newsletter on intellectual freedom

IFC ALA

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ISSN 0028-9485

September 1975 ☐ Volume XXIV ☐ No. 5

library records are confidential in Texas

Library circulation records in Texas represent "information deemed confidential by constitutional law," according to a July 10 ruling by Texas Attorney General John L. Hill. The opinion of the attorney general was issued in response to a request from Ector County officials concerning the applicability of the state's Open Records Law to library records.

The question of applicability arose in March when the city editor of the *Odessa American* asked to see the circulation records of the Ector County Library's fine arts collection. Librarian Nona Szenasi refused the request and was supported by the Ector County Commissioners Court, which requested the ruling from Hill. Hill's decision, which supports ALA's policy on confidentiality, is printed in full here.

Open records decision

Pursuant to Section 7 of the Open Records Act, Article 6252-17a, you have requested our decision as to whether information on the identity of persons who have checked out paintings from the Ector County Library is excepted from disclosure under Section 3(a)(1) which excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision."

The request from the city editor of the *Odessa American* asks:

> to look at all records pertaining to the fine arts lending library of art objects. I would like to know who has checked out art prints in the past, who has them checked out at this time, how many persons have paid fines for late returns and the amount of the fines.

We understand your contention to be that only the identity of library patrons is excepted from disclosure, and that you do not object to disclosure of other requested information which does not identify individual patrons.

No Texas statute makes library circulation records or the identity of library patrons confidential, and no judicial decision in this state, nor in other jurisdictions, has declared it confidential. However, we believe that the courts, if squarely faced with the issue, would hold that the First Amendment of the United States Constitution, which is applicable to the states through the Fourteenth Amendment, *Gitlow* v. *New York,* 268 U.S. 652, 666 (1925), makes confidential that information in library circulation records which would disclose the identity of library patrons in connection with the material they have obtained from the library.

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Published by the ALA Intellectual Freedom Committee, Florence McMullin, Chairperson

titles now troublesome

Books

Periodicals

Pamphlets

Television Shows

Britain tries to suppress minister's diaries

The government of Prime Minister Harold Wilson announced in June that it would try for a second time to halt publication of the diaries of former Cabinet Minister Richard Crossman. More than one-quarter of the diary had appeared in the *Sunday Times* when the announcement was made.

Attorney General Sam Silkin outlined plans to seek a court order barring the publication. If that failed, he said, he would carry the fight to the House of Lords because of "the important constitutional issue involved."

Silkin's case relied on the common law doctrine of "confidentiality." He contended that it would be contrary to the public interest to allow publication of a book which breeches confidences of the Cabinet.

Crossman, who died in 1974, served in three posts during Wilson's first administration, from 1964 to 1970. Reported in: *Washington Post*, June 17.

Oregon DA dislikes obscenity law

One week after achieving an obscenity conviction in county circuit court, Lane County District Attorney Pat Horton announced that he disliked Oregon's new obscenity law but would continue to enforce it "as long as it is on the books."

Horton told the *Eugene Register-Guard* that he believes the language of the law is vague and overly broad, making it difficult to determine whether materials are obscene. "There are thirty-six district attorneys in the state," he said, "and each of them could have a different interpretation."

The district attorney added that he thinks that criminal law should be sufficiently definitive that citizens have no difficulty in determining how best to comply with it. "Unfortunately," Horton commented, "the present law doesn't present a clear definition of what is obscene, so there isn't any statewide uniformity in its application, in my opinion." Because of this difficulty, Horton said his office would rely on the grand jury to decide which cases, if any, should be tried in the future. Reported in: *Eugene Register-Guard*, July 13.

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.

IFC report to Council

The semiannual report of the Intellectual Freedom Committee to the ALA Council was delivered at the ALA's Ninety-fourth Annual Conference by R. Kathleen Molz, chairman. (Other members of the 1974-75 IFC were Joseph J. Anderson, L. Homer Coltharp, Richard L. Darling, Dan Henke, Phyllis M. Land, Minne R. Motz, H. Theodore Ryberg, Frank VanZanten, Karl Weiner, and Ella Gaines Yates.)

Appended to the report here are the full texts of the two resolutions approved by the IFC and subsequently adopted by the Council. The second resolution, on the records of public officials, is followed by a position paper on the ownership of public papers and records. The paper was prepared by IFC member Darling, who chaired an IFC subcommittee on the topic.

As a result of a member's suggestion, the Intellectual Freedom Committee, during the 1975 Midwinter Meeting, began a review of the *Library Bill of Rights*, the ALA's primary policy statement concerning intellectual freedom. The review continued on an individual basis between the midwinter session and this conference. Following discussion during this week, however, the committee has come to the determination that it would be inappropriate to change or alter this seminal document in the ALA's centennial year.

The committee's decision, of course, does not preclude further review at appropriate intervals. Indeed, the Intellectual Freedom Committee has been in the habit of late years of reviewing the *Library Bill of Rights* at eighteen-month to two-year intervals, and we expect this activity to continue.

Among other matters before the committee at this conference were two legislative items having intellectual freedom overtones. One—S.1338, introduced by Senator Charles Percy (R.-Ill.) in March, is entitled the Women's Equal Educational Opportunity Act. The bill amends the Elementary and Secondary Education Act of 1965 by requiring 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. To our knowledge, S.1338 would mark the first time that the federal government has attempted to require the purchase of library materials which promote a certain point of view.

This proposed legislation was brought to the attention of the committee by the ALA's Washington Office. At the same time, the Washington Office asked that draft testimony be prepared and placed on file with it in the event that hearings were called and held during this annual conference. This was a precautionary measure, since it is anticipated that the legislation will move very slowly, if at all.

Nevertheless, in its discussion of the matter, the committee expressed grave concern at the dangerous precedent embodied in the bill, namely, a federal mandate to acquire specific kinds of materials promoting a particular point of view. Because of this, the committee has asked and the ALA president has consented to prepare a letter to Senator Percy and the cosponsors of the bill, setting forth our concern at this kind of legislation and pointing out the long-term implications. The second legislative matter before the committee concerned the Federal Communications Commission's so-called fairness doctrine. In recent months this doctrine has come under increasingly sharper attack and two bills now before the Congress—H.R. 2189 and S. 2—would in effect annul it. In testimony before congressional committees, at least one major broadcast executive has recommended its total repeal, or, failing that, its suspension during the nation's bicentennial year, which will also be a presidential election year.

After considering the importance and the extreme complexity of the questions surrounding the fairness doctrine, the committee established a subcommittee to explore the broad implications of the issues. Because the fairness doctrine impinges very clearly on the First Amendment, the committee may want to bring a position paper before the Council during one of its 1976 sessions. The subcommittee on the fairness doctrine consists of Ella Gaines Yates, Joseph Anderson, and Theodore Ryberg, chairperson. Comments on the doctrine should be sent to Dr. Ryberg at the University of Alaska or to Mrs. Krug at ALA Headquarters.

Earlier this year, the Intellectual Freedom Committee of the Washington Library Association brought to the attention of the committee a possible misinterpretation of the intent of the present ALA policy on the confidentiality of library records. We have been informed of at least one case in which police officials were given access to library patrons' records which were not circulation records. Reportedly, this action was justified on the grounds that ALA policy recognizes the confidential nature of only library circulation records.

In view of this potential for misinterpretation, as well as the new ALA Statement on Professional Ethics, which stipulates that a librarian "must protect the essential confidential relationship which exists between a library user and the library," the committee this week approved a change in the policy. The change entails deletion of the words "with specific materials" from Article 1 of the policy, so that all

error!

In the July 1975 *Newsletter* pages 127 and 128 were accidentally reversed. Our apologies to our friends on the AAP Freedom to Read Committee, whose column begins on p. 128 and continues, without warning, on p. 127.

library records identifying the names of library users are recognized as confidential. [The revised policy was adopted by the Council.]

As you will recall, at the 1975 Midwinter Meeting I reported to you that the ALA Executive Board requested the Intellectual Freedom Committee to coordinate the efforts of the various ALA units to develop a draft position paper concerning the ownership of and access to the papers of high government officials. The request was prompted by congressional adoption of PL 93-526, the Presidential Recordings and Materials Preservation Act, which authorizes a public documents commission to study problems and questions with respect to the control, disposition, and preservation of records and documents produced by or for federal officials.

Accordingly, a subcommittee was appointed, composed of Dan Henke, Karl Weiner, and Richard L. Darling, chairman. Following the preparation of the paper, it was distributed to all units for their consideration during this conference; a resolution, "Papers and Other Records of Public Officials," is before the Council for adoption. [The resolution was approved by the Council.]

One last point should be made–I am happy to report that a gift of $500 has been made to the Office for Intellectual Freedom by the Intellectual Freedom Round Table.

"Policy on Confidentiality of Library Records"

The Council of the American Library Association strongly recommends that the responsible officers of each library in the United States:

1) Formally adopt a policy which specifically recognizes its circulation records and other records identifying the names of library users to be confidential in nature.

2) Advise all librarians and library employees that such records shall not be made available to any agency of state, federal, or local government except pursuant to such process, order, or subpoena as may be authorized under the authority of and pursuant to, federal, state, or local law relating to civil, criminal, or administrative discovery procedures or legislative investigative power.

3) Resist the issuance or enforcement of any such process, order, or subpoena until such time as a proper showing of good cause has been made in a court of compe-

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ruling in 'harmful matter' suit appealed

On May 5 attorneys for the Freedom to Read Foundation filed a notice with the California courts expressing the Foundation's intention to appeal the most recent decision in *Moore* v. *Younger,* handed down January 13 by California Superior Court Judge Robert P. Schifferman. The judge's ruling declared that public and school librarians are exempt from provisions of California's 1969 "harmful

The decision to go ahead with the appeal was made when it became apparent that California Attorney General Evelle J. Younger had decided not to take further steps in the case. The trustees of the Foundation authorized this course of action at their semiannual meeting in January, when they were advised that the jurisdiction of Judge Schifferman's court is limited to Los Angeles County, and that his ruling did not touch upon the basic question of the constitutionality of the law.

The California law prohibits the dissemination of so-called harmful matter to legal minors, persons aged seventeen and under. The guidelines which define "harmful matter" are impossible to apply to library service and other forms of the dissemination of communicative materials because the guidelines must encompass–in order to have any legal significance–many materials which are constitutionally protected when distributed to adults.

Trustees vote to reduce their ranks

In action taken at their meeting on June 27, the trustees of the Foundation voted to restrict *ex officio* (i.e., ALA) seats on the Board to those persons who represent ALA as a whole. The problem which confronted the Board was one of keeping itself manageable in size while accommodating the need of the American Library Association to be fairly represented in its deliberations.

Acting on the recommendation of a committee appointed to study the problem, the Board voted to abolish seats currently occupied by representatives of four ALA units–the American Library Trustee Association, the Library Administration Division, the Junior Members Round Table, and the Social Responsibilities Round Table. Those ALA representatives who will remain on the Board are the ALA president, president-elect, executive director, and Intellectual Freedom Committee chairperson.

Gifts received

During the ALA's annual conference in San Francisco, three cash gifts to the Foundation were announced: $500 from the Intellectual Freedom Round Table, whose members approved the gift at their annual business meeting; $400 from the Maryland Library Association, whose Intellectual Freedom Committee sold bumper stickers and buttons promoting intellectual freedom in libraries in order to raise the cash; and $100 from Beta Phi Mu, whose board of directors also voted to cooperate with the Foundation in increasing the participation of its members in FTRF.

the published word

a column of reviews

"Confrontation: A Free Press in a Free Society; A Symposium Dedicated to Morris L. Ernst." New York Law Forum (Winter 1975). $5.00.

The *New York Law Forum* is a scholarly journal published by the New York Law School. This quarterly issue (Number 3), comprised of seven papers about a free press and related matters, is dedicated to Morris L. Ernst, an attorney, a founding member of the American Civil Liberties Union, and a champion of free expression in the United States during the greater part of the twentieth century. The first feature of the issue is a dedicatory essay written by Stephen Hochberg, a law professor at Ernst's alma mater, the New York Law School. Hochberg briefly traces the highlights of Ernst's legal career, which spans a period of more than sixty years.

Morris Ernst received his law degree in 1912 and was admitted to the New York bar shortly thereafter. Among the many achievements of his career was the successful defense of Margaret Sanger in legal cases growing out of her promotion of birth control measures. Also recognized in the dedication is Ernst's successful struggle to permit the admission of James Joyce's *Ulysses* by U.S. Customs. According to Hochberg, "It is therefore only fitting that this First Amendment symposium issue of the *New York Law Forum* be dedicated to Morris Leopold Ernst . . . whose legal career is synonymous with the courageous and successful defense of the rights created by that amendment."

The first paper is a sixty-two-page formal discussion entitled "Privacy and a Free Press: A Contemporary Conflict of Values." Written by Francis X. Beytagh, professor of law at the University of Notre Dame, the article deals with a significant but unresolved aspect of privacy: "control over public disclosure of information about an individual by the news media and the permissible scope of legal protection of that aspect of privacy consistent with the First Amendment."

Robert M. O'Neil, professor of law at the University of Cincinnati, is the author of the second paper: "Shield Laws: Practical Solution to a Pervasive Problem." The discourse thoroughly outlines and clarifies legal issues which surround the contemporary question of whether journalists can be compelled to disclose the source of information gained in confidence from informants who wish to remain anonymous. O'Neil lists the weaknesses of shield laws as follows: "courts tend to construe them rather narrowly; they protect only one type of confidential information-holder; and their presence diverts attention from the more basic constitutional and public policy questions."

"Obscenity Leads to Perversion" is the misleading title of the third contribution by Herbert S. Kassner, a member of the New York law firm of Kassner & Detsky. Readers might at first guess that Kassner will attempt to relate obscenity to sexual aberrations; however, the author describes how the Supreme Court's 1973 obscenity ruling in *Miller* v. *California* (413 U.S. 15) destroys the viability of the older, 1957 obscenity guidelines provided in the decision of *Roth* v. *United States* (354 U.S. 476). The article is a strong–yet thoroughly scholarly and valid–attack on what the author describes as "constitutional perversions" wrought by recent Court decisions relating to obscenity. Kassner is of the opinion that the Court's most recent obscenity guidelines are not a satisfactory solution to the problem of censorship. He concludes:

> As has often been said, the only way to insure the repeal of bad law is through its rigid enforcement. We now enter an era of "thought prohibition." It will undoubtedly meet the same fate as "drink prohibition." How long the process will take is unpredictable. That the substantive law of obscenity as it exists today cannot long endure is, however, undeniable.

Alfred P. Rubin, Professor of International Law at the Fletcher School of Law and Diplomacy, is the author of the fourth article: "A Wholesome Discretion." A timely analysis is provided of legal relationships between the executive branch of the U.S. government and the control of information. The three-part article is concerned with such issues as temptations of the executive branch to suppress information that appears to be inconsistent with the president's policies and and with the promulgation of regulations fixing penalties on those who disseminate information which the executive branch might attempt to control. Part I of the article discusses existing legislation and regulations, including the Freedom of Information Act and the Administrative Procedure Act. The topic of Part II is that of legal concerns over the irony of the position in which Congress is placed as a chief source of operative information about national security and how legislation "may present a major obstacle to the willingness of executive branch personnel to pass information to Congress." Part III reviews legalistic conflicts inherent in the Congress defined as the "public at large" and Congress defined as a constitutional arm of government. To resolve the problem of excessive control of information by the executive branch,

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censorship dateline

libraries

Pinellas County, Florida

Blueschild Baby, one target of a campaign to get "dirty books," was removed from library shelves at Largo and Seminole high schools after it was assigned to a professional review committee. Elizabeth Stevens, director of school library services, said the work was removed after formal complaints were received.

Two other books targeted for removal from the schools, *Our Bodies, Ourselves* and *Talk Show,* were also vigorously protested by a group called "Churches United for Decency" (CUD). A spokesman for the group, Donald J. Ralston, claimed that CUD represents forty-two Protestant congregations in Pinellas County. Ralston promised that the group would act as a "watchdog" on the schools' "moral climate."

In a statement prepared for delivery to the county board of education, CUD demanded the immediate removal of "pornographic" reading material from all public schools and charged that the presence of "dirty" books in the schools indicated "gross negligence or willful indifference" on the part of school officials in carrying out their responsibilities under Florida law. The group said it would accept no compromises with the board of education.

In their first reactions to the demands from CUD, neither the county board nor Superintendent Gus Sakkis indicated any willingness to accede to the demand for censorship. Reported in: *St. Petersburg Times,* June 6, 7, 10, 11, 12.

Gaylord, Michigan

The autobiography of Wilt Chamberlain, *Wilt: Just Like Any Other Seven-Foot Black Millionaire Who Lives Next Door,* was banned from the Gaylord Middle School library. Superintendent Tom Gill, who removed the book after hearing a complaint from one parent, said pupils "are more interested in learning how to dribble and shoot" than in the kind of off-court activities described in the retired basketball star's book. Reported in: *New York Post,* June 11.

Helena, Montana

A recommendation that Montana establish a committee to review books about Indians would, if implemented, impose censorship on the state's schools and libraries, according to Harriett C. Meloy, a member of the Montana Board of Public Education and head librarian at the Montana Historical Society, and Dolores Colburg, superintendent of public instruction.

The review committee was the idea of an advisory group of Indians and non-Indians established to help formulate Montana's Indian culture master plan. The group asked the state library commission to create a committee "to review and distribute literature and other media material purchased about native American and Montana Indian cultures."

The group's recommendation added that the state library committee "should acknowledge that demeaning media or literature about Indians is a violation of their civil rights and must be eliminated from state public facilities."

Meloy commented that "librarians have a responsibility to be as neutral as possible." She added that "their responsibility is to make sure everyone can read anything they want to read and to let the clash of ideas come."

Meloy said she is aware that much of the material written about Indians is distorted and inaccurate, but she rejected censorship as a solution to the problem. Reported in: *Helena Independent Record,* May 20.

Las Vegas, Nevada

After two committees recommended retention of Stephen King's *Carrie* in the Clark High School library, Marie Lambert, parent of a student at the school, appeared before the Clark County School District trustees to request that the book be banned.

Lambert told the trustees that she was shocked by the book. "This is trash as far as I'm concerned," she stated to the trustees. She was accompanied at the meeting by Assemblyman Lloyd Mann, who said that sexual intercourse was "degraded" by the language of the book.

Bryan Lewis, children's librarian with the Clark County School District, said that it would be unfair to remove the book because a few parents had objected to it. "I am concerned that possible action taken by this board may take away the constitutional rights of students to read materials of their own choosing," Lewis declared.

Superintendent Kenny Guinn said the book was reviewed by a panel of three persons at Clark High, including the librarian and two English teachers, when Lambert first voiced her complaint. When they agreed that the book should remain in the library, it was read by a committee of three administrators, who also agreed that it could be used

in the library, although they recommended that it not be used in a classroom as required reading. Reported in: *Las Vegas Review-Journal,* July 12.

Centre County, Pennsylvania

The message below appeared in a paid advertisement in the *Centre Daily Times* (May 6). It was paid for by Les Reese.

"We have investigated our Centre County Library and have found several communist books which are very vile. . . . Everyone wants to give to the library, but many are forgetting just what they are giving or paying for. Namely, Sociallism [sic] or Communism.

"How long will it take all groups in Bellefonte and surrounding areas to awaken? This is not a child's game, but rather a dangerous one after morals have been destroyed. In the Morrisdale area police have been called pigs—all because a book was made available from a library."

Scituate, Rhode Island

Brandishing fistsful of leaflets which quoted extensively from books in the local school library, citizens who had been rebuffed by the Scituate school committee in their call for censorship of the works continued their protest.

The leaflets quoted from *The Grapes of Wrath, Of Mice and Men, The Catcher in the Rye, Lord of the Flies, The Art of Loving* by Erich Fromm, and *Listen to the Silence* by David W. Elliott.

One of the leaders, Marcus Bryan, said the "devil himself" would have blushed to read the excerpts in the leaflets.

The Rev. Ennio Cugini, pastor of the fundamentalist Clayville Community Church, said the book protesters were "forced" to distribute the quotations which they disliked "in order to safeguard their morals, their lives, and their souls." Reported in: *Providence Bulletin,* June 17.

Hamilton County, Tennessee

In July the editors received a list of more than 200 books labeled "unsuitable for elementary school libraries" in the Hamilton County School System.

Listed among the "unsuitable" books were *Dinky Hooker Shoots Smack* by M.E. Kerr; *Fantastic Voyage* by Isaac Asimov; *Jazz Country* by Nat Hentoff; *My Darling, My Hamburger* by Paul Zindel; *Nutshell Library* by Maurice Sendak; and *Sylvester and the Magic Pebble* by William Steig.

Buckingham, Virginia

In a letter to the editor of *Popular Photography* (August 1975), the principal of Buckingham County High School announced that the photography magazine would no longer appear in the high school.

Principal J.T. Hendricks wrote: "Due to the current concern over certain materials determined to border on the obscene, it is my feeling that my school can no longer subscribe to your magazine. The May issue cover and certain recent pictures have made this popular publication unacceptable."

schools

Richmond, California

Three art works created by Wayne Bornt, a student in the Richmond Unified School District, were removed from a May exhibition of student art at the Richmond Art Center. They continued on display, however, at a private gallery in Richmond.

The works—a painting and two ceramic sculptures—were withdrawn from the exhibit because they showed details of the nude female form. Richard Lovette, deputy superintendent of schools, said they were removed because of a district policy against nudes in classrooms and art shows. Teachers who supervised the student artists said, however, that they were unaware of any district policy forbidding nude representations.

The Association of Richmond Educators, the major organization of teachers in the district, announced that its representative council had unanimously condemned the censorship of the art works. Reported in: *Oakland Tribune,* May 20, 24.

Atlanta, Georgia

Controversy over textbooks used in Georgia schools continued unabated in June as members of a citizens' group sat in silent protest at a meeting of the Georgia Board of Education. Members of Better Education for Georgia Today (BEGAT) filed into the meeting wearing lapel signs which pictured a garbage can with the words "Georgia Textbooks" written across it.

James Vernon, a member of BEGAT, said his group wanted two series of books published by Scott Foresman, *Galaxy* and *America Reads,* removed from the state's list of approved textbooks. He characterized them as "unfit" for school children.

Another member of BEGAT, Al Leake, told the state board's textbook committee that the two series promoted such ideas as "evolution and devil worship." Reported in: *Atlanta Constitution,* June 13.

Atlanta, Georgia

In surprising presentments, a DeKalb County grand jury lashed out against school textbooks, fluoridation, and pornography, and recommended that the DeKalb Commission pass an ordinance banning the publishing, sale, and exhibition of pornography in the county.

One presentment charged that textbooks used in the DeKalb County schools contain "obscenity, profanity,

gutter language," and "glamorize prostitution, take the Lord's name in vain, and discredit the family, America, and Christianity."

DeKalb School System Superintendent James H. Hinson Jr. said no one from the system was called before the grand jury in connection with the textbook investigation. He said a system-wide textbook committee conducts an extensive review of all books used in DeKalb and weeds out any books containing "objectionable" passages. He added that he knew of at least one incident in which a book in the Scott Foresman series *America Reads* was not used because it contains "a vulgarity."

Reportedly, the grand jury called only a few witnesses before making a presentment and failed to call any to provide opposing points of view. Reported in: *Atlanta Journal,* June 29.

Snow Hill, Maryland

Rebecca Dawson, recently named Maryland's "newspaper adviser of the year," was removed from her position as adviser of the Snow Hill student newspaper, the *Eagle,* after articles on birth control and teen-age pregnancies appeared in the paper. Dawson, who also teaches French at the small Worcester County school, was replaced because of what the school's principal described as "a great deal of reaction" to the controversial issue of the paper.

K.H. Shumate, the principal, said that if he had seen the reports on students' surveys on birth control and contraception before they were published, he would not have approved them. Reported in: *Washington Post,* June 10.

New York, New York

A long-standing feud between the strict principal of a Queens high school and the administration of the city school system was heightened when a group of high school officials and security guards entered Long Island City High School and distributed 3,000 copies of a student newspaper containing a student's article that the principal had suppressed for nine months.

"I regard this action on the part of Chancellor [Irving] Anker as disgraceful, outrageous, and reprehensible," said Howard L. Hurwitz, principal of Long Island City High School, who threatened to sue the chancellor for "interference and harassment."

The article, written by Priscilla Marco, discussed a board of education pamphlet on students' rights and responsibilities and questioned the refusal of Hurwitz to permit distribution of the pamphlet at the school. Reported in: *New York Times,* June 24.

Arlington, Texas

Arlington High School officials banned distribution of the school's literary magazine because of unacceptable material in it, School Superintendent James Martin announced late in May.

The magazine, *Rhapsodic Rubicon,* was withdrawn by Principal James Crouch. He commented that although the magazine contained many excellent articles, several included profanity and discussed drugs and marriage in a way "unacceptable" to the school district. According to Crouch, the questionable material did not encourage intellectual, moral, and spiritual development in accordance with the school district's policy. Reported in: *Dallas News,* May 22.

colleges-universities

St. Louis, Missouri

Academic freedom is nonexistent at Concordia Seminary in St. Louis, according to a report issued in May by the American Association of University Professors. A majority of the faculty and student body at the Lutheran Church-Missouri Synod school walked out last year to form their own seminary-in-exile in protest over demands for conservative teaching.

As an example of the limits on academic freedom at the school, the AAUP report cited a policy adopted last year which requires professors to teach in accordance with synod resolutions.

The Rev. Ralph Bohlmann, the seminary's president, said the report contained "numerous errors of fact" and "significant omissions of important data." Reported in: *Chicago Tribune,* May 31.

public meetings

Newburgh, New York

Withdrawal of an invitation to folk singer Pete Seeger to lead a songfest under the historic 276-year-old poplar tree in Balmville led to a bitter dispute over the rights of free speech and assembly.

Robert P. Ushman, president of the Balmville Citizens Association, announced cancellation of the proposed ceremony shortly after the Newburgh Town Board, a majority of whose members had expressed objections to Seeger's political views and "left-wing" associates, appeared ready to reject an official request for the traffic diversion that would have been required.

Town Supervisor J. Malone Bannan said when the request was submitted that he felt "the majority of the board doesn't believe Mr. Seeger presents the American view many of us represent."

Edwin F. Klotz, the superintendent of schools, objected to Seeger's "well-known reputation as a left extremist" and to his having entertained dissidents who later interrupted bicentennial ceremonies in Concord, Massachusetts last

spring.

Klotz, the author of controversial "Moral Instruction" guidelines proposed for California schools several years ago, said he would not permit official participation by Newburgh school children in any ceremony attended by Seeger "because of the possible danger in large crowds."

In a letter to Supervisor Bannan, Klotz wrote: "Mr. Seeger may be known for his advocacy of a cleaner Hudson River and ecological projects, but he is also a veteran supporter of causes that are hardly exemplary for the young people of our community."

Balmville Citizens Association President Ushman later commented: "[The Balmville poplar] tree symbolizes much more than the need to save our environment and our living history. It now symbolizes our determination to peacefully resist you if you try to take from us our right to free speech and our right to gather and listen to a man play a guitar and perhaps sing 'America, the Beautiful.' " Reported in: *New York Times,* June 17.

U.S. Congress

Washington, D.C.

A page who criticized the federal tax rebate in a letter to the editor of the *Washington Star-News* was banned from the floor of the House of Representatives by Congressman Thomas E. Morgan of Pennsylvania.

The page, Daniel R. McKee of Lafayette Hill, Pennsylvania, called the tax rebate "ineffective" and "a very good example of congressional action which was taken solely on the pretense of getting votes and appealing to the people . . . ."

McKee's sponsor, Representative Lawrence Coughlin, strongly protested McKee's being barred from the floor. One of Coughlin's administrative assistants reported that Morgan assured Coughlin that McKee would stay on the congressional payroll and be graduated from the page school. Reported in: *Washington Star-News,* June 5.

religious press

Philadelphia, Pennsylvania

A column by Mary Carson disappeared this summer from the *Catholic Standard and Times,* the Philadelphia archdiocesan weekly, and twenty other diocesan papers across the country.

An editorial in the *Standard* explained that the columnist was being dropped because "in recent months [she] has used what her subscribers consider a lighthearted family column to criticize church teachings and church authority. While Mrs. Carson is entitled to her opinions, we are not obliged to publish them—much less to subsidize them."

In a column formerly devoted to such topics as the confusion involved in taking eight children to mass, Carson recently spoke out on such topics as abortion, contraception, and women priests. One column criticized the bishop of San Diego for his order that communion not be given to members of the National Organization for Women.

Commenting on the decision against her column, Carson said: "I see no obligation on the part of any reader to accept what I am saying unless they have thought it through themselves. If [the column] provokes them to think about what they believe and why they believe, it either reinforces their beliefs or gives them an opportunity to reexamine their beliefs, to build their faith." Reported in: *Philadelphia Bulletin,* June 22.

etc.

Whittier, California

After a meeting of Whittier City Attorney Robert Flandrick and two representatives of Citizens for Decency Through Law, Jim Clancey and Ray Gauer, the Whittier City Council announced a plan to combat adult bookstores and theaters.

Part of the plan called for the police department to utilize the services of CDL members to gather evidence for the filing of criminal complaints or civil nuisance abatement actions against the bookstores and theaters.

Flandrick said the city adopted a flexible plan due to doubts about the constitutionality of California's Red Light Abatement Act. Reported in: *East Whittier Review,* June 1.

Chicago, Illinois

The *Chicago Daily News* revealed in June that the Chicago Police Intelligence Division had infiltrated and informed on a broad range of community, political, educational, and religious groups in Chicago during the last six years. Reportedly, the network was so vast that, in some cases, police received reports from three or four informers at meetings attended by no more than a dozen persons.

Included among the groups spied upon were the Catholic Charities, the Citizens' Action Council, the Metropolitan Housing Alliance, the Alliance to End Suppression, and the Nazi Party in Illinois.

Such an informer network is "very likely to have a chilling effect on First Amendment rights," said University of Chicago constitutional expert Gerhard Casper. "It subverts the entire system of American government." Reported In: *Chicago Daily News,* June 10.

Des Moines, Iowa

After Des Moines' indecent exposure law was declared unconstitutional by a district court judge who said it was so

(Continued on page 150)

from the bench

U.S. Supreme Court rulings

In a surprising opinion written by Justice Lewis F. Powell Jr., the U.S. Supreme Court invalidated a Jacksonville, Florida ordinance prohibiting drive-in theaters from showing films containing nudity on screens visible from public places. Justice Powell, who formed part of the majority in 1973 when the Court set down new guidelines for obscenity (*Miller* v. *California*), was joined by Justices Douglas, Brennan, Stewart, and Marshall, as well as by Justice Blackmun, who also supported the majority in *Miller.*

In striking down the ordinance as an infringement of First Amendment rights, the Court noted that the censorship of otherwise protected speech cannot be justified on the basis of the limited privacy of persons in public places, and that the restrictions of the ordinance could not be viewed as a legitimate exercise of police power for the protection of children.

In describing the general principles which make ordinances like the Jacksonville law invalid, Justice Powell said: " . . . when the government, acting as censor, undertakes selectively to shield the public from some kinds of speech on the ground that they are more offensive than others, the First Amendment strictly limits its power. Such selective restrictions have been upheld only when the speaker intrudes on the privacy of the home, or the degree of captivity makes it impractical for the unwilling viewer or auditor to avoid exposure."

Justice Powell noted that much of what we encounter nowadays offends "our esthetic, if not our political and moral, sensibilities." But he noted: "Nevertheless, the Constitution does not permit the government to decide which types of otherwise protected speech are sufficiently offensive to require protection for the unwilling listener or viewer." (*Erznoznik* v. *City of Jacksonville,* no. 73-1942, decided June 23.)

"Commercial speech" is (perhaps) protected

Ruling on a case involving an abortion advertisement published in a Virginia newspaper, the Court appeared to veer away more sharply than ever from its decision in *Valentine* v. *Chrestensen* (1942), in which a unanimous Court held that commercial speech is unprotected by the First Amendment.

The new ruling stemmed from a 1971 ad in the *Virginia Weekly,* published in Albemarle County, seat of the University of Virginia. The ad, announcing legal abortion services in New York, was approved by the editor of the paper, Jeffrey C. Bigelow, who was tried and convicted in 1971 under a Virginia statute which made it a misdemeanor to encourage or prompt the procuring of an abortion.

Bigelow's case first appeared before the U.S. Supreme Court in 1974. The justices then ordered the Virginia Supreme Court to review Bigelow's conviction under the federal court's invalidation of statutes prohibiting abortion on demand.

After the Virginia Supreme Court upheld the conviction on the grounds that the statute dealt with advertising and not abortion as such, Bigelow returned to the U.S. Supreme Court. In an opinion written by Justice Harry A. Blackmun and concurred in by Chief Justice Burger and Justices Douglas, Brennan, Stewart, Marshall, and Powell, the Court said that the high state court erred in assuming that the First Amendment guarantees of speech and press are inapplicable to commercial ads. "Our cases," the Court said, "clearly establish that speech is not stripped of First Amendment protection merely because it appears in that form."

The Court said that the ad in Bigelow's newspaper "conveyed information of potential interest and value to a diverse audience—not only to readers possibly in need of the services offered, but also to those with a general curiosity about, or genuine interest in, the subject matter or the law of another state in its development, and to readers seeking reform in Virginia."

In a vigorous dissent, Justice Rehnquist argued that the Court's statements, taken literally, "would presage a standard of the lowest common denominator for commercial ethics and business conduct." Securities dealers, he contended, could now easily circumvent laws established to protect investors.

Justice Rehnquist also disagreed with the Court's attempt to place abortion advertisements under the protection of the constitution because of their content. The subject of the ad, he noted, ought to make no difference. "This was a proposal to furnish services on a commercial basis," Rehnquist said, "and since we have always refused to distinguish for First Amendment purposes on the basis of content, it is no different than an advertisement for a bucket shop operation or a Ponzi scheme which has its headquarters in New York." (*Bigelow* v. *Virginia,* no. 73-1309, decided June 16.)

Airline safety is "confidential" matter

In a suit filed against the Federal Aviation Administration under the Freedom of Information Act, the Court held that the FAA's Systems Worthiness Analysis Reports on the operation and maintenance performance of commercial airlines can be withheld under the act's exemptions.

In an opinion written by Chief Justice Warren E. Burger and supported by Justices White, Blackmun, Powell, and Rehnquist, the Court noted that the discretion "vested by Congress in the FAA, in both its nature and scope, is broad." The Court continued: "Congress could appropriately conclude that the public interest was better served by guaranteeing confidentiality in order to secure the maximum amount of information relevant to safety." The balance of disclosure and confidentiality struck by Congress, the Court said, is not open to judicial scrutiny.

Exemption 3 of the Freedom of Information Act, upon which the case turned, specifically exempts from disclosure all reports, analyses, etc., which are made confidential by federal statute. (*FAA Administrator* v. *Robertson,* no. 74-450, decided June 24.)

California law rescued

Overruling a three-judge federal panel that had invalidated California's obscenity law, Justice Byron R. White, joined by Chief Justice Burger and Justices Blackmun, Powell, and Rehnquist, stated that the federal panel did not have jurisdiction in the case because state criminal proceedings had been begun against the federal plaintiffs prior to their filing suit in federal court.

It is a doctrine of federal-state comity that the federal courts will not review or intervene in state criminal proceedings, except under extraordinary circumstances, until all remedies in state courts have been exhausted. (*Hicks* v. *Miranda,* no. 74-156, decided June 24.)

In other action taken at the end of its 1974-75 term, the Court:

• Refused for a second time to review the question of CIA censorship of Victor Marchetti and John D. Marks' *The CIA and the Cult of Intelligence.* The authors and their publisher, Alfred A. Knopf, twice asked the Supreme Court to overturn the decision of the U.S. Court of Appeals for the Fourth Circuit, which permitted the CIA censorship. In an *amicus* brief submitted to the high court by the Freedom to Read Foundation, the Association of American Publishers, and the American Booksellers Association, it was argued that the appeals court had erred in focusing on the question of whether the censored items were properly classified, and whether judicial review of classification would be appropriate. It was contended that the appeals court should have ruled on the CIA deletions on the basis of the long-standing presumption against the constitutionality of any form of prior restraint.

• Declined to consider whether the constitutional right of privacy protects the exhibition and viewing of sexually explicit films in a motel room. The Court let stand the conviction of Joseph Antico, owner of a North Hollywood motel, on a charge of showing an obscene film on closed-circuit television at his motel.

• Held that a defendant can receive a fair trial even if members of the jury have become familiar with his criminal background through stories in the press. By an eight-to-one vote, the Court sustained the 1970 robbery conviction of Jack Roland Murphy, also known as "Murph the Surf."

• Refused to overturn the order of a U.S. District Court judge in Texas who banned newspaper publication of a list of jurors in a murder trial.

freedom of speech

Honolulu, Hawaii

The Hawaii Supreme Court upheld the right of the Honolulu Liquor Commission to censor nightclub acts. The case at bar involved a club which had been fined $2,500 by the liquor board for staging sex shows and showing sexually explicit films.

The club's owners, who voluntarily surrendered their liquor license pending the appeal to the high court, contended that the liquor commission's rules violated their rights to freedom of speech and due process. Reported in: *Variety,* July 9.

New York

A New York State law restricting the distribution and advertising of nonprescription contraceptives was declared constitutionally invalid by a three-judge federal panel. The decision overturned a section of the New York State Education Law which prohibited any distribution of nonprescription contraceptives to persons under the age of sixteen; specified that only licensed pharmacists could sell the contraceptives to persons over sixteen; and banned all advertising of the contraceptives.

According to the court's fifty-eight-page opinion, written by District Court Judge Lawrence W. Pierce and concurred in by Circuit Court Judge Henry J. Friendly and District Court Judge William C. Conner, the law violated the constitutional rights of privacy, due process, and free speech.

Michael N. Pollet, a lawyer for the plaintiffs, which included Population Services International and Population Planning Associates, said that many states had similar restrictions and that the court decision in New York was the first "sweeping injunction" against them. Reported in: *New York Times,* July 3.

New York, New York

Unions representing 80,000 police, fire, and other New York safety officers won the right in June to distribute leaflets warning visitors away from the city because of the

danger of thieves, muggers, rapists, and arsonists. The unions began their "fear city" campaign when the city's severe financial crisis threatened the employment of thousands of police and fire employees.

Citing the union members' right of free expression, the Appellate Division of the New York Supreme Court lifted an injunction obtained by the city to halt distribution of the "fear city" leaflets to tourists at airports, train stations, and bus terminals. But the court stressed that its decision could not be viewed as an approval of the unions' tactics.

Associate Justice J. Irwin Shapiro said from the bench that the fear campaign "can't be justified by any stretch of the imagination," and added, "The unions may have realized that they are engaged in a self-defeating act." But he emphasized that they had the right to pass out literature.

State Supreme Court Justice Frederick E. Hammer, sitting in Queens, held in a related ruling that to enjoin the union members from handing out leaflets in civilian clothes in their off-duty hours would deny them "reasonable dissemination of opinion" and would violate their constitutional rights. Reported in: *New York Times,* June 14, 18; *New York Daily News,* June 17.

Cincinnati, Ohio

In an opinion requested in the wake of criticisms of Cincinnati Mayor Theodore M. Berry by city employees, Cincinnati Solicitor Thomas Luebbers ruled that under certain circumstances city employees can be disciplined for criticizing municipal officials, and that the city may limit the political activities of its employees.

Luebbers' opinion said that the city can limit the political activity of its employees when it can be shown that its legitimate interests require a restriction on their rights of freedom of speech. According to the opinion, employees can also be disciplined for criticizing officials or procedures when it can be shown that their statements would have a disrupting impact on the city's daily operations or interfere with employees' performances of their duties or their relations with their superiors or fellow workers.

Police Specialist Elmer Dunaway disagreed with the solicitor's ruling. "The U.S. Supreme Court has ruled that civil service employees can become actively involved in politics, including working for and endorsing political candidates," Dunaway said. Reported in: *Cincinnati Enquirer,* July 22.

Columbus, Ohio

A Columbus ordinance prohibiting live burlesque under the city's zoning laws was declared unconstitutional by Franklin County Common Pleas Court Judge Tommy Thompson. The ruling permitted resumption of burlesque at the Garden Theatre.

Judge Thompson labeled the law the "sharpest type of prior restraint" and declared that it represented an attempt at censorship and at limiting the freedom of expression of the theater operator. The judge added that his ruling in no way touched upon the question of obscenity. Reported in: *Variety,* July 9.

the press

Los Angeles, California

A 1972 Los Angeles ordinance regulating the placement of sidewalk newsracks was challenged as unconstitutional in a superior court civil suit filed by Cash Enterprises Inc., which distributes *Sun, Impulse,* and *Dynamite.*

The suit represented the first court challenge to the ordinance, which does not regulate newspaper content but sets forth requirements on the placement of newsracks on sidewalks.

The suit contends that the ordinance violates the distributor's First Amendment constitutional rights to freedom of speech and the press. The suit also argues that the ordinance authorizes an exercise of the city's police power that is invalid because the law is unrelated to the protection of public health and welfare and does not achieve any legitimate government interest. Reported in: *Los Angeles Times,* May 21.

Denver, Colorado

The Colorado Supreme Court in part reversed itself and ordered libel charges dismissed against a reporter for the *Colorado Springs Sun.* However, the libel judgment against the newspaper was allowed to stand in an opinion issued June 2.

The court's earlier decision had affirmed an award by a district court of $29,000 in compensatory damages and $9,900 in exemplary damages against reporter Doyle Trent and publisher William J. Woestendiek. The high court did not explain why it had changed its mind, but its reversal did not modify the test for libel developed by the district court in making its ruling.

The case involved goods allegedly stolen from a vacant home in Colorado Springs. The court ruled that stories in the *Sun,* an editorial, and several letters to the newspaper libeled antique store owners. Reported in: *Editor & Publisher,* June 28.

Miami, Florida

In a federal court decision handed down June 19, Florida newspapers were given the right to publish criticism of political candidates on election day and to charge candidates for advertising at the same rate as other advertisers.

U.S. District Court Judge Norman C. Roettger Jr. struck down as unconstitutional a state prohibition against the publication of criticism of a candidate on the day of election, and a requirement that political advertisers be given a

newspaper's lowest rates.

"Both statutes are unconstitutional on their face as violating the First Amendment of the Constitution," the judge said. The laws were challenged by Gore Newspapers Company. Reported in: *Editor & Publisher,* June 28.

Rockford, Illinois

A circuit court judge's order restraining the *Rockford Morning Star* and the evening *Register-Republic* from commenting editorially on a suit before his court was called unconstitutional by the papers.

Circuit Court Judge James Bales, presiding in the case by special assignment after local judges excused themselves, issued the order during a hearing on a $300,000 libel suit brought against the papers by an employee of the Winnebago County Circuit Court Clerk's office.

The libel suit was filed by Chief Deputy Clerk Fred Cooper, who objected to an editorial calling for reform and modernization of the clerk's office. At one point his attorney filed a motion for contempt of court against the newspapers because of further editorial comment on the judicial system.

Judge Bales said he issued the ban on editorializing about the law suit in order to insure a fair trial for all parties. "I am not restricting fair newspaper reporting in this case," he elaborated. "I am restricting editorializing, but not news writing."

The president of Rockford Newspapers Inc., Cove Hoover, responded in an editorial entitled "Judge Gags Us." The editorial cited Supreme Court Justice William Brennan's comment in *New York Times* v. *Sullivan:* "The First Amendment tolerates absolutely no prior judicial restraint of the press, predicated on surmise of conjecture that untoward consequences might result." Reported in: *Editor & Publisher,* June 14.

Wyandotte, Michigan

A Michigan district court judge who attempted to censor news accounts of a rape case reversed herself after the *Wyandotte Guardian News-Herald* insisted that the proposed news ban was unconstitutional.

The demand for the censorship of news reports came from Judge Audrey Stroia after the paper's reporter, Clarisse Israel, and photographer, Ron Wheeler, attended an accused rapist's preliminary hearing. In what she said was a concern for both the victims and the accused in the crime, Judge Stroia ordered the reporter and the photographer removed from the hearing. She said she would give the reporter information on the case after the hearing was ended.

The paper's general manager, Robert Bradshaw, said his paper rejected the judge's demands because the case had been widely discussed in the area. He also argued that the judge's attempt to ban the paper's personnel was discriminatory since she allowed twenty spectators to remain in the court without question. Reported in: *Editor & Publisher,* July 5.

Cleveland, Ohio

In early July the U.S. Court of Appeals for the Sixth Circuit struck down a broad federal court gag rule restricting coverage of the Kent State civil trial.

CBS News requested a writ of mandamus to overturn the rule, charging that the order by U.S. District Court Judge Don J. Young was an unconstitutional prior restraint on free speech. Judge Young had ordered "all parties concerned to refrain from discussing the case with members of the news media or public." At one point former U.S. Attorney General Ramsey Clark was threatened with a contempt of court citation for violating the rule.

In striking down the restraint, the appeals court said the district court's ruling was "an extreme restraint upon freedom of speech and expression."

The civil trial derives from deaths which occurred on the Kent State campus in 1970, when members of the National Guard shot at students protesting against the Vietnam war. Reported in: *Chronicle of Higher Education,* June 23; *Variety,* July 9.

Madisonville, Tennessee

Dan Hicks Jr., who has won national awards for courage in journalism, was jailed in July for publishing an article about a youth charged with murder. Hicks, editor of the weekly *Monroe County Observer,* was charged with contempt of court by County Judge J.P. Kennedy, who sentenced the editor to five days in county jail and fined him $50.

Hicks had been ordered to refrain from printing anything about the case of a seventeen-year-old youth charged with murdering his uncle. Hicks wrote in his paper that Judge Kennedy's "so-called order not only operates to suppress me but it would put me under effective censorship."

In 1970 an attempt was made to burn the office of Hicks' newspaper. The attempted arson came one day after two men pleaded guilty to firing shotgun blasts into the newspaper building in 1968. Reported in: *New York Times,* July 12.

Memphis, Tennessee

In the first test of its constitutionality, Tennessee's 1973 shield law was upheld by Chancery Court Judge Robert Hoffman. The law permits reporters and editors to protect confidential sources of news information.

Judge Hoffman ruled that *Nashville Banner* editor Ken Morrell, reporter Larry Brinton, and former reporter Ed Long do not have to disclose sources of stories about Robert L. Taylor, an unsuccessful candidate for the Tennessee Supreme Court.

Taylor's lawyer had filed a motion in Chancery Court asking that the three newsmen be compelled to reveal sources of stories about Taylor's candidacy which Taylor, a former Court of Appeals judge, claimed damaged his chances for the high state post. Reported in: *Editor & Publisher,* July 5.

GIs' rights

Baltimore, Maryland

After more than a year of litigation, the Army and a group of anti-war activists agreed to rules for the distribution at Fort Meade of *Highway 13,* a newspaper devoted to the interests of enlisted men which has been critical of the U.S. military command.

According to the settlement reached before U.S. District Court Judge Frank A. Kaufman, the paper can be distributed–but not sold–at the public areas of the military post, including the PX, theaters, and service clubs.

Before the suit was filed by members of the Military Law Project of the American Friends Service Committee, the Army required that the newspaper be distributed only through vending machines and that the post commander be shown the contents of each issue before its distribution.

The five civilians and two soldiers who filed the suit against the Army claimed that the military was attempting to censor the free expression of ideas. In the course of reaching the agreement, the Army insisted that the military personnel would not be removed from accountability under military regulations, but it allowed that they would not be subject to punitive action for any lawful content of the paper. Reported in: *Baltimore Sun,* July 4.

religious broadcasting

Washington, D.C.

The Federal Communications Commission refused on August 1 to disqualify religiously affiliated organizations and institutions from eligibility to operate noncommercial broadcast outlets. "As a government agency, the Commission is enjoined by the First Amendment to observe a stance of neutrality toward religion, acting neither to promote nor to inhibit religion," the FCC said.

The unanimous vote of the Commission denied a petition by Jeremy D. Lansman and Lorenzo W. Milam requesting a freeze on applications by religious institutions for television and FM channels reserved for educational stations. Lansman and Milam, broadcast consultants, contended that the assignment of more than one educational channel in a community to a religious organization deprived minority groups of access to scarce channels (see *Newsletter,* May 1975, p. 85).

Their petition, filed December 5, produced more than 700,000 letters and post cards of protest, the largest ever received in the FCC's history. Reported in: *Chicago Sun-Times,* August 2.

public schools

Charleston, West Virginia

Charges that Kanawha County school officials contributed to the delinquency of minors by approving controversial textbooks were dropped on the advice of County Prosecutor Larry Winter.

The charges were brought last fall at the height of the county's anti-textbook crusade by protesters who contended that certain approved works were un-American and un-Christian. "Following our discussion," Winter said, "they [the protesters] recognized that the prosecution of those charges wouldn't bring the result they wished, so they voluntarily withdrew the charges. "

Those charged with contributing to the delinquency of minors were former School Superintendent Kenneth Underwood and Board of Education members Harry Stansbury, Douglas Stumpt, Matthew Kinsolving, and Russell Issacs. Reported in: *Pittsburgh Press,* June 1.

obscenity law

Birmingham, Alabama

An obscenity ordinance adopted by Birmingham, Alabama was upheld by the U.S. Court of Appeals for the Fifth Circuit. In rejecting the challenge to the law filed by the operator of a Birmingham movie theater, the court said: "The Birmingham ordinance has been authoritatively construed as limited to materials depicting or describing the type of hard-core sexual conduct" referred to in the recent decisions of the U.S. Supreme Court.

"As so construed," the court continued, "it is constitutional, leaves adequate breathing space for First Amendment rights, and adequately advises juries and courts . . . of the type of conduct which it regulates." Reported in: *Birmingham Post-Herald,* May 24.

Detroit, Michigan

Detroit's battle to control adult bookstores and theaters through restrictive zoning ordinances was dealt a fatal blow by the U.S. Court of Appeals for the Sixth Circuit. The court ruled that Detroit's anti-obscenity zoning laws were unconstitutional because they violated the equal protection provision of the Fourteenth Amendment.

Assistant City Attorney Maureen Reilly, who developed Detroit's novel laws in 1972, said the city would definitely consider an appeal.

The ordinances, which required neighborhood approval for adult entertainment businesses, had been struck down earlier in a lower federal court, but were revised on advice

of the judges. "We thought we'd cured the defect," Reilly said. "But I guess now we have to start again." Reported in: *Detroit Free Press,* June 17.

Lansing, Michigan

A three-judge panel of the Michigan Court of Appeals ruled that an injunction used to close a Lansing theater and bookstore could not be used against books and movies.

The appeals court ruling let stand the lower court injunction against dancing and other "nonverbal, physical conduct" at the Cinema X Theater, but the judges overruled the ban against distribution of films, books, and other communicative materials, arguing that the "presumption of First Amendment protection" invalidates that part of the injunction. Reported in: *Lansing Journal,* June 13.

Minneapolis, Minnesota

U.S. District Court Judge Earl Larson declared unconstitutional a Minneapolis licensing ordinance for adult bookstores which several politicians stated was unconstitutional when it was adopted in 1972.

The ordinance, in addition to requiring a $150 licensing fee for an adults-only bookstore, provided that a bookstore license could be denied or revoked if the licensee had been convicted of violating a state law prohibiting the sale of pornography to minors.

Judge Larson said the ordinance was unconstitutional because only adult bookstores were required to have licenses, and because the ordinance applied a prior restraint on free expression by assuming that a person convicted of selling obscene materials to minors would do so again if he were allowed to operate as a bookseller.

The ordinance was adopted in 1972 by a seven-to-six vote of the city council after its licenses committee recommended by three to two that it not be adopted. Reported in: *Minneapolis Tribune,* July 16.

Las Vegas, Nevada

Lamenting the failure of the Nevada legislature to act during the session which closed in May, District Court Judge J. Charles Thompson took matters into his own hands and declared new guidelines for enforcement of the state's obscenity law.

"Nevada is the only state in the union where the legislature has had a chance to construe the obscenity statute and has failed to do so," Thompson said. "Our legislature did nothing with it when it had the chance the last session, so I guess that leaves it up to me as part of the judiciary."

Judge Thompson set forth the new guidelines in a hearing on a motion by three Las Vegas bookstore and theater operators to dismiss charges against them involving allegedly obscene books and magazines.

In denying the motion, Judge Thompson set forth these new guidelines: "Material will be obscene and prohibited if it contains patently offensive representations or descriptions of actual ultimate sexual acts, normal or perverted, or if it contains patently offensive representations or descriptions of masturbation, excretory functions or lewd exhibition of the genitals, all of which must lack serious literary, artistic, political or scientific value." Reported in: *Las Vegas Review-Journal,* June 6.

Houston, Texas

A three-judge federal panel ruled unconstitutional the use of three Texas nuisance laws to prosecute exhibitors of allegedly obscene movies. The court said the nuisance statutes had been used to close a theater before there was a judicial determination that all movies shown there were obscene, thereby violating the theater operators' rights under the First Amendment.

The Texas statutes allowed the state to close a movie house for a year if it proved that the owner or operator commercially manufactured, distributed, or exhibited obscene material.

The panel, consisting of District Court Judge John V. Singleton Jr., Circuit Court Judge Joe Ingraham, and District Court Judge William Wayne Taylor, ruled that a motion picture exhibitor can "show anything he wants to show [and] the police cannot shut down or attempt to shut down his business" until the items he wants to show are proven obscene.

The ruling left standing the Texas Penal Code's prohibitions against the exhibition of obscene movies. Prosecutors in Dallas, Fort Worth, and Houston contended that the ruling would have little effect on their obscenity prosecutions. They said they had long ago abandoned use of the nuisance statutes in their campaigns against obscenity. Reported in: *Houston Chronicle,* July 9; *Houston Post,* July 9; *Dallas News,* July 10.

obscenity: convictions and acquittals

Los Angeles, California

The U.S. Department of Justice dismissed an obscenity indictment against one Los Angeles man and accepted a judge's dismissal of a similar case rather than pursue the government's case in the higher courts.

The June action in the cases came amid charges from defense attorneys and several judges that federal prosecutors had been "forum shopping" for trial sites in which they could most likely get convictions in obscenity cases. Reported in: *Los Angeles Times,* June 3.

Omaha, Nebraska

A municipal court jury of one man and five women found Downtown Books Inc. of Omaha, operators of an

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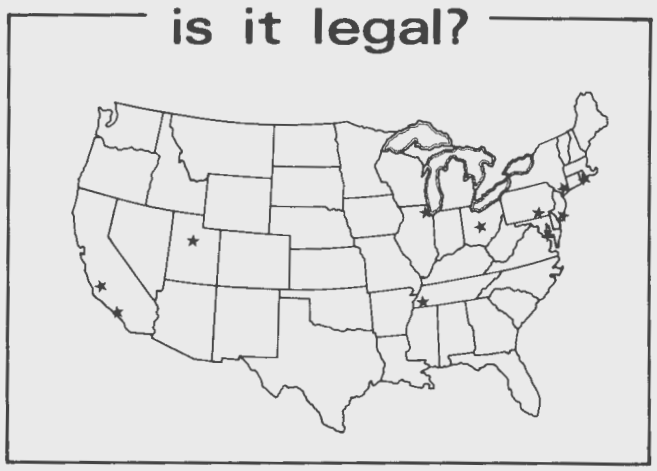


freedom of information

Washington, D.C.

The *St. Louis Post-Dispatch,* proceeding under the Freedom of Information Act, filed suit in U.S. District Court against the Federal Bureau of Investigation, demanding that it be given access to the bureau's files on the newspaper's Washington office and on its chief Washington correspondent, Richard Dudman.

The suit grew out of a disclosure last year that the FBI had secretly subpoenaed long-distance telephone records of the *Post-Dispatch's* office and its chief in 1971. A spokesman for the Department of Justice said that the records were obtained as part of the FBI's investigation into publication of the Pentagon Papers, parts of which were published by the St. Louis daily.

FBI Director Clarence M. Kelley contended that information on the paper and Dudman, as well as references to Dudman in other files on foreign intelligence activities in the United States, were exempt under provisions of the Freedom of Information Act. Reported in: *Editor & Publisher,* July 5.

Chicago, Illinois

The Joint Commission on Accreditation of Hospitals, an industry supported group, filed suit in U.S. District Court against Caspar Weinberger, Secretary of Health, Education, and Welfare, in what appeared to be an effort to keep reports on hospital deficiencies from a New York consumer group. The hospital organization asked the court to grant a permanent injunction against the federal government's release of 105 hospital surveys conducted by the commission.

The commission charged that the release of the reports would violate promises of confidentiality contained in the 1965 Medicare law. In its suit, the commission further alleged that release of confidential documents would result in a substantial loss of its accrediting business, as well as in a deterioration of health care and an exacerbation of the medical malpractice problem.

The Consumer Commission on Accreditation of Health Services originally sought the 105 surveys because the accredited hospitals were resurveyed by the federal government in 1974. Of the 105 hospitals examined in thirty-three states, state fire marshals hired by Medicare found that sixty-nine failed to meet federal fire-safety standards or had other significant safety deficiencies. Reported in: *Wall Street Journal,* June 2.

radio-television

Washington, D.C.

WMCA in New York City decided in June to make a legal battle out of Federal Communications Commission reprimand for its 1973 violation of the FCC personal attack rule, when it failed to inform Representative Ben Rosenthal (D.-N.Y.) that he had been called a "coward" by a station announcer.

Straus Communications Inc. asked the U.S. Court of Appeals for the District of Columbia to find that the rule is unconstitutional because it "chills expression concerning public officials and public affairs."

FCC regulations require a broadcaster to give the object of an aired verbal assault an opportunity to reply within seven days, something which WMCA failed to do after its announcer commented on Rosenthal in March 1973. The station was initially fined for the incident, but the penalty was later withdrawn in favor of a letter of reprimand. Reported in: *Variety,* June 18.

New York, New York

The producers of a New York cable television show, "Midnight Blue," registered charges with the New York City Franchising Bureau contending that Teleprompter, a Manhattan cable firm, had censored public access programming for "political and business reasons having nothing to do with obscenity."

The charges stemmed from Teleprompter's refusal to run a "special report" of "Midnight Blue" on so-called swingers. The segment was broadcast by Manhattan Cable, a firm that shares Manhattan with Teleprompter.

In a prepared statement, the producers said: "In the past, when Teleprompter has censored portions of 'Midnight Blue,' we have remained silent, even though Manhattan Cable has not seen fit to censor these same programs . . . . We do not wish to challenge FCC regulations, do not wish to put back perimeters of sexually candid cablecasting, and do not believe we are putting 'pornography' on the cable. We are, in fact, perfectly willing to work within existing guidelines while presenting an alternative to government and business censorship on network television." Reported in: *Variety,* July 16.

freedom of speech

Washington, D.C.

Former Senator Eugene McCarthy of Minnesota and Senator James L. Buckley (Con.-R.-N.Y.) attacked the 1974 federal campaign law as the "Incumbent Protection Act" and asked a nine-judge federal court to strike it down as an infringement of free speech and other constitutional rights.

"Seldom if ever has any law come before the courts with reasons for the presumption of constitutionality so wholly absent," said Brice M. Clagett, principal attorney for Buckley and McCarthy. The act, inspired by the Watergate scandals, provides for the public financing of presidential campaigns and imposes the strictest restrictions on private contributions and spending in the nation's political history.

Clagett argued that a limitation on campaign contributions is "in every sense" a limitation on speech. "If he can't get the money, a candidate can't travel, he can't issue a press release, he can't make a long distance call," Clagett commented.

The arguments were advanced to a panel of district and appellate judges, constituted to leap-frog the district courts and speed the case to the Supreme Court. Reported in: *Chicago Sun-Times,* June 14.

Los Angeles, California

Federal authorities in Los Angeles attempted to obtain secret film taken of the fugitive Weather Underground organization, but then abruptly changed their minds and withdrew their subpoenas without explanation.

The subpoenas were issued by a federal grand jury seeking film, negatives, and soundtracks of a documentary in production about the Weather Underground. The film-making team, led by Haskel Wexler and Emile De Antonio, condemned the federal action as harassment and a violation of their right of freedom of speech. Reported in: *Washington Post,* June 7.

the press

Fresno, California

Attorneys for the *Fresno Bee* in early July asked the California Court of Appeal, Fifth District, to overturn the indefinite jail sentences of four *Bee* newsmen cited for contempt of court for refusing to reveal how the newspaper obtained testimony in a sealed grand jury report.

Attorney Philip Fullerton, representing *Bee* managing editor George Gruner, city editor James Bort, and reporters William Patterson and Joe Rosato, told the three-judge appeals panel that the four were protected from contempt citations by California's reporters' shield law.

Fullerton said Fresno County Superior Court Judge Denver Peckinpah ignored the shield law in citing the four for contempt of court. County Counsel Max Robinson, representing Peckinpah, argued that Peckinpah was correct in declaring the shield law unconstitutional in that it interfered with the court's conduct of its own business. Reported in: *Los Angeles Times,* July 12.

Woonsocket, Rhode Island

Rhode Island Superior Court Judge Ronald Lagueux denied a plea for a preliminary injunction that would have prohibited the *Woonsocket Call* from publishing liquor prices in advertising columns for Massachusetts stores.

The ban was sought by the Rhode Island Retail Liquor Stores Association under a law passed by the state's General Assembly at the last session. The law prohibits the publishing or broadcasting of liquor prices in Rhode Island.

Judge Lagueux said that in his opinion the law would probably be held unconstitutional because it represents "an abuse of the police power of the state" and "a violation of the right of free press under the First Amendment to the U.S. Constitution."

The constitutionality of the new law has been challenged in U.S. District Court by six Rhode Island Newspapers. Reported in: *Editor & Publisher,* June 28.

prisoners' rights

Philadelphia, Pennsylvania

A prisoner at Graterford State Correctional Institution was granted permission by a U.S. District Court to sue prison officials who allegedly violated his civil rights when they censored his mail and confiscated nude photographs of his girl friend.

Maurice M. Talley, the inmate, was granted permission to file his suit by Chief Judge Joseph S. Lord III after approving a report by U.S. Magistrate Richard A. Powers III, who recommended such action.

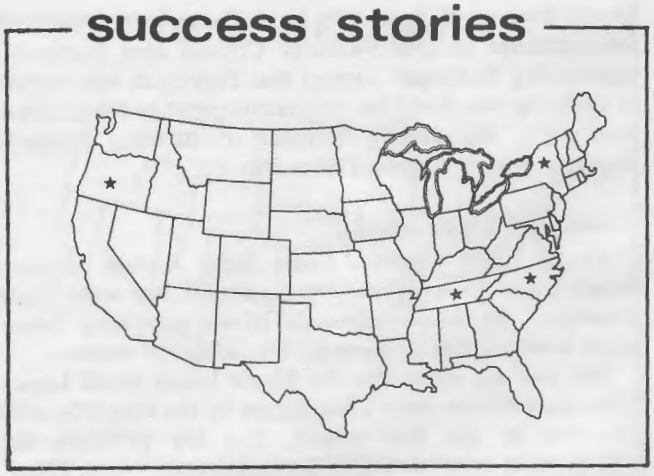
Powers' report said that prison officials removed photos from a May 28 letter to Talley because they were "pornographic." The judge commented: "Whether such censorship legitimately serves one of these governmental interests [of security, order, and rehabilitation] or is an arbitrary intrusion into the private affairs of the inmate can only be determined by further proceedings in this matter." Reported in: *Philadelphia Bulletin,* June 28.

Salt Lake City, Utah

Utah State Prison officials have characterized certain magazines and newspapers as "radical and revolutionary literature" and have refused to deliver them to inmates, according to a civil suit filed in U.S. District Court. James G. Allen, the plaintiff in the case, alleged that prisoners in

(Continued on page 152)

success stories



Albany, New York

New York State Assemblymen rejected legislation which would have restricted theater previews of *X*-rated films. The restriction, sponsored by Poughkeepsie Assemblyman Emeel Betros, would have forbidden theater operators from showing previews of *X*-rated films at performances of less restricted movies.

Opponents who claimed that the bill's restriction was unconstitutional were supported by Democratic Majority Leader Albert Blumenthal. Reported in: *Syracuse Herald-Journal,* June 12.

Halsey, Oregon

After Central Linn School District directors unanimously accepted a review committee's report which recommended that Steinbeck's *Of Mice and Men* be retained in the library at Central Linn High School, Evelyn Chose said she was "very disappointed in the decision." She announced plans to circulate a petition in the community supporting the removal of all books containing "obscene" words.

Chose filed a written complaint with the board about the novel in May. The book was on a suggested reading list for a sophomore American literature class. "I can't believe the board would allow such trash in our schools," Chose declared.

The review committee–composed of two teachers, one librarian, one school principal, one school board member, and two community representatives–dismissed Chose's complaint in part because the novel appeared on no required reading lists. Reported in: *Albany* (Ore.) *Democrat Herald,* June 10, 11.

Nashville, Tennessee

After stating that he was "in total agreement" with the purposes of the proposed law, Nashville Metro Mayor Beverly Briley vetoed a controversial anti-obscenity ordinance approved in a twenty-four-to-eleven vote of the Metro Council.

"As a lawyer, I have a deep concern about the method in which the ordinance proposes to deal with the obscenity problem," Briley stated. "State laws, with appropriate enforcement procedures, can eliminate and control what I consider to be a severe and increasing problem in all of our communities."

The bill as passed would have allowed anyone to swear out a warrant by showing probable cause to a judge that the law had been violated. Opponents of the measure said it would have resulted in the harassment of businesses and in "witch hunts" by self-appointed censors. Reported in: *Nashville Banner,* June 4, 13.

Raleigh, North Carolina

A bill aimed at "strengthening" North Carolina's 1974 obscenity law was killed in the House Judiciary Committee on a voice vote. The bill, backed by the Christian Action League, would have given district attorneys the authority to seize books, magazines, and movies believed to be obscene and to arrest and prosecute those distributing such materials.

North Carolina's 1974 law requires a prior civil determination of obscenity, and further stipulates that prosecutions must be limited to sales or other disseminations of obscene materials which occur after the judicial declaration of obscenity.

At a public hearing, members of the Christian Action League said they believed the law makes it too difficult to obtain convictions. One clergyman suggested that some abridgment of individual liberty was necessary in order to eliminate "fronts for sin."

Representative William Creech, who led the opposition to the bill, said the measure would have made district attorneys the censors of North Carolina communities. Reported in: *Durham Sun,* May 29; *Raleigh News and Observer,* May 30.

(Censorship dateline . . . from page 141)

broad that it would ban exposure in a public restroom, the city council tried again and passed two ordinances, one designed to outlaw nudity in public and the other to ban it in establishments selling beer and liquor. However, the law does not apply to exposures occurring in "live stage plays, live theatrical performances, or live dance performances conducted in a theater, concert hall or similar establishment . . . primarily devoted to theatrical performances." Reported in: *Des Moines Register,* June 3.

Overland Park, Kansas

Complaints about two popular sex education booklets,

Ten Heavy Facts About Sex and *Protect Yourself From Becoming an Unwanted Parent,* prompted the Johnson County Health Department to remove the two publications from the county-funded Overland Park Youth Clinic.

The Johnson County commissioners requested the action after receiving calls from groups of citizens who insisted that the works are pornographic and obscene.

Linda Larson, director of the clinic, insisted that removal of the works would be only temporary. "My personal opinion and my professional opinion is that they are not pornographic. They're education," said Larson.

Leota Boyd, who was among the persons complaining to the county commissioners, disagreed: "I feel basically that this type of material . . . promotes masturbation, homosexuality, and perversion by way of our tax money." Reported in: *Topeka State Journal,* June 9.

Boston, Massachusetts

Public broadcasting in Boston contains too much sex, according to the charges in the May issue of Morality in Media's newsletter. The newsletter scored "Monty Python's Flying Circus," broadcast on WGBH-TV, and criticized radio WGBH for playing "bawdy songs."

The broadcast watchdog group charged that the stations broadcast obscenities, vulgarisms, sacrilege, and profanity, with "more and more appeal being made to the commercial stations' audience through the use of explicit, illicit sex-oriented ads." Reported in: *Variety,* June 4.

Rapid City, South Dakota

The Rapid City Common Council formed a special committee on obscenity and pornography in response to voters (fifty-nine percent of the total) who said yes to the following question in the April election: "Should the common council of the city of Rapid City enact a comprehensive ordinance defining and prohibiting the sale or distribution or exhibition of obscene and pornographic matter to adults and minors?"

Eleven citizens were named to the committee, to whose chair Alderman Harold Schmidt was appointed. Commenting on the role of the committee, Schmidt said: "I'm not going to try to influence the committee, but I disagree with people who tell me we did not have a mandate to enact an ordinance because the vote was only fifty-nine percent."

"Most people are afraid of censorship, so they oppose any form of restriction. . . . I can't agree that people shouldn't oppose some things that are degrading to human beings, for instance, sex relations between humans and animals," Schmidt said. Reported in: *Rapid City Journal,* June 1.

(From the bench . . . from page 147)

adult book and magazine store, guilty of fourteen counts of distributing obscene materials. Assistant City Prosecutor Richard Dunning argued that fourteen magazines bought at the store were obscene according to contemporary community standards in Omaha.

A psychologist from the University of Nebraska-Lincoln testified that the so-called obscene magazines have educational and therapeutic value. Reported in: *Omaha World Herald,* June 18.

Las Vegas, Nevada

Three companies were fined $10,000 each in U.S. District Court for transporting obscene material across state lines by commercial airliner. U.S. District Court Judge Roger Foley imposed the fines after Knightsbridge Station, C.A. Cinema Inc., and M.C. Cinema Inc. pleased *nolo contendere* to four of the five counts against them. Reported in: *Las Vegas Review-Journal,* June 24.

Camden County, New Jersey

After viewing two allegedly obscene films and deliberating for more than ten hours, a Camden County Superior Court jury acquitted two Stratford bookstore operators charged with possession and sale of obscene materials.

The not-guilty verdicts, handed down before Judge R. Cooper Brown, represented the county prosecutor's third setback this year in efforts to define community standards on obscenity.

John McFeeley, an assistant prosecutor and head of the county's anti-obscenity squad, commented on the verdicts: "I don't know what community standards they [the jury] applied to the case, but I wouldn't want to live in that community." Reported in: *Philadelphia Inquirer,* July 25.

Buffalo, New York

A theater operator was sentenced to sixty days in the Erie County Correctional Facility by City Judge Joseph J. Sedita after he pleaded guilty to knowingly promoting obscenity. The operator, Kenneth Bunford, was charged with exhibiting a film depicting acts of "deviate sexual conduct." Reported in: *Buffalo News,* July 9.

Schenectady, New York

Schenectady County Judge Archibald C. Wemple declared a mistrial when an all-male jury was unable to reach a decision on whether the former proprietor of a Schenectady bookstore was guilty of obscenity in the sale of two magazines. The jury, which deliberated for eight hours, returned to the courtroom four times for instructions from the judge, seeking definitions for such words as "morbid." Reported in: *Schenectady Gazette,* June 5.

etc.

Washington, D.C.

Richard M. Nixon was ordered in July to give testimony to lawyers seeking access to White House papers and tapes accumulated during his tenure as president. A three-judge federal panel said lawyers for columnist Jack Anderson had the right to take an oral deposition from the former president at or near his home in California.

The order was handed down in what apparently will be an extremely long court fight over millions of White House documents and thousands of hours of tapes. Reported in: *Chicago Sun-Times,* July 18.

Concord, New Hampshire

Ruling in a suit brought against New Hampshire Governor Meldrim Thomson Jr. and his executive council by contributors to *Granite Magazine,* a poetry journal, and Advocates for the Arts, a New York-based nonprofit arts group, U.S. District Court Judge Hugh J. Bownes declared that the governor and his council possessed authority to block federal arts money for the magazine.

The governor and his council last year rejected a $750 grant to *Granite* from the New Hampshire Commission on the Arts. After the governor was shown an issue of the magazine containing a poem called "Castrating the Cat" by Michael McMahon, he characterized the work as "an item of filth."

The suit against the governor contended that the rejection of the grant was tantamount to prior restraint on freedom of expression. Judge Bownes disagreed and dismissed the suit. "While the governor and council are not widely known for their professional competence and experience in connection with the performing and fine arts, they still have the discretionary powers to refuse to distribute funds to a project because they do not find it to be artistically deserving," the judge concluded. Reported in: *New York Times,* July 19.

(Is it legal . . . from page 149)

maximum security at the Utah institution are deprived of all mail "of a political nature." Letters from *Science and Society* and *The Guardian* are included in the court file. Reported in: *Salt Lake City Tribune,* June 13.

obscenity, etc.

Edison, New Jersey

Responding to demands from township residents who opposed the operation of a local adult bookstore, the Edison Township Council unanimously adopted an obscenity ordinance providing that "community standards" of what is "obscene" shall be determined by the majority of the township council.

A representative of the American Civil Liberties Union vigorously protested the ordinance. "The imposition of the standards of a small number of people on the whole community is precisely what the First Amendment was designed to prevent," said Jane Snyder, chairperson of the Middlesex County Chapter of the ACLU. The civil liberties organization pledged to represent "anyone who is harassed under this ordinance." Reported in: *New Brunswick Home News,* June 12.

Toledo, Ohio

Toledo's ordinance banning the public display of sexually explicit material is unconstitutional under the ruling of the U.S. Supreme Court which struck down a Jacksonville, Florida ordinance prohibiting nude scenes on drive-in theater screens (see "From the Bench"), according to John Burkhart, the city's chief legal counsel.

The Toledo ordinance was passed in 1972 after residents near a drive-in theater objected to the exhibition of *X*-rated films on a screen visible from nearby residences. However, some officials found the law unnecessary.

Captain Norbert DeClerq, head of the Toledo police division morals squad, said he had received complaints involving films at drive-in theaters, but that in each instance the issue had been resolved after the theater management agreed to eliminate offensive scenes. Reported in: *Toledo Blade,* June 24.

Providence, Rhode Island

Two Rhode Island senators who cosponsored the state's new law banning *X*-rated films from drive-ins with screens visible from highways expressed hope that the U.S. Supreme Court ruling on the Jacksonville, Florida ordinance would not invalidate the law.

"It could be that ours is okay," Senator Louis H. Pastore Jr. said of the law which he sponsored with Senator Guido Canulla. The Rhode Island law differs from the Jacksonville ordinance in that it bans only *X*-rated films. Reported in: *Providence Bulletin,* June 25.

Memphis, Tennessee

Tennessee Attorney General Hugh W. Stanton Jr. said in June that his office would appeal a circuit court ruling which delcared a section of the state obscenity law unconstitutional. "I think the ruling, if left unappealed, would have the practical effect of destroying the statute," Stanton said.

Circuit Court Judge John McCarroll notified prosecutors in June that he would strike down part of the law in a suit challenging the attorney general's seizure of fifty films and business records from theater owner Carl Carter.

McCarroll said that a section of the obscenity law "is

unconstitutional in that it gives the district attorney general or his representative the power to make an on-the-spot evaluation as to the question of whether or not the material is obscene." Carter's attorney said that an "on-the-spot" evaluation deprived Carter of his "protection of due process." Reported in: *Memphis Press-Scimitar,* June 6.

(Library records . . . from page 133)

The First Amendment "necessarily protects the right to receive" information, *Martin* v. *City of Struthers,* 319 U.S. 141, 143 (1943). It protects the anonymity of the author, *Talley* v. *California,* 362 U.S. 60 (1960); the anonymity of members of organizations, *Gibson* v. *Florida Legislative Investigation Committee,* 372 U.S. 539 (1963); *Bates* v. *City of Little Rock,* 361 U.S. 516 (1960); *NAACP* v. *Alabama,* 357 U.S. 449 (1958); the right to ask persons to join a labor organization without registering to do so, *Thomas* v. *Collins,* 323 U.S. 516 (1945), the right to dispense and to receive birth control information in private, *Griswold* v. *Connecticut,* 381 U.S. 479 (1965); the right to have controversial mail delivered without written request, *Lamont* v. *Postmaster General,* 381 U.S. 301 (1965); the right to go to a meeting without being questioned as to whether you attended or what you said, *DeGregory* v. *Attorney General of New Hampshire,* 354 U.S. 234 (1957), and the right to view a pornographic film in the privacy of your own home without governmental intrusion, *Stanley* v. *Georgia,* 394 U.S. 557 (1969).

In light of these authorities, we believe that the First Amendment guarantee of freedom of speech and press extends to the reader or viewer, and protects against state compelled public disclosure of a person's reading or viewing habits, at least in the absence of a showing of a clear and present danger which threatens an overriding and compelling state interest. Even if such a threat were shown to exist, we do not believe that the Open Records Act provides that "precision of regulation," *NAACP* v. *Button,* 371 U.S. 415, 438 (1963) which is required in this area to insure that the least drastic means for achieving a permissible purpose are used, *Shelton* v. *Tucker,* 364 U.S. 479, 488 (1960).

If by virtue of the First and Fourteenth Amendments, "a state has no business telling a man, sitting alone in his own house, what books he may read or what films he may watch," *Stanley* v. *Georgia, supra* at 565, then neither does the state have any business telling that man's neighbor what book or picture he has checked out of the public library to read or view in the privacy of his home.

Thus, it is our decision that information which would reveal the identity of a library patron in connection with the object of his or her attention is excepted from disclosure by section 3(a)(1) as information deemed confidential by constitutional law.

However, we do not believe that this constitutional protection extends beyond the identification of an individual patron with the object of his or her attention. Thus, we do not believe the fact that a person has used the library, owes or has paid a fine is confidential information.

(IFC Report . . . from page 136)

tent jurisdiction. (I.e., upon receipt of such process, order, or subpoena, the library's officers will consult with their legal counsel to determine if such process, order, or subpoena is in proper form and if there is a showing of good cause for its issuance; if the process, order, or subpoena is not in proper form or if good cause has not been shown, they will insist that such defects be cured.)

"Resolution Concerning the Ownership of the Records of Public Officials"

Whereas, The historical records of the Government of the United States is preserved in large measure by the papers and other documents public officials maintain; and

Whereas, Past tradition that the records of public officials are their private property has cost the nation a part of its heritage through loss, destruction, or denial of access to those records; and

Whereas, The public's right of access to information concerning the activities of its government is better served when ownership of the records of public officials is vested in the public; and

Whereas, A strong independent archival agency offers the best promise of sound professional administration and preservation of and access to the documents of public officials; now therefore be it

Resolved, That the American Library Association endorses the principle that records and documents produced by or on behalf of all federal officials in pursuit of the public business are and ought to be, by law, public property, and urges the Public Documents Commission to recommend legislation to this effect; and

Be it Further Resolved, That the American Library Association endorses the proposal that the records of federal officials be administered by a strengthened, independent federal archival agency which would apply professional archival standards to the preservation of those records and provide equitable access to them.

"Papers and Other Records of Public Officials: A Position Paper"

Since the founding of the nation, the United States has made most inadequate provision for the preservation of the records generated by its public officials. Even the records generated by its highest officeholder, the president, have

been inadequately preserved. Beginning with President Washington, each president has disposed of the records of his administration as he wished at the end of his term, acting as though they were his private property, rather than the records of important public affairs. Many of the presidential records, with no plan for systematic preservation and access, have been destroyed, deliberately or through accident, others have been willfully withheld from the scrutiny of scholars, and only a fraction of them have become available to the public in libraries and archives. Most of the historical record has been dissipated through lack of a rational public policy concerning ownership and access to the records of the presidency.

Only with the conception of the first presidential library by President Franklin Delano Roosevelt did a systematic approach to preservation of the records of a president begin.[1] While it must be acknowledged that the record has been better maintained in that library, and the subsequent presidential libraries, preservation of the records of recent presidents has depended on a spirit of cooperation between the presidents and the government, represented by the National Archives and Record Service, since the presidential library system is based on the assumption that the records of a president are his personal property which he may voluntarily place under the administration of the National Archives. How fragile a basis for preservation of the documents recording the nation's history this system represents was made abundantly clear by the so-called "Nixon-Sampson Agreement," which would have provided, eventually, for the destruction of tape recordings made in the White House and Executive Office Building during Mr. Nixon's administration. Mr. Nixon's letter to General Services Administrator Sampson would also have lodged with the former president the right to determine who might have access to the records of his presidency. He attempted to establish both his personal ownership of the records and his authority to control access to them.

While the disposition of records of the presidency of Richard M. Nixon has provided the most celebrated controversy surrounding records of public officials, other cases have bearing on the problems of ownership and of access to such records. The Adams family had successfully prevented access, for more than a century, to the papers of John Adams and John Quincy Adams. The executors of the estate of Justice Hugo L. Black, carrying out his dictates, destroyed his bench notes. The list of public officials who have successfully denied the American public information contained in the records of their tenure could easily be multiplied, but these few cases securely establish the danger inherent in the tradition that the records of public officers are their own private property.

The Presidential Recordings and Materials Preservation Act, approved December 19, 1974, departed from the unsatisfactory traditions of the past by asserting the preeminence of the federal government's rights to possession and control of the "Presidential historical materials of Richard M. Nixon." As part of the same law, the Congress passed the Public Documents Act establishing a Public Documents Commission to study "problems and questions with respect to the control, disposition, and preservation of the records and documents produced by or on behalf of federal officials," and to make recommendations for appropriate legislation concerning them. In the next several months the Commission, once appointed, will begin to hold hearings, and to consider the many conflicting arguments that are certain to be presented.

The American Library Association has an important interest in the Commission's recommendations. The records of many federal officials have become the property of libraries, and librarians, as well as archivists and historians, have maintained a lively interest in the preservation of historical records. The Association's policies on freedom of access to information make it imperative that it support a position most likely to assure the American public as complete as possible a record of its national history.

Such a position may have been suggested to the Association by the American Assembly, Columbia University, which devoted its meeting, April 3-5, 1975, to the subject, "The Records of Public Officials." The participants included archivists, businessmen, historians, journalists, lawyers, librarians, publishers, and members or employees of the administrative, judicial, and legislative branches of the federal government. While the report issued by the American Assembly has no official status, it represents the best thinking of a group of men and women selected for their knowledge and concern about the topic. After their three days of detailed and informed discussion, the Assembly strongly recommended that the records of all federal officials, whether in the administrative, judicial, or legislative branches of government be made, by law, public property, owned by the federal government and preserved and made accessible under professional archival standards administered by a strong and independent federal archival service.[2]

There are many problems inherent in public ownership, the tendency of some officials to avoid creating records if they know they may be preserved, the danger that unprincipled officials could use the records of their predecessor to unfair advantage, among others. These problems appear less threatening to the preservation of the historical record, however, than the proven danger of the past tradition. Private owners, even though they may have held the highest offices in the land, often have proven to be inadequate custodians of the public record. More recently the public has had cause to fear that private ownership could lead to deliberate destruction to hide the truth the records might reveal.

The American Library Association endorses the position that the records of federal public officials are, and ought to be, public documents, under law, preserved, and made ac-

cessible, under professional archival standards, and administered by a strong, independent, national archival agency.

The most important issue is the preservation of the record. If that record is entrusted to a strong, independent agency not only preservation, but access, under reasonable time and security restraints, can be assured. Under our old practice neither preservation nor free access could be guaranteed. The best interests of the American Library Association and of the scholarly community lie in public ownership of the records of public officers.

1. The first presidential library was the Rutherford B. Hayes Library in Fremont, Ohio, which was founded in 1910. But it is a private library with no connection with the government.
2. At present the National Archives and Records Service is administered by the General Services Administration.

CBS requests exemption for Ford press conferences

Looking ahead to problems in the 1976 presidential election year, the Columbia Broadcasting System asked the Federal Communications Commission to rule that press conferences given by declared presidential candidate Gerald Ford are exempt from the equal time provisions of the Communications Act.

CBS pointed out that Ford's press conferences will be subject to the act as soon as another Republican throws his hat in the ring. The FCC ruled in 1964 that the broadcasting of news conferences constitutes "use" under Section 315 of the Act, since they are not "bona fide news interviews" or "on-the-spot coverage of bona fide news events."

CBS said "the President's candidacy will effectively preclude live coverage of press conferences for fifteen months." Reported in: *Variety,* July 23.

ABA unit urges repeal of equal time rule

A special committee of the American Bar Association devoted to election reform voted in July to recommend complete repeal of the equal time rule for broadcasts by political candidates. The recommendation was scheduled for presentation to the ABA's general membership at the organization's summer meeting in Montreal.

The committee contended that the equal time provision of the Communications Act has failed to contribute to the dissemination of the views of different candidates in an election.

"History so shows," the report stated, "that equal opportunity requirements have substantially discouraged broadcasters from supplying free time to presidential candidates . . . [and] debates and others forms of exchange of views by and between candidates have been avoided because every time one candidate is given free time, all candidates in a race will likely request equivalent time."

The ABA report adds that some additional guidelines to prevent blatant discrimination against a party or candidate may be necessary if the equal time provision is voided. Reported in: *Variety,* July 16.

Justice opposes information bill

The U.S. Department of Justice decided in June officially to oppose legislation designed to protect federal employees from retaliation by their superiors when they reveal evidence of waste and corruption in government agencies.

The measure, sponsored by Senator Edward M. Kennedy (D.-Mass.), would protect government workers who give the press information that an agency is required to make public under the Freedom of Information Act. Mary C. Lawton, Deputy Assistant Attorney General, told a Senate subcommittee in June that the department agreed with the objectives of the bill, but her formal statement criticized nearly every provision in it.

Lawton stated that "we do not find a need for the rights granted by this bill," and that "we do not believe that employees should be immunized against the unauthorized disclosure of information through the bypassing of the administrative process." Reported in: *New York Times,* June 13.

CIA surveillance of colleges revealed

According to the report of the Commission on CIA Activities Within the United States, chaired by Vice-President Nelson A. Rockefeller, the Central Intelligence Agency analyzed the risk of disturbances at several universities, read every college paper it could get, and kept files on dissenting organizations and individuals, with an index of more than 12,000 names of persons mentioned in the files.

According to an analysis published in the *Chronicle of Higher Education* (June 23), the two CIA operations most heavily involved in campus activities were "Operation Chaos," which sought to analyze possible foreign connections of domestic dissident groups, and a security program designed to protect CIA installations and personnel from "potentially violent dissent."

Among the groups on which the CIA maintained files were Students for a Democratic Society, the National Mobilization Committee to End the War in Vietnam, the Student Nonviolent Coordinating Committee, and the Black Panther Party.

S.1 is a bad one

AAParagraphs

To the long and ever-lengthening list of issues that concern—and consolidate—publishers and librarians, add S.1.

That's the official title of a 753-page bill, meaning it was the first piece of legislation introduced in the U.S. Senate when the Ninety-fourth Congress opened last January. S.1 is commonly called a recodification of federal criminal statutes, but if it were merely that, it would not be causing the furore it has in free-speech circles. Rather, it is a compilation *plus* revision of criminal laws, and it is the revisions—particularly in the areas of restrictions on the free flow of government information and on dissemination of purportedly "obscene" materials—that trouble ALA and AAP.

"Let's jail anybody who says anything," suggested a catchy, if somewhat exaggerated, *Washington Post* headline that topped a particularly scathing commentary on S.1. But even the relatively moderate Fred Graham, now-CBS, once-*New York Times* law correspondent, has said of S.1 that "it would enact into law some of the authoritarian ideas of John Mitchell that so poisoned the legal landscape during the administration of Richard Nixon."

Alongside declarations like those, the statements submitted to the Senate Judiciary Committee by ALA and AAP are restrained indeed:

ALA: "Several sections would, if enacted into law, adversely affect library service in the U.S. 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.' . . ."

AAP: "Notwithstanding some of the salutary changes (from previous versions of this bill), the AAP remains concerned with the severe impediments to freedom of expression and the free flow of information which remain in the bill. . . . (Certain sections) would tighten the noose of government secrecy beyond that conceivably required for any purpose. Together, the entire scheme can be used to inhibit the very kind of reporting, writing and publishing the First Amendment is designed to protect and enhance. . . . While the intent of the (obscenity) section is presumably to deal with the type of 'hard core' pornography discussed by the Supreme Court, experience has shown that everything, from classics of literature to textbooks to news magazines, can be brought within the terms of a statute as vague as the one at hand."

Although by the time this is published the bill is likely to have moved from subcommittee to full Senate Judiciary Committee consideration—and although some form of criminal law recodification is bound to pass some day—the outlook is far from hopeless. President Ford, in his crime message last June, took notice of the fact that "concern has been expressed that certain provisions of the bill designed to protect classified information could adversely affect freedom of the press." The president called for a careful balancing of the need to protect national security secrets with "the free flow of information necessary to our form of government."

This is not the place to go into the specifics of the objectionable sections of a massive bill like S.1. Suffice it to say that a coalition of print and electronic media organizations has been working with sympathetic congressional staffers to devise more balanced national security language. (The cause of reasonable modification of the obscenity sections has fewer adherents—but that effort is being pressed also.) Many of the eleven authors of the bill—Senators McClellan (Ark.), Hruska (Neb.), Bayh (Ind.), Eastland (Miss.), Fong (Hawaii), Griffin (Mich.), Mansfield (Mont.), Moss (Utah), Scott (Pa.), Taft (Ohio) and Tower (Texas)—have indicated varying degrees of willingness to entertain amendments that would protect First Amendment rights. Their receptiveness should be vigorously encouraged by contacts from constituents—as it has been and will continue to be by members of AAP and ALA.

Fred Graham's July broadcast raised the possibility that "S.1 will become bogged down in bitter controversies reminiscent of the Mitchell-Nixon era and that the much-needed revamping of the federal laws will be delayed for many, many, years." If the choice should come to be between that indeed-unfortunate possibility and enactment of S.1 as originally written, however, "bogging down" could begin to look awfully good.

(The published word . . . from page 137)

Rubin suggests that Congress should vigorously and combatively exercise its powers as specified in the Constitution and should insist on the "widest possible dissemination of operative information consistent with the national security."

The question of First Amendment protections for commercial communications is the topic of another paper by Patricia Goss, a speech and theater instructor at the City University of New York. Goss claims that official regulation of the transmission and reception of messages interferes with the nation's communications process. The author concludes that the First Amendment should be considered as protective of the communication of commercial information about consumer goods and services.

In the final article, Mary Ann Yodelis, assistant professor of mass communication law at the University of Wisconsin, provides a thoroughly documented review of

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

contemporary legal questions about the right of access to the press. Yodelis discusses legal problems stemming from the case involving a *Miami Herald* editorial that was critical of Pat L. Tornillo Jr. In the case, Tornillo requested the *Herald* to publish a personal reply, but the newspaper refused. Tornillo then invoked the Florida right-to-reply statute. On appeal, the U.S. Supreme Court declared that the Florida statute violated the First Amendment. Yodelis regards the rejection of Florida's right-to-reply law as a setback for a "new right" of access to the press.

This symposium issue of the *New York Law Forum* is a very appropriate tribute to the "sterling" legal career of Morris L. Ernst, who still continues to practice law at the age of eighty-six. While most large university and research libraries and some public libraries already subscribe to this serial publication, they and other libraries would be wise to purchase a copy of this issue for use as an informative, circulating work. Librarians themselves have a professional obligation to be familiar with legal interpretations of First Amendment issues. Single copies, priced at $5.00, are available from William S. Hein & Co., 369-379 Niagara St., Buffalo, N.Y. 14201.–*Reviewed by Charles S. Busha, Associate Professor of Library Science, University of South Florida.*

Censored! A filmstrip, with cassette tape, on censorship in the U.S. $18.50

This ninety-frame color filmstrip outlines the history of attempts to limit our First Amendment freedoms of speech and the press, from the Alien and Sedition Acts to the 1973 decisions of the U.S. Supreme Court on obscenity. The light but effective touch of Karyn Kruse, who designed and produced *Censored!,* should prove to be a hit with any group old enough to understand the basic questions of human liberty. (Also available as slide set with cassette tape, $35.00, and as slide set with non-warp mounts, $39.50. Order from Karyn Kruse, 1045 Prairie Avenue, Beloit, Wisconsin 53511.)

freedom of the press

In India: To no one's surprise, Indira Gandhi's decision to suspend parliamentary rule in "the world's largest democracy" was immediately accompanied by strict censorship of reports and articles by both domestic and foreign journalists. Although they were widely ignored and unevenly enforced at best, the Indian government's official censorship guidelines were comprehensive in intent, including within their purview everything from stories "likely to affect India's relations with foreign countries" to "articles which encourage the people to break prohibitory laws." According to the official English text of the guidelines, "the purpose of censorship is to guide and advise the press to guard against publication of unauthorized, irresponsible or demoralizing news items, reports, conjectures or rumors."

In Great Britain: Although the British traditions of liberty are often looked upon as the progenitors of our own, the British press even today works under restraints that most American news reporters and editors would consider outrageous. Judicially imposed restrictions prevent discussion in the press of any issue involved in litigation before the courts. As a consequence, the British press was prohibited from publishing any information about the thalidomide scandal for more than ten years while victims of the drug sought compensation from the manufacturer. Any revelation of a Watergate-type scandal in Great Britain is considered by most informed observers to be a near impossibility due to the Official Secrets Act. Now, as if to compound the problems of the British press, the British Attorney General, in an attempt to halt the publication of the Crossman Diaries (see article in this issue), has set forth a common law doctrine of "confidence." Although the government admits that no issues of national security are involved in publication of the diaries, it still insists upon what it calls "a right of confidence."

In the United States: Our achievements, in terms of freedom of the press, are indeed remarkable, but however noteworthy, they have also been necessary for the preservation of our democracy, as recent events confirm. Nonetheless, S. 1, the federal criminal code reform act now before the Congress, would give us an official secrets act. Perhaps we need to remind ourselves, and to remind our congressional representatives, that a clause of the Constitution specifies that "Congress shall make no law" abridging the freedom of the press. RLF

new AL policy approved by council

The editor of *American Libraries* "will be guaranteed independence in gathering, reporting, and publishing news according to the principles embodied in the American Library Association's policies on intellectual freedom," the ALA Council declared in a resolution concerning the ALA's journal which was adopted at the association's annual conference in July.

The action taken by the Council also approved the recommendation of the ALA Committee on Organization that the *AL* editor report directly to the ALA executive director, rather than to a committee on ALA publishing activities. Members of COO believed that the special role of *AL* in the association requires special lines of responsibility.

In addition, the Council established an *AL* editorial advisory committee whose "function shall be limited to advice to the editor on editorial matters." The committee of seven members will represent various "interests" within

the association.

COO's recommendations went to the Council one year after most of *AL's* editorial staff, including then-Editor John Gordon Burke, resigned to protest an order from ALA Executive Director Robert Wedgeworth to fire *AL's* Washington reporter.

alternative books approved for Kanawha schools

At its July 10 meeting, the Kanawha County Board of Education approved the selection of textbooks to be used by students whose parents objected to the D.C. Heath series *Communicating.*

The Heath books drew heated criticism at the height of the textbook dispute last year. They were ultimately removed from classroom shelves and relegated to libraries, where only students with permission slips from home were allowed to use them.

In response to parents who complained about the lack of alternative material for their children, the board of education approved a series published by Harcourt Brace Jovanovich, *Language for Daily Use.* Reported in: *Charleston Gazette,* July 11.

More convicted

In criminal actions stemming from the book protests, Melvin Dickerson and Jeannie Lynn Stevens joined two other persons, including Stevens' husband, on the list of persons convicted of conspiracy and the bombing of public schools.

Stevens, convicted in June on two counts, faced a sentence of ten years in jail and a $15,000 fine. Dickerson faced a maximum sentence of thirty-five years in prison and a $40,000 fine. Reported in: *Pittsburgh Press,* June 12.

Jones Award goes to IFC and IFRT

In a ceremony at the inaugural luncheon which closed the ALA's ninety-fourth annual conference in San Francisco, the $12,000 J. Morris Jones-World Book Encyclopedia-ALA Goals Award was presented to the Intellectual Freedom Committee and the Intellectual Freedom Round Table. The award will help support the appeal in *Moore* v. *Younger,* the suit challenging California's "harmful matter" law which was initiated by the Freedom to Read Foundation.

The two ALA units sought the award because of the importance of the suit for the ALA's intellectual freedom program. In the language of the citation which accompanied the award, the objective of the suit is "the establishment of legal precedent for protecting librarians from criminal prosecution by achieving recognition that U.S. libraries are primary First Amendment institutions through which citizens can have, as a matter of right, access to any work they desire."

The cash award, granted annually to ALA units to fund priority projects, was established in 1960 by the ALA and Field Enterprises Educational Corporation. J. Morris Jones, whom the award now commemorates, was editor-in-chief of *World Book Encyclopedia* from 1940 until his death in 1962.

efforts made to end the UNESCO-Israel dispute

Efforts were begun in July to resolve the dispute between the United Nations Educational, Scientific, and Cultural Organization and Israel, as well as the feud between the UN agency and several supporting countries.

The difficulties began last November, when the agency's governing body, the General Conference, passed two resolutions cutting off Israel from UNESCO aid and barring the Jewish state from UNESCO's European regional group. The majority also censured Israel, accusing the country of having ignored seven years of demands that archeological excavations in the Old City of Jerusalem be halted.

Efforts were also made in July to resolve differences between UNESCO and France and Switzerland, which reduced their contributions to the agency by ten percent, and the United States, which withheld payment of its quarter share of the 135-nation agency's budget because of the sanctions against Israel.

At its 1975 Midwinter Meeting in Chicago, the American Libarary Association urged UNESCO to admit Israel "immediately as a member of the European regional group with full powers of participation in regional activities." The ALA also urged the Congress to restore U.S. funding for the activities of UNESCO as soon as Israel was restored to full participation in the European regional group. Reported in: *New York Times,* July 20.

environmental impact?

More than 1500 Minneapolis residents petitioned state officials in July to prepare an environmental impact statement on the potential effects of their neighborhood's new adult theater. But the state's Environmental Quality Council, ordinarily used to dealing with things like power plants, soon hinted that it lacked the expertise to evaluate the impact of sexually explicit movies. However, one council member indicated that he was eager "to look at the material evidence." Reported in: *Minneapolis Tribune,* July 9.

study of government surveillance funded

The performance of government intelligence agencies in the U.S. and the problems of oversight and control of their activities will be the subject of a new study approved by the trustees of the Twentieth Century Fund, the New York-based foundation announced in June.

The two-year research project will be conducted by Richard E. Morgan, professor of constitutional law at Bowdoin College. Pointing out that the question of how far the government may properly go in observing the political activities of its citizens is not new, Morgan stated that developments since Watergate have created the prospect of a significant change in the laws controlling political surveillance.

Morgan's research will include the historical background of political surveillance in the U.S.; he will also examine the various agencies at federal, state, and local levels of government that spy on citizens.

California books omit biblical 'creation'

The California Board of Education adopted new science and social science textbooks in July, but none of the works contained any reference to the biblical theory of the creation of the world.

Two years ago, the state board settled a bitter fight by deciding to include a biblical theory in social science books containing philosophical discussions on the beginning of life. The decision represented a compromise after religious fundamentalists failed to win board approval for placing the biblical account of creation in science textbooks as an alternative to the Darwinian evolutionary theory.

The failure to include the biblical version "boggles the mind," said board member Eugene Ragle. Ragle and the board's president, John Ford, voted against the adoption of the new books in protest against the exclusion of the religious doctrine. Reported in: *Los Angeles Times,* July 11.

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smut fighter wins big libel judgment

One of England's best known pornography fighters and a former member of the British Parliament won a $100,000 settlement and a public apology from a publisher who named the hero of a pornographic novel after the statesman. The settlement came in the second day of a libel action filed in New York courts by Sir Cyril Black against publisher Maurice Girodias of Olympic Press.

The book, *Sir Cyril Black,* did not further identify its hero except to describe him as having "long legs, grey eyes, and black hair."

Sir Cyril, who served in the House of Commons from 1950 to 1970, said in Manhattan, "I have long legs, blue-grey eyes, and my hair was black—once." Reported in: *New York Daily News,* June 5.

British common law used against obscenity

A British criminal court jury ruled in London that a Swedish sex education film, *Language of Love,* is grossly indecent and a public outrage. Fines totalling $1,150 were assessed against the London distributor and one of its theater managers.

London theater managers were shocked by the decision because it was handed down, not under the British obscenity statute, but rather under common law. In the prosecution under common law, there was no need to prove that "taken as a whole" the film tended to corrupt or deprave. Public decency was the sole criterion. Reported in: *Variety,* June 11.

Israeli censor approves revised Kissinger book

A revised version of a banned book on Secretary of State Henry Kissinger's Middle East activities was cleared by the Israeli military censor, according to an announcement made by the book's author in early July. Matti Golan, the author, submitted a revised manuscript to the censor in June.

The original version contained many highly confidential documents and transcripts of meetings between Secretary Kissinger and Israeli officials.

In an interview, the author declined to say how his revised manuscript differed from the original, but it was widely assumed that the official data was paraphrased. Reported in: *New York Times,* July 9.

Canadians can challenge the censor

The Supreme Court of Canada ruled in May that private citizens can legally challenge the validity of Nova Scotia's film censorship laws. Chief Justice Bora Laskin, speaking for all nine members of the federal bench, decreed that former Dartmouth Free Press managing editor Gerard McNeil can challenge the powers of the Regulation Board

of Nova Scotia (formerly the Nova Scotia Board of Censors).

According to McNeil, the case began when he vainly tried to persuade the censor board to overturn its ban of *Last Tango in Paris.* First refused permission to sue, he won a court decision permitting a suit, but the provincial government appealed the ruling to the Canadian Supreme Court. Reported in: *Variety,* May 28.

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