The state attorney general declared the bill unconstitutional and it died. This year, the bills killed would have required the legislative auditor to examine the financial records of the papers. They would have provided state regulation of newspaper circulation and would have repealed the state's Newspaper Preservation Act.

In an article in the *Honolulu Advertiser,* Kawasaki charged the Gannett Company, publisher of the *Star-Bulletin,* with reaping excessive profits while cutting back on such services as home delivery to neighbor islands. Gannet said the cutback in delivery service was necessary because of the fuel crisis. Reported in: *Honolulu Advertiser,* March 9, April 5; *Editor & Publisher,* April 19.

Salina, Kansas

An unsuccessful candidate for the Salina board of education also failed last spring in his attempts to have *Native Son* removed from the library at Salina South High School. Roger A. Naylor, the candidate, became aware of *Native Son* after his son borrowed the work from the school library and showed it to him.

A review committee composed of administrators, librarians, parents, and teachers acted on Naylor's complaint and recommended that *Native Son* be retained in the school library. The recommendation of the review committee was supported by the school board.

Montgomery County, Maryland

After an hour-long discussion, the Montgomery County school board voted four to one to uphold Superintendent Homer O. Elseroad's decision to continue permitting high school students to study James Dickey's *Deliverance,* which some parents had sought to have banned on the grounds that it employs "gutter language" and depicts "perverted acts."

The board's action in effect affirmed the decision of a committee appointed by Elseroad after a formal complaint was filed against the book last November. The committee recommended that the book be retained in the schools with the stipulation that "it only be used with mature juniors on an elective basis in small groups or in elective or option courses."

The committee's recommendation did not satisfy Wayland and Anne Spilman, the parents who filed the original objection, so they appealed to the elected school board.

None of the members favored banning the book, but President Thomas S. Israel, who cast the dissenting vote, had sought to require written parental approval before allowing pupils to use the book. Reported in: *Washington Post,* May 14.

Missoula, Montana

A proposed obscenity ordinance for Missoula was defeated by that city's voters by a margin of more than 1,400 votes. The ordinance, which would have prohibited the sale of pornographic material to adults and minors, set fines of up to $500 and jail sentences of up to six months.

The ordinance was passed by the Missoula City Council last September, but a referendum drive spearheaded by the American Civil Liberties Union succeeded in placing the issue on the spring ballot. The act

was not enforced pending the outcome of the election.

Montana state law provides penalties for the sale of obscene material to juveniles but not for sales to adults. Reported in: *Billings Gazette,* April 3.

Concord, New Hampshire

The New Hampshire House killed a bill that would have required sexually explicit magazines sold in the state to be sealed in transparent wrappers. The bill's sponsor said he was not against the magazines as such but wanted to keep children from examining their contents.

The vote, 144 to 107, also killed a provision that would have forbid display of such magazines next to comic books and toys. Reported in: *Washington Post,* May 3.

(Censorship dateline . . . from page 107)

New York, New York

The March issue of *The Drama Review,* devoted to post-modern dance, was delayed a month because the editors became involved with printers in a dispute over censorship.

In December 1974, the editors sent a manuscript to their printer entitled "It's About Time." David Gordon's article mentioned that his wife, Valda Setterfield, had uttered the words "fuck" and "shit" in 1962 during a public performance of *Random Breakfast* in the Judson Church. The printer returned the manuscript and said he would not print the magazine with those words in it.

Johnston, Rhode Island

The management of the Johnston Cinema agreed to end its exhibition of *Deep Throat* after a conference with Attorney General Julius C. Michaelson. The movie had already run for more than five weeks.

A spokesman for the attorney general said there was no contemplation of court action against the theater since the management had agreed "voluntarily" to end the run.

Johnston Town Solicitor Thomas R. DiLuglio called for the meeting between the management and the attorney general after Councilman Joseph Falvo emerged from a showing and called it "the filthiest movie ever shown on the screen." Reported in: *Providence Bulletin,* April 19.

Burleson, Texas

Peace Justice Charlene Wallace ordered a drive-in grocery owner in Burleson to cover up pictures on the covers of so-called girlie magazines. After Burleson Citizens for Decency through Law filed a complaint with Wallace asking for the action, the store owner voluntarily agreed to cover all but the titles of the magazines. Reported in: *Fort Worth Star-Telegram,* April 10.

(From the bench . . . from page 15)

Dallas conviction of Thomas Lynn Edmiston for distributing an obscene magazine.

Texas' highest court for criminal appeals ruled that the trial prosecutor illegally deprived Edmiston of a fair trial by soliciting testimony that his attorney also owned a financial interest in the adult theater where the magazine was bought by an undercover agent.

The appeals court said the trial was prejudiced by the prosecutor's remarks, even though the trial judge told jurors to disregard the comments about Edmiston's lawyer. Reported in: *Dallas News,* March 29.

San Antonio, Texas

Former bookseller Antonio M. Bosquez pleaded guilty to five obscenity charges before County Court Judge Carolyn Spears and accepted fines totalling $375. Bosquez was charged with misdemeanor offenses of possession of obscene material with intent to exhibit. Reported in: *San Antonio Express,* April 18.

(Is it legal . . . from page 117)

been aroused into a frenzy about the defendant's dissemination of constitutionally protected materials, by the public statements and pronouncements of several locally elected public officials who are seeking to be candidates for elected office some three months and/or six months hence."

Before Kaufman filed his suit, the district attorney general was granted a temporary court order restraining Kaufman from removal of materials from his store. The petition requesting the order charged that the materials were obscene. Reported in: *Nashville Banner,* May 7; *Nashville Tennessean,* May 7.

Ellensburg, Washington

Church of Christ Minister David Vanlandingham appeared before the Ellensburg City Council to argue in favor of the adoption of an ordinance which would make it illegal to display "such magazines as *Playboy* and *Penthouse.*" In a letter to the council he requested an ordinance "to ban the public display and sale of indecent publications, pictures, and articles in places frequented by minors." He said the law should be based not on the idea of "obscenity" but rather on the notion

of "public nuisance." Reported in: *Ellensburg Daily Record,* May 6.

etc.

Washington, D.C.

Senator William Proxmire (D.-Wis.) was among the witnesses who appeared before the Senate Subcommittee on Administrative Practices and Procedures to testify on behalf of legislation that would make it easier for the public and the press to get information from federal employees.

The proposed legislation, a Federal Employee's Disclosure Act, is designed to protect civil servants who reveal information to the public from harassment and retaliation from their chiefs. Witnesses before the subcommittee, headed by Senator Edward M. Kennedy (D.-Mass.), told of problems they had encountered after making public information which was damaging or embarrassing to the federal government.

Proxmire said that although it was "understandable" and "desirable up to a point" for bureau chiefs and agency heads to want to control their employees, "the needs of government agencies must give way to the overriding need of the public and Congress to know the facts about the conduct of public business, whenever the two come in conflict."

Another witness, Florence B. Isbell, executive director of the Washington area American Civil Liberties Union, said that under present law "a courageous whistle-blower has no legal protection against the government's power to retaliate." Reported in: *New York Times,* April 30.

Savannah, Georgia

A new Savannah ordinance governing adult bookstores was challenged in a civil suit filed in U.S. District Court by two booksellers. The suit charges that the city's law has a "chilling effect" on the exercise of constitutional rights.

The controversial ordinance, passed late last year, sets fees for so-called adult bookstores which are higher than those for other book outlets. The fees charged under the amended code are "among the highest license fees in the city," the suit charges.

The fee increase under dispute was from $900 to $3,500. Reported in: *Savannah News,* April 18.

Dallas, Texas

For the second time this year Columbia Pictures filed suit in U.S. District Court to challenge the constitutionality of rulings of the Dallas Film Classification Board. Attorneys for Columbia, contesting the classification of *Aloha, Bobby and Rose* and *Breakout* as "unsuitable for young persons that are not accompanied by a parent, guardian, husband or wife," announced that showings of the movies would begin as scheduled. They were rated *PG* by the classification board of the Motion Picture Association of America, which devised the *G* through *X* rating system. Reported in: *Dallas News,* May 9.

(New code . . . from page 97)

Statement of the ALA

Founded in 1876, the American Library Association is the oldest and largest library association in the world. It is a nonprofit, educational organization representing over 35,000 librarians, library trustees, and other individuals and groups interested in promoting library service. The Association is the chief spokesman for the modern library movement in North America and, to a considerable extent, throughout the world. It seeks to improve libraries and librarianship and to create and publish literature in aid of this objective.

The right to know: library service in the United States

Libraries are repositories of knowledge and information, and are established to preserve the records of the world's cultures. In the United States, under the First Amendment, libraries play a unique role by fulfilling the right of every citizen to have unrestricted access to these records for whatever purposes he might have in mind. According to the *Library Bill of Rights,* the Association's interpretation of the First Amendment as it applies to library service, it is the responsibility of the library to provide books and other materials presenting all points of view concerning the problems and issues of our times. The *Library Bill of Rights* further states that no library materials should be proscribed or removed because of partisan or doctrinal disapproval, and that the right of an individual to the use of the library should not be denied or abridged because of age, race, religion, national origin or social or political views.

In sum, libraries foster the well being of citizens by making information and ideas available to them. It is not the duty or role of library employees to inquire into the private lives of library patrons, nor is it their duty to act as mentors by imposing the patterns of their own thoughts on their collections. Citizens must have the freedom to read and to consider a broader range of ideas than those that may be held or approved by any single librarian or publisher or government or church.

Several sections of S.1 would, if enacted into law, adversely affect library service in the United States. Among these provisions are a section on obscenity, and various sections dealing with national defense and other

government information which, taken together, represent a veritable "official secrets act."

ALA's position on obscenity laws

The American Library Association rejects anti-obscenity laws as intolerable intrusions upon those basic freedoms whic Mr. Justice Cardozo once described as the matrix of all our other freedoms. Anti-obscenity laws, which are directed not at the control of anti-social action but rather at the content of communicative materials, clearly represent a form of censorship ultimately aimed at the control of the thoughts, opinions, and basic beliefs of citizens in an ostensibly free democracy.

The view of the American Library Association was succinctly stated by Mr. Justice Marshall in *Stanley* v. *Georgia,* 394 U.S. 557 (1969):

> Our whole constitutional heritage rebels at the thought of giving government the power to control men's minds. And yet, in the face of these traditional notions of individual liberty, Georgia asserts the right to protect the individual's mind from the effects of obscenity. We are not certain that this argument amounts to anything more than the assertion that the state has the right to control the moral content of a person's thoughts. To some, this may be a noble purpose, but it is wholly inconsistent with the philosophy of the First Amendment.

While the Court's judgment in *Stanley* applied to reading in the privacy of one's home, we submit that the arguments pertain to reading *per se.* We accordingly conclude that reading ought not to be hampered in any respect by laws on obscenity.

Section 1842: disseminating obscene material

Section 1842, unlike its predecessor in S.1 in the 93rd Congress, is apparently in accord with the latest constitutional test for obscenity as set forth by the U.S. Supreme Court in *Miller* v. *California,* 413 U.S. 15 (1973). However, Section 1842 clearly fails to reflect the realities of the responses to *Miller* as they occurred in the various states.

Whereas some states, e.g., Oregon, responded to *Miller* by enacting a law that is more restrictive than its pre-*Miller* predecessor, others, such as Iowa, decided to eliminate all anti-obscenity laws for adults.

In *Miller,* the U.S. Supreme Court clearly intended to allow the various states to control so-called obscenity according to local standards. Ironically, the result of a federal law like the one envisioned in Section 1842 would permit the federal government to annul the choice of the citizens of Iowa as reflected in laws enacted by their legislature—at least to the extent that books, films, etc., are mailed or shipped into Iowa.

Regrettably, Section 1842 also fails to include provisions which the American Library Association finds essential. If one accepts, as we do not, the inevitability of anti-obscenity laws, such laws must include basic safeguards, including fair notice to reasonable persons of the kind of conduct prohibited. However, anti-obscenity laws have been afflicted with notorious problems of vagueness. It is a position of the ALA that in order to remedy this defect anti-obscenity laws must mandate prior civil proceedings with adversaries to determine obscenity, and that such determinations must be made the prerequisite of criminal prosecutions for acts of dissemination that occur after the determinations.

North Carolina's anti-obscenity law, enacted April 1974, includes the following provision: "No person, firm or corporation shall be arrested or indicted for any violation of [these provisions] until the material involved has first been the subject of an adversary determination under the provisions of this section, wherein such person, firm or corporation is a respondent, and wherein such material has been declared by the court to be obscene . . . and until such person, firm or corporation continues, subsequent to such determination, to engage in the conduct prohibited by a provision of the sections hereinabove set forth."

Again, it would be ironic if the rights and safeguards of North Carolina citizens as determined by them were to be abrogated by federal prosecutions under a law with provisions like those in Section 1842.

Sadly, Section 1842 is fraught with other defects that require correction. Indicative of the failures of the section is the lack of any specification of the community whose standards are to be applied with regard to "patent offensiveness." If, for example, a publisher in New York City mails a book to a small community in California, and the book is intercepted in the mails in, for example, St. Louis, and the publisher is charged with disseminating obscenity, is he to be tried under the standards of New York City, the community in California, or St. Louis, or are national standards to be applied? Confusion, as great as it is predictable, could be avoided by a simple provision specifying that nationals standards are to be employed.

Finally, the members of the American Library Association find no refuge in the distinction drawn between commercial and noncommercial dissemination. Virtually every library open to the public serves minors. In order to escape prosecution under Section 1842, it would be necessary for librarians to establish a comprehensive system of *sub rosa* censorship which would impede fulfillment of First Amendment rights, and which would not permit constitutionally required judicial review.

One major problem of the librarian was discussed by

the U.S. Supreme Court when it addressed itself to the issue of a bookseller's knowledge of his stock:

> If the content of bookshops and periodical stands were restricted to material of which their proprietors had made an inspection, they might be depleted indeed. The bookseller's limitation in the amount of reading material with which he could familiarize himself, and his timidity in the face of his absolute criminal liability, thus would tend to restrict the public's access to forms of the printed word which the State could not constitutionally suppress directly. The bookseller's self-censorship, compelled by the State, *would be a censorship affecting the whole public, hardly less virulent for being privately administered.* Through it, the distribution of all books, both obscene and not obscene, would be impeded. *Smith v. California,* 361 U.S. 147 (1959). [Emphasis added.]

These remarks, applied to the bookseller, are even more applicable to the librarian.

In *Blount* v. *Rizzi,* 400 U.S. 410 (1971), the U.S. Supreme Court established procedures to govern official censorship:

> . . . to avoid constitutional infirmity a scheme of administrative censorship must: place the burdens of initiating judicial review and proving that the material is unprotected expression on the censor; require "prompt judicial review"—a final judicial determination on the merits within a specified, brief period—to prevent the administrative decision of the censor from achieving an effect of finality; and limit to preservation of the status quo for the shortest, fixed period compatible with sound judicial resolution, any restraint imposed in advance of the final judicial determination.

In the opinion of the Association, such safeguards are absolutely vital to the preservation of the freedom of expression guaranteed by the First Amendment. However, it is to be noted that librarian-censors would have no obligation to seek review of their decisions, nor would such an obligation be reasonable. Librarians have no economic incentive to seek such review; indeed, there is a strong economic disincentive.

The foregoing duly considered, The Association urges Congress to reject all federal legislation—if there is to be any—that does not mandate such basic safeguards as prior civil proceedings, or that does not allow as an affirmative defense the fact that the dissemination occurred in a bona fide nonprofit library established for the educational, research, and recreational needs of its users.

Sections 1121 et seq.: espionage, national defense information, etc.

In deliberations of this kind it is surely axiomatic that the U.S. government is exceedingly—not to say excessively—complex, and that a citizen's attempt to learn about its operations commonly results in little more than bewilderment. This fact is all the more to be regretted in a nation where the citizenry is considered the ultimate sovereign.

The American Library Association not only insists upon the right of the citizen to know everything about his government in the absence of a strong demonstration of a need for secrecy, but would also lend its cooperation and expertise to the public in devising systems to assure the effective delivery of information about government to all citizens. The Association would, in addition, join the associations of journalists and authors whose members are responsible for the origination of articles, books, etc., about our government, in vigorously protesting the abrupt and unwarranted change in our law as proposed in Sections 1121-23.

It is not absurd to suggest that the United States might consider prejudicial to its "interest" the publication of information about "intelligence operations" like those which were revealed in 1974, involving activities undertaken against the regime of Salvador Allende in Chile.

We submit that the free flow of information to citizens as ostensibly protected by the First Amendment requires, at minimum, that offenses be restricted to acts of communication with the intent to harm the security of the United States, and that the harm be both immediate and demonstrable.

The government should not be permitted to harass the press, and restrict the dissemination of information adverse to it, through prosecutions based on speculations about remote damages to the "interest" of the United States.

While librarians would not be immediately threatened in their professional activities by the adoption of these sections, it is clear that the quality of information service regarding our government would be. As a *pro bono publico* organization dedicated to improving every citizen's access to information, we therefore respectfully request the review of these sections with the interest of government by and for the people held uppermost in mind.

(The Published Word . . . from page 101)

and its solutions, therefore, affect virtually all of us.

It is to their tremendous credit that Cater and Strickland point at no particular villains in the drama of the critics vs. the industry. Each participant, they affirm, acts logically, according to his own terms of reference. The authors of this well-written little volume refuse to take a side, scrupulously and fairly refusing editorial

comment until further evidence, one way or another, comes in. They do insist on *hard* evidence, however, acknowledging that it must avoid partisan value-judgments and emotional or pragmatic bias (violence is, after all, a money-maker for the networks). Overall, the book is highly recommended for the librarian, the parent, the teacher, or virtually anyone concerned about or interested in television.—*Reviewed by Bruce A. Shuman, Graduate Library School, Indiana University, Bloomington.*

Victimless Crimes: Two Sides of a Controversy. Edwin M. Schum and Hugo Adam Bedau. Prentice-Hall, 1974. 146 p.

A point-counterpoint dialogue presenting opposing points of view can introduce the reader to the stimulating luxury of having his questions immediately answered as well as the bothersome frustration of wondering why others are overlooked. Such is not quite the case with the Schur and Bedau text, whose subtitle, *Two Sides of a Controversy,* is definitely misleading. It becomes obvious that both arrive at the same conclusion, namely, that criminalization of victimless crimes should be abolished, but they arrive at that point via differing paths.

Sociologist Schur, insisting that the the challenge to victimless crimes arises "out of real-world situations . . . and not simply out of a belief that the laws violate some general principle of morality," exhibits a marked utilitarianism in his reasoning. He says nothing new or startling but rather presents in systematic and organized arguments, four reasons why he believes "crimes" like prostitution, homosexuality, abortion, public drunkenness, and gambling should not fall within the realm of criminal law.

He argues strongly that he does not favor decriminalization because the crimes involved are indeed "victimless" but rather because "the laws in question produce more social harm than good." He illustrates his premise with factual references culled from the New York City Knapp Commission and other sources; such examples include police graft, rake-offs by those at the top, double standards because of selective police enforcement, and blackmail. All of these are made possible, he believes, because of his second and third qualifications, names, that "the persons involved in exchanging (illicit) goods and services do not see themselves as victims" and thus decide not to treat as criminal that which they freely choose to pursue. Thus we have his doctrine of "consensual exchange" which Schur indicates "lies at the heart of the argument."

Unfortunately, the fourth qualifier, victimlessness itself, is jumped upon by philosopher Bedau, who never quite responds to the social issues involved. While Schur is adamant in his stance that the argument does not stand or fall depending on the degree to which the consenting person is "harmed," Bedau makes this central to his response, reminiscent as he points out, of Mill's nineteenth century liberalism.

After a lengthy semantic debate about the lack of preciseness in Schur's categories, a debate that seems pedantic and unwarranted, Bedau apparently misses the point as he drives forward to what he calls "moral philosophy." He thus counteracts the lacking complainant-participant concept with mention of the thousands of rape victims who also fail to report, losing completely the distinction that the violated woman may fail to come forward out of fear, while the person involved in so called victimless crimes refuses to report what he freely purchases or engages in. And while he indicates he does not accept the doctrine of paternalism, he uses as proof for society's valid intervention today's laws involving safety helmets and swimming areas, again missing the point that these do not involve criminality.

Arguing from Mill's principle of chattel slavery ("the principle of freedom cannot require that a person should be free not to be free"), Bedau comes very close to advocating a paternalistic, Big Brother stance by government in protection of its citizens. And while he never treats pornography itself, twentieth century censors would applaud his observing that "not all harmful acts are like a gunshot or knife wound; some have a benign facade that conceals the eventual harmful effects on the participants."

We therefore come to what is especially provocative for those interested in intellectual freedom today, namely, who gets to decide what evil lurks behind that "benign facade." Reminiscent of Comstockery at its best, we seem to be creating social vacuums in which the influential few set out to right the wrongs the rest of mankind refuse to recognize. And throughout his arguments, Schur makes painfully clear that such a process involves judgment based on "somebody's" scheme of principles. While he refers here to judgment concerning prostitution, gambling or homosexuality, it is obviously a short step to the adult movie or bookstore.

While one would have hoped the authors had treated the subject of recent obscenity rulings in the context of their arguments, one does nevertheless benefit from their broader scope. Regrettably, there is no development of Schur's observation that the issue is "not whether we approve or disapprove of the behavior in question, but rather whether we approve or disapprove of efforts to curb them through criminal laws." The authors never quite hit the real question of the human being's inalienable right to decide and this is the reader's loss. However, in their sociological and philosophical

approaches, they present a dimension to the controversy that goes beyond censorship while implicity including it in their catalog of "crimes" without victims. For, while we may relish pondering today's obscenity laws, we err significantly if we place those laws in an historical and ideological vacuum. It's a sure way to win the battle and lose the war!—*Reviewed by Joan F. Malone, Graduate Student, School of Information and Library Studies, State University of New York at Buffalo.*

Lobbying for Freedom. Kenneth P. Norwick. St. Martin's Press, 1975. 158 p. $8.95 cloth; $3.95 paper.

Obscenity—The Court, the Congress, and the President's Commission. Lane Sunderland. American Enterprise Institute for Public Policy Research, 1975. 127 p. $3.00.

These two books present an interesting contrast on precisely the same subject. Norwick is the Legislative Director of the New York Civil Liberties Union and (reading between the lines of his tract) is obviously opposed to any form of censorship and would certainly take Justice Black's absolutist viewpoint except that he recognizes the impracticality of that stance since Nixon's appointment of the Four Horsemen of the Right.

Consequently counselor Norwick takes a pragmatic position teaching us how to achieve a great portion of the objective, namely freedom, by throwing bones along the trail to the pursuing foxes who would return us to the puritan ethic if they could. He says, in effect, if we are going to be censored let's make the rape as palatable, sugar coated, and weak as possible. His book is concerned with lobbying before a state legislature only. He recommends that a censorship law (if there's going to be one) include a series of safeguards which will make repression minimal.

The would-be censors come on, of course, like gang busters and offer legislation that could in some courts outlaw even the *Scarlet Letter* again and ban any motion picture showing more than one inch of female cleavage. Norwick teaches us how to dilute these laws. For example, he points out the need in any state law for a statewide standard. This means (if followed by the court) that a book, magazine or motion picture would be judged on the basis of the more liberal areas of a state rather than by the most repressive. The Comstocks, of course, will enact laws which provide that "each item shall be judged by the standards of decency prevalent in the neighborhood in which it is sold or exhibited." If the censorious had their way each hamlet could decide what would be sold or played in the motion picture house in its community. The fact that havoc would be the result in the distribution process bothers them not one whit.

Although the U.S. Supreme Court has set up as one of its tests of obscenity that it has no "literary, artistic, political or scientific" value, Norwick suggests that the legislation be framed to include in addition language which refers to "educational, entertainment, or other social value." Certainly an excellent suggestion if it can be done.

Norwick would prohibit criminal proceedings unless an item was first declared obscene by a civil proceeding, and he would add to the civil proceeding such safeguards as a jury trial with a decision by a unanimous jury. This is great and heady stuff—if you are opposed to censorship.

The contrasting book, *Obscenity,* was written by an assistant professor of political science at Knox College in Galesburg, Illinois. It is much more positioned in the direction of supporting pending federal legislation. This federal legislation is embodied in a new 750-page bill intended to revise the entire Federal Criminal Code which should reach the floor of the Senate in the summer of 1975.

The new bill has a number of valuable revisions and innovations in federal criminal law procedure. For example, it will authorize for the first time an appeal from a federal conviction based upon a claim of excessive sentence. It will specifically outlaw Watergate style conduct—interference in any manner with the lawful conduct of any election involving federal candidates.

However, in other areas the new bill is most repressive. For example, it will subject a reporter to a fine up to $100,000 and seven years imprisonment in peacetime for making public certain "national defense information." It looks as if they are trying to reverse the Pentagon Papers case.

However, Professor Sunderland is not concerned with these matters but solely with the pending revision of the federal obscenity law which would return us to the statu quo ante 1940. Just as an example: The new law recommended by Sunderland would make it illegal to "distribute" or "lend" (librarians take notice) any book containing a "detailed written . . . decscription" of an act of sexual intercourse. The only defense is that the alleged criminal was "associated with an institution of higher learning" or the distribution was authorized by a prescription "in writing" issued by a licensed medical practitioner or psychiarist! (Of course, this wouldn't apply to a librarian who is not involved in any federal facility or in interstate commerce. But if a librarian mailed a book or served as a librarian on an Indian reservation, an Army camp or any federal facility, the law would apply.)

Both books contain a complete apologia for their respective positions. Although it may be the result of my personal bias, I cannot help believing that Professor Sunderland's position is basically intellectually dis-

honest. On the other hand, I must admit that there is no indication that Sunderland had any legal training and the difficulty may lie in that direction. Space does not permit a complete exposition of all my reasons for this accusation but let me elaborate on one.

Those who want to censor the books we read and the films we see and contend that censorship is in accordance with established Supreme Court decisions have a major hurdle in trying to overcome the decision of the Supreme Court in *Stanley* v. *Georgia.* In brief, this case involved a prosecution by the State of Georgia of an individual who was found to have three reels of 8 mm. film in his bedroom, which film, when viewed by state officials, turned out to be obscene. The defendant was indicted for "knowingly having possession of obscene matter" in violation of Georgia law and was tried before a jury and convicted. The conviction was affirmed by the Supreme Court of Georgia and then reversed by the U.S. Supreme Court in 1969. There was no dissent so the case was not treated as one of those decisions involving fragmented opinions. (Justice Black concurred based upon his normal absolutist position, and Justices Stewart, Brennan, and White concurred on additional unrelated grounds.)

Justice Marshall wrote the opinion of the Court and had this comment to make: "For reasons set forth below, we agree that the mere private possession of obscene matter cannot constitutionally be made a crime."

The logical syllogism which follows from this constitutional premise is:

1) If possession of obscene matter cannot constitutionally be made a crime, then procurement or obtaining of such matter must be legal.

2) If it is constitutionally permissible to obtain the matter, then it must be constitutionally permissible to transmit or distribute the matter. Any other conclusion is logically contradictory.

Frequently those who would censor us use the comparison of dope, illegal drugs, adulterated foods, contraband weapons, etc., and point out that all these are made illegal as to possession, and obscene matter should be in the same category. However, in the *Stanley* case, the Supreme Court recognized a great difference, to wit, that alleged obscene matter comes within the orbit of the First Amendment but heroin, spoiled meat, and Saturday night specials do not.

Now we return to Professor Sunderland's position on this issue. He takes the position that the Supreme Court's 1973 repressive decisions "interpreted *Stanley* correctly when it limited the case to the precise facts presented by that case. . . ." He adds the conciliatory conclusion, "While the Burger court may be faulted for failing to scrutinize the foundations of *Stanley,* it cannot be justly accused of departing from the constitutional law laid down in that case."

I must disagree with Sunderland in his interpretation and his failure to fault the Burger Court. The reasons for the decision in *Stanley* are as important as the decision itself. Sunderland totally disregards these reasons. Let us look at them.

Justice Marshall analyzed all the cases of significance involving the upholding of statutes directed against alleged obscenity and concluded that these cases "cannot foreclose an examination of the constitutional implications of a statute forbidding mere private possession of such material." What are these "constitutional implications"?

First, Marshall relied upon the constitutional doctrine which "protects the right to receive information and ideas." He quotes from *Martin* v. *Struthers* this language: "This freedom [of speech and press] . . . necessarily protects the right to receive. . . ." He cites the important case of *Lamont* v. *Postmaster General* which prohibited the federal government from interfering with the right of Americans to receive communist propaganda from abroad. As Marshall said, "This right to receive information and ideas, regardless of their social worth . . . is fundamental to our free society."

Is it possible to argue for one moment that *Stanley* did not constitutionally guarantee the right to obtain, receive, and procure material which someone else might regard as obscene?

It is elementary to proceed from the postulate already given that the Constitution protects the right to receive to the conclusion that that protection must include a right that others must be free to send. That this is so is fortified by other parts of the Marshall opinion in *Stanley.*

Secondly, as Justice Marshall states, "Georgia asserts the right to protect the individual's mind from the effects of obscenity." This is the basic argument of those who would censor, namely, that obscenity is injurious to the moral fiber of the individual who is exposed to it and the state has the right to prevent that exposure, just as it may prevent our contact with noxious fumes, dangerous chemicals, and harmful drugs. In *Stanley,* Georgia asserted that "exposure to obscene materials may lead to deviant sexual behavior or crimes of sexual violence." This is the nitty-gritty of the argument—obscenity does damage to people and therefore governments may prohibit it exactly as though it were a lethal poison. What does Justice Marshall, speaking for the Supreme Court, say about this? His reply is important: "There appears to be little empirical basis for that assertion." At this point he cites a number of authorities including Judge Frank's decision in the *Roth* case (1956) in which that brilliant jurist clearly and concisely raised the question of the basic grounds for believing that obscenity could hurt anyone.

Professor Sunderland ignores all of this by contending that the *Stanley* case can be confined to the "precise facts presented by that case." If you can do that you can eliminate practically any case as a precedent for any other case. When Cain killed Abel we can call it murder, but if confined to its "precise facts" it serves no precedent for the Lizzie Borden case because Lizzie was a woman and Cain was a man. Sunderlund's restricition of the *Stanley* case to its "precise facts" reminds me of Scott's observation in *Guy Mannering:* "Law is like laudanum, its much more easy to use it as a quack does than to learn to apply it like a physician."

The significance and importance of the *Stanley* decision is the *reason* for the ruling and not the ruling itself. The point probably has never been made better than it was more than three centuries ago by Sir Edward Coke in his *Institutes:* "The reason of the law is the life of the law; for although a man can tell the law, yet, if he know not the reason thereof, he shall soon forget his superficial knowledge. But when he findeth the right reason of the law, and so bringeth it to his natural reason, that he comprehendeth it as his own, this will not only serve him for the understanding of that particular case, but of many others."—*Reviewed by Albert B. Gerber, Administrative Director, First Amendment Lawyers Association, Philadelphia.*

Freedom to Know. Joseph Carter. Parents' Magazine Press, 1974. 169 p. $4.95.

Carter uses freedom to know and freedom of information synonymously. These phrases, he says, concern themselves with the proper limitations of those laws "relating to security of the state, libel, and obscenity." He wants to give the reader some general guidelines for judging the accuracy of communications information. Moreover, he tries to show the strengths and weaknesses of the various media. He also writes of the "eternal conflict" between the press and the government, truth in politics, propaganda, local and political censorship of books, responsibility and irresponsibility of the press, sanctity of the source, and secrecy in government. A rather extensive project for such a small book.

This reviewer does not agree that freedom to know and freedom of information are synonymous and feels the latter would have been a more fitting caption. Title aside, the book's broad scope and limited permit only touching on the many subject areas. Missing are clear-cut guidelines to help the reader select pertinent, meaningful information from this "veritable flood" which pours in on us. Carter himself admits, finally, that his material "does not satisfactorily answer the question of the public's dilemma."

The author closes his book with an admonition that information "must be *used*" and with two quotations about the power of knowledge. He does not prepare the reader for these sudden, irrelevant afterthoughts.

A goodly number of young adults, for whom the book was written, may find the reading level too high. Too, they should have read, seen, or heard most of the information in other sources.—*Reviewed by Don E. Gribble, Hibbing Public Library, Hibbing, Minnesota.*

few FoI inquiries by newspapers

If reports from the Federal Bureau of Investigation and the Central Intelligence Agency represent an accurate gauge, newspapers have been slow to utilize recent amendments to the Freedom of Information Act. The two federal agencies announced in May that of the more than 100 queries received each working day, fewer than two percent were filed by newspapers. Reported in: *Editor & Publisher,* May 24.

parental 'concern' spreads

A citizens group from Montgomery County, Maryland visited the Capitol April 14 to ask Congress to cut off federal funds for school districts that deny parents a role in the approval of textbooks and other educational materials. The group, called Parents Who Care, made their appeal during a day-long textbook exhibit at the Capitol.

Parents Who Care has strongly criticized several textbooks used in the Montgomery County public schools, calling the attitudes expressed in them "un-Christian-like" and "unpatriotic."

On the same day, the Rev. Avis Hill, pastor of the Freedom Gospel Mission Church of St. Albans, West Virginia and a leader in the Kanawha County textbook feud, spoke to a group in Prince Georges County. In addressing Citizens United for Responsible Education, Hill said, "There is a monster on the loose today, trying to destroy our children and our strong family system." He described the monster as a coalition of the National Education Association, its West Virginia affiliates, and the federal bureaucracy.

Another group in Maryland, Howard County's Citizens Advocating Responsible Education, asked the Howard County school board to allow them a voice in the selection of textbooks. Most of the group's criticism was directed at a National Science Foundation social studies course entitled *Man: A Course of Study.* Reported in: *Washington Star-News,* April 14, 15; *Baltimore News American,* May 4.

Amendment free speech with academic freedom to teach and cautioned his colleagues of the bench to leave the latter field to educational authorities whenever possible.

Another judge who found "grave difference" between disobedience to an overbroad statute and disobedience to the lawful order of a court: "In the latter case, you've had your day in court and disobedience becomes an act of revolution."

Nevertheless, one publisher suggested that there is no more reason to buckle under an order of the Supreme Court than under that of any lower tribunal: "After all, they may be just as wrong."

On that note—certainly not typical of the tenor of the conference, yet illustrative of its openness, and of the breadth of views that contribute to the making of what the nation reads—the conference ended.

FCC draws Senate wrath

In hearings before the Federal Communications Commission, Senator John O. Pastore (D.-R.I.), chairman of the Senate Communications Subcommittee, told the FCC that television was "invented for the purpose of serving the family" and contended that there is "a need to protect the decency of our society."

Told by Commissioner Robert E. Lee that the Justice Department is "reluctant" to prosecute cases involving indecent material on television, Pastore suggested that Congress might give the FCC the right to prosecute such cases through its own attorneys.

Another witness, Robert Choate, chairman of the Council on Children, Media, and Merchandising, deplored the FCC's "inaction on behalf of children." He charged that the average child sees 22,000 commercials a year and that only ten per cent are screened for advertising of hazardous products. Reported in: *Christian Science Monitor,* April 24.

AL committee to report at SF

A subcommittee of the ALA Committee on Organization was scheduled to report at the 1975 Annual Conference on the role of *American Libraries* in the Association. A controversy over the publication, and the independence of its editor in determining editorial policy, arose in 1974 when Editor John Gordon Burke and Assistant Editors Jill S. Reddig and Mary C. Lux resigned after Burke received a directive from ALA Executive Director Robert Wedgeworth calling for the dismissal of *AL's* Washington reporter, Peter A. Masley.

At the ALA Executive Board's 1975 spring meeting in Chicago, current *AL* Editor Arthur Plotnik said that according to his interpretation of ALA policy, it is the editors alone who ultimately decide what goes into *American Libraries.*

According to a policy adopted by the Executive Board in 1971, the *AL* editor "must assume an obligation to represent the best interests of the Association and all of its units fairly and as fully as is possible within the scope of the journal, with due regard to the editors' prerogatives in producing a balanced and readable publication. . . . "

At ALA's 1975 Midwinter Meeting, the Executive Committee of the Intellectual Freedom Round Table and the Action Council of the Social Responsibilities Round Table joined together in a resolution calling for "a clear and unequivocal editorial policy which guarantees to the editor of *American Libraries* independence in gathering and reporting news and opinions." The Action Council also censured Executive Director Wedgeworth and Eileen D. Cooke, director of the ALA Washington Office, in connection with the dismissal of Masley. SRRT characterized the action as "a chilling precedent" which would adversely affect "full and honest reportage in the very organ of [an] association committed to candor and diversity."

In May 1974, Masely directed inquiries to Senator Lee Metcalf (D.-Mont.) asking whether the National Commission on Libraries and Information Science was prohibited from holding closed meetings. Cooke later wrote to Metcalf to "correct a possible misapprehension" in Masley's letter and apologized for "any inconvenience" that Metcalf may have caused. In June, Wedgeworth ordered Burke to fire Masley since "you appear not to be able to successfully coordinate the service of a freelance Washington correspondent with the Washington office."

At its 1975 Midwinter Meeting, the ALA Intellectual Freedom Committee decided that no action on the issue was required from it and was told in a communication from Burke that in his opinion no issue of intellectual freedom was involved in the dismissal of Masley and the subsequent resignation of the editors.

Kanawha board approves new books and policy

In a series of four-to-one votes taken at a meeting held March 31, the Kanawha County Board of Education adopted a new series of elementary social studies textbooks and approved changes in policy for removing challenged books from school libraries. Alice Moore cast the only dissenting vote on the measures.

The Fideler Publishing Company's social studies

a conference that got down to cases

AAParagraphs

A librarian and a federal judge sat side by side; a publisher breakfasted with a prosecutor; an author, a bookseller, and a legislator swapped views over drinks. . . . Thus, in an atmosphere at once comfortable and informal, some twenty-eight diverse participants plus three dozen "observers" spent two days recently in intensive discussion of "Book Publishing and the First Amendment." Cosponsored by AAP, through its Freedom to Read Committee, and the Ford Foundation, this was a unique kind of conference: three skilled law professors directed probing—sometimes aggressive—questions at their "class" of participants in order to pose, but by no means settle, crucial and consequential issues. (The Foundation had put on two similar conferences for journalists and plans to hold more, but this was the first to deal with books.)

Three cases—previously prepared and circulated to all conferees by the professors—provided the meat for discussion. The case studies—often not hugely dissimilar from actual events—dealt with a muck-raking manuscript exposing the allegedly lurid pasts of a university president and two of her faculty members; the group pressures on a local school board to use—or ban—certain types of textbooks; and the dilemma of a publisher faced with the offer—for a steep price—of documents purporting to set forth CIA plans—including some assassinations—to counter radical political activity in Portugal.

As implied, the conference, held at the comfortably rustic Harrison Inn in Southbury, Connecticut, reached no conclusions. For those who came expecting otherwise, the mere fact that no solutions—let alone simple ones—were to be found to the problems posed may have constituted the meetings's single most important lesson.

With seemingly as many answers and approaches as there were participants (and then some), questions raised went along these lines: Would your judgment on publishing a controversial book be colored by its profit potential? by the means by which its contents were obtained? by the author's reputation? When, if ever, would you call the authorities about material illegally obtained? Would you (a publisher) seek to verify an author's potentially libelous statements? how diligently? If an eccentric millionaire presented you (an educational publisher) with a textbook espousing the Ptolemaic contention that the sun revolves around the earth, would you publish it—if he guaranteed you against financial loss? Does the publisher's role make him a censor? Would you (a prosecutor) seek a temporary court order to restrain publication of a manuscript that some authorities claim would endanger national security? Would you (a judge) issue such an order? Would you (a publisher) obey it? (Some judges declined to state even whether they would consider issuing a temporary restraining order—despite the cloak of anonymity assured them by the conference ground rules.)

If one comes away from such a rich two days without neat solutions to problems, at least one cannot fail to carry away vivid recollections of some of the more memorable things said there, as for example:

The publisher who, late in the conference, finally exploded, "I object to any sentence beginning, 'The function of a publisher is . . . .' Any definition is limiting—yet you (the law professors) are constantly trying to find homogeneity among us."

The discussion leader who volunteer the view that "the pressures under which the textbook publishing industry operates are of a type that would outrage other segments of the industry," and the textbook publisher's response: "We have long lived with censorship—probably unimportant in small instances—but the time may have come for educational publishers to take joint action—to draw a line."

The vigorous exchange between judge and author: Author: "The First Amendment brooks no prior restraints." Judge: "Who says so, Mr. _____ ?"

The publisher who declared that he and his colleagues "have a duty to publish and inform the people that far outweighs any considerations of how the information being published was obtained."

A colleague's contrary reaction to an illegally obtained classified document: "I feel like a Boy Scout in a brothel—my first reaction would be to call the police, and then the prosecuting attorney. A traitor is at large here and I'm a U.S. citizen."

The lawyer who—professing no faith in the courts—said he would not advise his client to notify the CIA of the receipt of a classified document because "if you do, you're not going to publish."

The understated acknowledgment of yet another leader in publishing: "We never said we weren't in business to make a profit."

The view that it might be plausible to consider a publisher who rejects a manuscript a censor only if there were no other publishers in the universe.

The judge who perceived some confusion of First

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

series, recommended by the textbook selection committee and the parental screening committee, was approved by the board for a five-year period.

In voting against the new books, Moore said, "Any textbook teaching Darwin's theory of evolution as fact violates the board's policy that evolution be taught only as theory."

The new policy on library materials states that only parents or guardians of students may file complaints, and that upon filing of a parental complaint the principal of the school will request review of the challenged material by a committee of teachers, media personnel, and parents. Students will be allowed to serve on committees in senior high schools with the consent of the principal.

Mrs. Moore said she objected to the presence of students on review committees. She said she had never met a teenager who "ever read a book he felt he was too immature to read." Reported in: *Charleston Daily Mail,* April 1; *Charleston Gazette,* April 1.

two convicted in text controversy

Passing judgment on charges stemming from the dynamiting of public schools last fall at the height of the Kanawha County protest, a federal jury in Charleston found a self-ordained fundamentalist minister and his co-defendant guilty on bombing charges.

The Rev. Marvin Horan, a former truck driver and now the Freewill Baptist pastor and a religious leader in Campbell's Creek, was found guilty on one count of conspiracy to bomb by a jury of seven women and five men who deliberated five hours before announcing their verdict.

The co-defendant, Larry Elmer Stevens, was found guilty on six counts, including conspiracy to bomb, possession of dynamite, the manufacture of bombs, and the bombings.

Horan and Stevens both received three-year prison sentences, but the latter's penalty was imposed under a special provision that allows for parole at any time. Reported in: *New York Times,* April 19; *Pittsburgh Post-Gazette,* April 19, May 20.

a threat to the British press

In a petition printed on the front page of the *Times Literary Supplement* (April 25), prominent British writers called for the rejection of a bill sponsored by Michael Foot, a leading member of the Labor government, and supported by the National Union of Journalists. The bill defines closed shop contracts in terms that require editors to be union members. The writers argued that it could threatened publication of anything not written by a union member because retention of union membership would be at the discretion of the union.

The petition stated: "It is clear to us as writers that this [bill] represents one of the most serious potential threats to the liberty of expression that has arisen in this country in modern times."

Those signing the petition included A.J. Ayer, Isaiah Berlin, Kenneth Clark, William Golding, Pamela Hansford Johnson, Arthur Koestler, Jan Morris, Harold Pinter, C.P. Snow, H.R. Trevor-Roper, and Angus Wilson.

antipornography center loses U.S. aid

Officials of the National Legal Data Center at California Lutheran College were notified in April that the U.S. Department of Justice had canceled its subsidy of the national clearinghouse for the prosecution of pornography cases, set up two years ago on the Thousand Oaks campus.

The Justice Department's Law Enforcement Assistance Administration has spent $350,000 on the center, whose six-man staff traveled about the country conducting law enforcement seminars and assisting prosecutors in the preparation and trial of more than 600 obscenity cases. The Justice Department said the request for $116,000 in government funds for the 1976 fiscal year was rejected because "this rather unpopular area of criminal law does not fall within our priorities" any longer.

The center's executive director, Philip Cohen, said in April that the LEAA funds on hand would last only another month, "leaving us in mid-air and unable to complete an evaluation report containing a critical appraisal of our work."

The subsidy of the center and its location on the campus had drawn vigorous complaints from at least one-third of California Lutheran's sixty-five faculty members, who in December threatened to resign in a body. Reported in: *New York Times,* April 30.

Canada 'scrutinizes' U.S. publishers

Appearing before the annual meeting of the Association of American Publishers held at White Sulphur Springs, West Virginia, J. Hugh Faulkner, Canadian Secretary of State, announced to 300 publishing executives that the Canadian government would soon subject foreign publishers to "careful scrutiny" and would adopt measures to "insure the health" of the Canadian book publishing industry.

Faulkner only hinted at the requirements that might be imposed upon U.S. publishers. At present, the Cana-

dian government imposes quotas on radio and television stations, requiring them to use sixty per cent of their air time in broadcasting "Canadian material."

Commenting on publishing, Faulkner said U.S. companies, which dominate Canadian publishing, have been "far too neglectful of the important Canadian book which may not make money.

"They have neglected, to a considerable extent, the difficult realms of fiction, poetry, criticism, and letters," he continued.

Craig T. Senft, chairman of the AAP Freedom to Read Committee and head of Litton Educational Publishing Inc., reacted, "We have a large business in Canada, and my people there are terrified." Reported in: *New York Times,* April 30.

Yale hears Shockley

William Shockley, the controversial Nobel Prize winner who believes that black persons are genetically inferior to whites, appeared in debate at Yale University in April, almost a year to the day after his scheduled appearance there was disrupted. This year's debate took place without interruption, and neither Schockley nor his opponent, William A. Rusher, publisher of the *National Review,* drew much response from the 170 people who attended.

However, as many as 600 students, faculty members, and local residents protested the appearance of the debaters. They jeered Yale President Kingman Brewster Jr. when he made a brief appearance of the demonstration, and they chanted slogans accusing Shockley of racism.

The trustees of Yale University voted March 8 to adopt a policy calling for the suspension or expulsion of students who engage in persistent disruption of free speech at the university (see *Newsletter,* March 1975, p. 40; May 1975, p. 94). Reported in: *Chronicle of Higher Education,* April 28.

Merritt Fund trustees elected

In an election concluded May 9, Joan B. Goddard, Zoia Horn, and Joslyn N. Williams were selected to govern the newly expanded LeRoy C. Merritt Humanitarian Fund.

Founded in 1970 to assist librarians whose positions are threatened due to their defense of intellectual freedom in libraries, the fund now also aids those librarians who are, in the trustees' opinion, discriminated against on the basis of sex, sexual preference, race, color, creed or place of national origin; or who are denied basic employment rights.

Goddard is a branch librarian at the San Jose (Calif.) Public Library. Horn serves as reference services analyst for the Stockton-San Jose County Library. Williams is executive director of the Capital Area Council of Federal Employees in Washington, D.C.

Contributions to the fund, as well as requests for assistance, should be sent to The Trustees, LeRoy C. Merritt Humanitarian Fund, 50 E. Huron St., Chicago, Ill. 60611. Because the Fund assists librarians without regard to the requirements of the Internal Revenue Service, donations are not tax-deductible.

Before its recent expansion in scope, the fund was governed by the executive committee of the Board of Trustees of the Freedom to Read Foundation.

ethics committee: 'we've come a long way'

Drafters of a new code of ethics for the American Society of Newspaper Editors said at the society's annual convention in Washington that American newspapers are convincingly more decent than they used to be.

After seven months of deliberation, the committee decided to drop from a proposed new code of ethics a clause first drawn up fifty-two years ago—and still in effect—demanding "decency" in the presentation and content of the news. "We think papers have come a long way since 1923," Robert P. Clark of the *Louisville Courier-Journal and Times* told the editors.

The proposed code would be the first revision of the society's Canons of Journalism since they were established in 1923.

Vatican restores censorship

In a move to restore Roman Catholic censorship, Pope Paul VI issued a decree on "the vigilence of the pastors of the Church on books" in which he ordered the faithful to seek the prior aproval of their bishop before publishing catechisms, altar and prayer books, and translations of the Bible. He "seriously warned" them to do the same for any book dealing with religious or moral matters.

Lay persons were also ordered to refrain from writing anti-religious works that attack "the true faith or good morals."

The decree filled what the director of the Vatican Radio, the Rev. Roberto Tucci, called a vacuum that has prevailed since the Vatican dropped the Index, the church's catalog of forbidden books. The Index was discontinued shortly after the end of Vatican II, convened by Pope John XXIII. Reported in: *Chicago Sun-Times,* April 10; *Chicago Tribune,* April 10.

reporters' shield bill blocked

A House Judiciary subcommittee headed by Representative Robert W. Kastenmeier (D.-Wis.) heard testimony from two diametrically opposed groups who reject the compromise shield bill introduced by Kastenmeier. The bill, designed to permit reporters to keep their news sources confidential, would place some limits on the situations in which journalists could refuse to answer questions by law enforcement officials in order to protect their sources.

Assistant Attorney General Antonin Scalia stated that the Department of Justice opposed the bill because law enforcement could not be maintained under the bill's restrictions against the questioning of reporters.

Jack Nelson, appearing on behalf of the Reporters Committee for Freedom of the Press, argued that only an absolute privilege of keeping confidentiality would provide adequate protection. It is the opinion of the Reporters Committee that a qualified measure would be worse than no law at all.

Earlier versions of Kastenmeier's bill died in previous sessions of Congress due to similar opposition. Reported in: *New York Times,* April 24.

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