newsletter on
intellectual freedom
IFC ALA

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Senate approves criminal code revision

In late January the U.S. Senate approved the first comprehensive overhaul of the federal criminal code in the nation's history. The vote was seventy-five to fifteen.

Voting on the measure, S. 1437, was blocked by Senator James B. Allen (D.-Ala.) until the Senate agreed to reinstate the Logan Act of 1799. That provision, which prohibits private citizens from corresponding directly with foreign governments, was eliminated from the code in committee.

The 382-page recodification represents the work of reformers over a period of nearly twelve years. Efforts to obtain passage in previous Congresses were blocked by civil libertarians and groups organized to revise or eliminate repressive sections of the bill.

Backers of the bill—led by Senators Edward M. Kennedy (D.-Mass.) and, until his death in late 1977, John McClellan (D.-Ark.)—claim that the approved measure would:

- Greatly reduce wide disparities in sentencing for federal crimes.
- Broaden civil rights laws.
- Sharply reduce penalties for possession of small amounts of marijuana.
- Establish a program to compensate victims of crime.

Portions of the bill would also affect the exercise of First Amendment rights, usually favorably.

- **Obscenity**: Noncommercial transactions between consenting adults would no longer be punishable. Federal prosecutions would not be permitted for intra-state transactions which are legal in the state concerned. Sites of prosecutions would be restricted to the places of production or dissemination; places of mere "transit" could not be used by "forum shopping" prosecutors looking for favorable juries.
- **News media**: News media personnel would no longer be subject to penalities for contempt of court in disobeying "gag" orders which are subsequently ruled invalid. The theft or receipt of government documents would not be a crime if they were taken or received only for purposes of making them public.
- **Sedition**: The Smith Act of 1940, which prohibits advocacy of the overthrow of the government, would be repealed. Court decisions have made it unenforceable.

The House was not expected to take quick action on the measure. Some observers in Washington doubted whether the bill would be given final approval in the current Congress. Reported in: *Chicago Daily News,* January 31; *New York Times,* January 31.

Published by the ALA Intellectual Freedom Committee, Zoia Horn, Chairperson

titles now troublesome

Council orders normal distribution of 'The Speaker'

The Speaker . . . A Film About Freedom continued to be a major and controversial issue at ALA's 1978 Midwinter Meeting in Chicago.

The Council–ALA's governing body–reversed two actions taken last fall by the ALA Executive Board. The Council voted to follow standard procedures for marketing the film. It also voted to drop the plan to form a panel of experts to judge the film's connection with the First Amendment.

The Council did approve, however, a statement adopted by the Executive Board last fall disclaiming that ALA had any racist intent in choosing the film's topic.

Aimed at the adult American, *The Speaker* was designed as an educational tool to engender debate and discussion on First Amendment rights. To accomplish its purpose, the film focuses on a controversy in which it is not easy to take sides.

It opens as the local high school's student-run Special Events Committee, which brings provocative speakers to campus for voluntary programs, is discussing the final speaker of the year. Dr. James Boyd, a university scientist who advocates a theory of genetic inferiority, is chosen. Boyd's selection begins a process of polarization in the community, a process the film follows. Although opposed to censorship, the community objects to the airing of the speaker's ideas. Eventually, Dr. Boyd's appearance is canceled. The speaker will not be heard. Viewers do not hear Boyd's theories themselves, but persuasive arguments both for and against his right to address the school.

During one of the Midwinter Council meetings, Clara Jones, past president of ALA and director of the Detroit Public Library, read a statement signed by twenty five black librarians and endorsed by the ALA Black Caucus, delineating objections to the film. The statement read, in part: "The central thesis of *The Speaker* is counterfeit and falsely identified as a First Amendment issue; and . . . the example chosen to illustrate the principle of free speech is presented in a highly unsuitable and irresponsible fashion, insensitive, in poor taste and skillfully racist."

The Speaker–which premiered at ALA's 1977 Annual Conference–was produced for ALA's Intellectual Freedom Committee by Vision Associates of New York. Written by

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IFC reports to ALA Council

At each ALA Midwinter Meeting and Annual Conference, the Intellectual Freedom Committee submits a report to the Council on its deliberations and policy recommendations. The following report was given at the 1978 Midwinter Meeting by the IFC chairperson, Zoia Horn.

In the last IFC report to the Council, we announced the appointment of a subcommittee to develop a statement representing a compatible synthesis of the *Library Bill of Rights* and the concerns of the Resolution on Racism and Sexism Awareness. The subcommittee met in New York City last fall. The members were unable to agree unanimously on a statement which would represent such a synthesis.

At this Midwinter Meeting, the IFC voted to give further instructions to the subcommittee. These were as follows: that it continue its deliberations on the understanding that "the *Library Bill of Rights* proscribes the use of the library for the promotion of any substantive idea, no matter how valid or widely held". The subcommittee's report and a minority report were presented to the IFC this morning.

The subcommittee report—filed by Grace Slocum, chair; Elliot Shelkrot; and Stephen Oppenheim—follows:

> The *Library Bill of Rights* deals with policies relating to the services of all libraries. The Resolution on Racism and Sexism Awareness deals, for the most part, with relationships of the American Library Association to the profession and is not in conflict with the *Library Bill of Rights* in advocating awareness training programs in library schools, and in-service training of library personnel, and in the reformation of cataloging practices. However, in the section of the Resolution where various units of the Association are urged to develop programs to raise the awareness of library users, a conflict seems to exist. In 1973 the Council of ALA adopted a statement, Racism, Sexism, and Other Isms in Library Materials: An Interpretation of the *Library Bill of Rights,* which concludes with this paragraph: "Intellectual freedom, in its purest sense, promotes no causes, furthers no movements, and favors no viewpoints. It only provides for free access to all ideas through which any and all sides of causes and movements may be expressed, discussed and argued. The librarian cannot let his own preferences limit his degree of tolerance, for freedom is indivisible. Toleration is meaningless without toleration for the detestable."
>
> As programs to raise the awareness of library users to the pressing problems of prejudice, stereotyping, and discrimination because of race, sex, creed, color, and national origin are almost certain to promote a point of view, the conflict with the *Library Bill of Rights* and the 1973 interpretation becomes apparent. The subcommittee suggests that the conflict can be resolved by amending the Resolution on Racism and Sexism Awareness in Section 3 by striking the words "to raise the awareness of library users to" and inserting the words "to encourage libraries to provide materials and information about." With this amendment, the interpretation of "awareness" to mean "promotion" is removed.

The other member of the subcommittee—Miriam Braverman—filed this report, as follows:

> I do not see any contradiction between these two documents. I believe that the addition of the following paragraph to No. 3 of the Resolution on Racism and Sexism Awareness as extended in the Resolution on Prejudice, Stereotyping and Discrimination makes clear the rationale for that No. 3 clause: "The ALA affirms that the library stands for the right of every individual to dignity and self-worth. Racism and sexism undermine these humanist values, so that failure to take a stand against racism and sexism undermines the basic premise upon which libraries and librarianship stand."
>
> I also agree to the inclusion of the new phrase into No. 3 as recommended by the majority, but object to their deletion. The clause, No. 3, would read in its entirety as follows: "The Public Library Association, the American Association of School Librarians, the Association of Library Service to Children, the Young Adult Services Division, the Reference and Adult Services Division, and the Association of College and Research Libraries will be urged to develop a program to raise the awareness of library users and provide materials and information about the pressing problems of prejudice, stereotyping, and discrimination because of race, sex, creed, color, and national origin. The ALA affirms that the library stands for humanist values, which means that the library stands for the right of every individual to dignity and self-worth. Racism and sexism undermine these humanist values, so that failure to take a stand against racism and sexism undermines the basic premise upon which libraries and librarianship stand."

At the 1977 Conference, the Council referred the Resolution on Non-Sexist Language and the *Library Bill of Rights* to the IFC. We have begun our work to revise the *Library Bill of Rights*—including the elimination of sexist language. A subcommittee has been appointed. The IFC voted to direct this subcommittee to base its discussions on the relevance of the *Library Bill of Rights* to the First Amendment, and the proposition that "the *Library Bill of*

Rights, because of this relevance, should continue to proscribe the use of the library for the promotion of any substantive idea, no matter how valid or widely held."

In connection with this review of the *Library Bill of Rights,* the IFC plans to hold open hearings on its charge as established by the Council. These hearings will be held at the 1978 Annual Conference.

In recognition of the importance of the question of the interaction of the *Library Bill of Rights* and racism and sexism, as well as opposition to racism and sexism, the IFC voted to join with the Intellectual Freedom Round Table to plan a conference program on this topic, concentrating on the racism aspect. If planning can be completed in time, the program will be presented at the 1978 Annual Conference.

In other action, the IFC adopted two resolutions on topics of current concern: the CIA's interference with the free flow of information, and the concentration of ownership of newspapers, publishing houses, and other information media.

The resolution on the CIA is before the Council in a

(Continued on page 42)

FTRF grants $2,500 to Chelsea committee

At their meeting on January 21, the trustees of the Freedom to Read Foundation voted to donate $2,500 to the Chelsea (Mass.) Right to Read Defense Committee to help defray expenses in the court battle against censorship ordered by the Chelsea School Committee.

In one way or another, all of the major cases supported by the Foundation and reviewed by the trustees in January involve minors. Three concern their right to read, and the fourth their viewing of televised violence.

In her report to the ALA Council on January 24 during the ALA Midwinter Meeting, FTRF President R. Kathleen Molz described the four cases:

The first case which was on our agenda is not new to you; it is *Moore* v. *Younger,* the suit which the Foundation initiated to challenge California's "harmful matter" statute. As you know, the Foundation won a victory in California Superior Court in the form of an exemption from the statute for school and public librarians. However, the attorney general of California, Evelle Younger, still refuses to accept the Superior Court's interpretation of the statute. There is no further remedy for us in the state courts, so the trustees have directed that steps be taken to return the suit to the federal court where it was originally filed. Those steps will be taken in the very near future.

The second case, involving public school students and the board-ordered removal of books from their Long Island school district's libraries, is *Pico* v. *Board of Education.* The action on behalf of the student plaintiffs has been handled by the New York Civil Liberties Union. If we can obtain leave from the U.S. District Court to file a friend-of-the-court brief on the students' behalf, we shall do so in the name of the ALA, the New York Library Association, the Long Island School Media Association, the Nassau County Library Association, the Suffolk County Library Association, and the Suffolk School Library Media Association. It was necessary for us to petition the court for permission to file the brief because such permission was denied by the school board's attorney.

In the third case, the *Chelsea Right to Read Defense Committee* v. *the Chelsea School Committee,* the trustees authorized an immediate grant of $2,500 to help defray legal expenses incurred by the defense committee. This amount was in addition to $750 previously granted; and the full Board of Trustees authorized the Foundation Executive Committee to consider further request for assistance after the Executive Committee has evaluated current financial commitments and the possibility of developing guidelines for the provision of support in cases not initiated by the Foundation.

This Chelsea case stems from a decision of the school committee to censor an anthology, *Male and Female Under 18,* due to objections to one poem in the work. The decision of the school committee was challenged in U.S. District Court by the defense committee, which was organized by Chelsea High Librarian Sonja Coleman, members of the English faculty, and several students.

The fourth major case on our docket was *Niemi* v. *NBC.* The plaintiff in the case has sued NBC for $22 million in damages on behalf of her minor child, who was artificially raped on a San Francisco beach by juveniles, one of whom allegedly saw a similar rape depicted in the NBC broadcast of "Born Innocent," a made-for-television film depicting conditions in a home for juvenile delinquents.

Originally, the trial judge dismissed the suit on the grounds that the film was fully protected by the First Amendment. This decision was reversed by the California Court of Appeal, and just last week the California Supreme Court refused to review the matter. Thus the case will go to trial.

The Foundation has filed friend-of-the-court briefs in the case due to the enormous dangers to librarians and libraries—indeed, all disseminators of materials depicting violence. If persons who are the victims of violence may sue libraries whenever the perpetrator says he or she "got" the idea from a book or film, then libraries must either compile psychological profiles of their patrons or remove *Macbeth* from their collections. . . .

AAParagraphs

publishing as 'organized crime'?

Sidelines rooters on First Amendment issues eternally confront the problem of what and whom to defend—and the answers are rarely easy. In fact, if the cases were easy, there would probably be no need for the sidelines rooters in the first place.

For six media groups—representing publishers, librarians, editors, wholesale distributors, and retail booksellers—invoking an Ohio organized crime statute to impose a seven-to-twenty-five year prison term on Publisher Larry Flynt went beyond the pale of constitutionality—whatever one might think of Flynt's super-explicit sex magazines, *Hustler* and *Chic.*

So the six—AAP and the Freedom to Read Foundation among them—petitioned the Ohio State Court of Appeal for permission to file a friend-of-the-court brief focused solely on the "organized crime" aspect of Flynt's conviction in Cincinnati last spring. Although Flynt was charged with pandering obscenity and engaging in organized crime, at trial the state made no effort to prove that Flynt was a member of, or associated with, "organized crime." Nonetheless, he was convicted of both offenses, and, while Ohio's obscenity statute provides for a six-month maximum sentence, the organized crime conviction carries the far more severe maximum prison term of up to twenty-five years, which the trial court imposed on Flynt.

In their brief, submitted to the Ohio State Court of Appeal for Hamilton County, the six media groups urge reversal of the organized crime conviction, which they view as a threat to constitutional rights of freedom of the press and due process. The appeals court is asked to rule that Ohio's organized crime statute may not constitutionally be applied to the "routine, every-day activities of responsible parties engaged in the publication and distribution of magazines, newspapers or books, in the absence of any evidence that such activity is part of a combination organized to engage in crime as a business."

While taking no position as to the "obscenity" or "non-obscenity" of *Hustler,* the media brief does contend that the "mere act of collaborating" in publication or distribution of a book, magazine or newspaper—however controversial or offensive the content of the publication—should not be the sort of conduct that can properly be prosecuted under statutes severely punishing organized crime conspiracies. "One can hardly ascribe to such legitimate activities as the soliciting or editing of manuscripts, the design, layout and actual printing of a publication, or the routine distribution of mass-marketed materials through normal trade channels, the motive of obtaining 'illicit funds and power' which characterizes organized criminal activity. Yet each of these activities, according to the theory under which [the Flynt] case was tried, could subject the participant to several criminal penalties."

"If allowed to stand," the media brief argues, "the application of the organized crime provision in such circumstances would cast a pall over the legitimate activities of a free press, and place at their peril those who, however innocently, assist in those activities." This would be so, the brief explains, because application of Ohio's organized crime statute would "place the legitimate publisher—or for that matter any person or entity collaborating in the publication and subsequent distribution and sale of reading materials—at his peril since entirely innocent, routine acts commonly associated with the publication and mass marketing of such materials can be found to amount to an organized crime conspiracy provided that the material published or distributed is eventually adjudged to be obscene."

The "chilling effect" of such a statute's application to publishing activities is compounded by the difficulty of "predicting with any degree of certainty whether a particular book, magazine or newspaper . . . will be found obscene" under "local community standards." Indeed, the brief notes, under current standards developed by the U.S. Supreme Court, it would not be unusual for a particular publication to be upheld as protected expression under the First Amendment in one community while at the same time it is found to be obscene in another community.

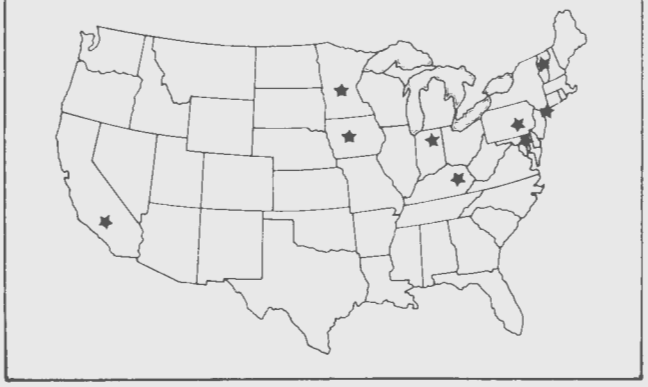
Given the uncertain standards of obscenity laws, the media brief concludes, "Totally unwarranted is the added exposure to even greater criminal penalties predicated not on the 'obscenity' of an underlying publication, but on normal activities relating to the publication or marketing of that publication, should it later be found to be obscene."

The six media groups that petitioned to file the *amicus* brief are the Association of American Publishers, the American Society of Newspaper Editors, the International Periodical Distributors Associations, the American Booksellers Associaiton, and the Freedom to Read Foundation.

No decision is expected in the case until after Flynt's appeal is argued before the Court of Appeal in April.

This column is contributed by the Freedom to Read Committee of the Association of American Publishers. It was written this month by Richard P. Kleeman, the committee's staff director, and Henry R. Kaufman, committee counsel.

censorship dateline



libraries

An article attacking the federally mandated fifty-five-mile-an-hour speed limit in the September issue of *Car and Driver* prompted at least three high school librarians to cancel their subscriptions. According to letters in the January 1978 issue of the magazine, students at Notre Dame High School in Burlington, Iowa, Lyons Township High School in LaGrange, Illinois, and Manton Consolidated Schools in Manton, Michigan will no longer have access to the magazine due to the decisions of librarians.

One librarian complained that the magazine was not "conducive to accomplish our goal of teaching . . . . respect for the law."

Another librarian complained about the magazine's editorial position against the speed limit: "Such an attitude smacks strongly of anti-American, anti-mankindism, and is repulsive. Rest assured that my subscription will not be renewed, no more copies of *Car and Driver* will appear on my library shelves. . . ."

The editor of *Car and Driver* responded, "What you're telling us is that the book burners are now running the libraries. We thought schools were meant to prepare our youth for real life, not hide it from them."

Fort Wayne, Indiana

Six books on homosexuality that had been kept in a restricted room were moved to the open shelves of the Fort Wayne Public Library in November. Library trustees authorized the move in response to a letter to the editor of a Fort Wayne newspaper complaining about the handling of the books.

The six books, all non-fiction, were formerly available only to adults who submitted requests to librarians on duty.

Despite the decision to move the books to the open shelves, children under fourteen will not be able to circulate them or other works on sexuality without parental permission. Reported in: *Louisville Courier-Journal,* November 30.

West Des Moines, Iowa

The Seventeen Gerbils of Class 4A was temporarily removed from three West Des Moines elementary school libraries in December when the parents of a second grader objected to the phrase "smart ass" in the book. According to Douglas Buchanan, associate executive director of instruction for the West Des Moines schools, the parents had complained "informally" to him.

Superintendent Dale Grabinski said removal of the book by an administrative official did not conform to school board policy dealing with challenged library materials. However, Grabinski defended the action, saying that the policy was under revision and that final action on the book would not be taken until after revision of the policy in January.

"My feeling is that we either put a book through the [review] process if it is challenged, or we put it back on the shelf," Grabinski said. "Maybe it would have been better if we hadn't taken that approach [of removing the book] initially, but that's water over the dam now."

Buchanan said he made the decision to withdraw the book because he agreed with the parents "that there was some language in the book that could be objectionable."

One school board member, John Burrows, said he did not believe there was any intent "to do something arbitrarily without following the board's policy." But he added that he was concerned about censorship and opposed removal of library materials on the basis of a single complaint.

"Our libraries would be very small if we adopted such a narrow point of view," Burrows said. Reported in: *Des Moines Tribune,* December 3.

Howard County, Maryland

The Howard County school system decided in January to remove all copies of *Kookanoo and the Kangaroo* from its elementary school libraries. The book, written by Mary and Elizabeth Durack, describes the life of an aboriginal boy in Australia.

John A. Soles, director of curriculum for the school system, said, "It would be hard for primary youngsters reading the book to make the distinction between the aborigines in Australia and black children in the U.S."

The decision to remove the book was made by the system's media criteria review committee, which includes teachers, supervisors, parents, and students.

H. Thomas Walker, supervisor of media services and chairperson of the eleven-member committee, said the decision to remove the book was "unanimous" in a vote taken by six of the committee members present. Walker said the committee found that the word "piccaninny" would have a pejorative meaning for Americans, although in Australia it

means the child of one of the native peoples." Walker stated that the committee was also concerned about the book's illustrations, which he said depicted "black stereotyped features."

The book was reviewed at the request of John Borders, a resident of Columbia, who said the book would result in "a lessening of racial esteem for the black child." Reported in: *Baltimore Sun,* January 17.

schools

Eden Valley, Minnesota

Overriding recommendations of a school committee and the school superintendent, the Eden Valley-Watkins school board voted in early December to bar use of the Pulitzer Prize-winning novel *To Kill a Mockingbird* in literature classes. Although the restriction was removed in a second vote in mid-December, a school board order to remove all copies of *A Runaway's Diary* from the school system was left in effect.

Both books were opposed by parents who found their language objectionable. One board member who supported the complainants, Paul Kerzman, cited such expressions as "damn" and "whore lady" in Harper Lee's *Mockingbird.* Kerman maintained that *A Runaway's Diary* would be "no help at all to get rid of all the problems we have in school with all the pregnant girls we have each year."

Richard Stenger, another member of the board, refused to endorse censorship: "If we take either one of these books out of the school we'd have to think about getting rid of the Bible and newspapers because we see [profanity] in the papers every day."

An investigation conducted by the Minnesota Civil Liberties Union convinced the MCLU that the board's decision against *A Runaway's Diary* was based solely on complaints reflecting exclusive religious values.

"The school board," the MCLU said in a press release, "endorsed certain religious values and thereby mixed church and state in violation of the First Amendment. They also ignored the right of students to learn by exposure to a wide variety of written material, some of which may be offensive to some members of the community. It is the law that books may not be censored merely because they present ideas and lifestyles different from those of parents or members of the community and even despised by them." Reported in: *St. Cloud Times,* December 7; *Baltimore Sun,* December 17.

Philadelphia, Pennsylvania

Philadelphia students in a special stage production of *A Clockwork Orange* were unable to perform for fellow students enrolled in a program stressing academic and cultural enrichment. The director of the program, Rebecca Segal, placed the performance off limits because she considered it "terribly violent" and lacking in "educational value."

Segal said she issued a directive to teachers in the program, called "Motivation," forbidding them to take any of the program's 3,100 pupils to performances of *Clockwork* as a school activity.

"This is decision-making, not censorship," Segal said. "I have to run a program and I have to pick and choose what is best for my program. I do not think this play is a proper vehicle for the classroom because it is terribly violent. Kids see enough of that in their neighborhoods."

The play was performed by students in a special school district program operated in conjunction with the Society Hill Playhouse. Dean Kogan, managing director of the Society Hill Playhouse, called Segal's order to teachers an "act of direct censorship."

Maurice Henderson, a senior at South Philadelphia High and a member of the cast, said he was upset because many of his friends in the "Motivation" program were not permitted to see him perform. "We were trying to portray youth of the future and what would happen if we don't stop violence now," Henderson commented.

Frieda Wone, a junior member of the cast from Girls High School, said the play stressed "freedom of choice." She observed that the main character of the play "no longer had the ability to choose between right and wrong." Reported in: *Philadelphia Bulletin,* January 13.

Chester, Vermont

Saturday, the 12th of October, a book by Norma Fox Meier, was ordered removed from the seventh-grade classroom at Green Mountain Union School in November. School Board Chairperson Arly Steigers announced the decision against the book at a meeting of the Windsor Southwest School District Board.

The work, whose theme concerns girls dealing with their first menstrual periods, was described as "filthy" by Susan Gordon, a parent who complained to Windsor County State's Attorney Michael J. Sheehan.

In a letter to the superintendent of schools, Sheehan said the book was not pornographic as charged by the parent, and that the book could not be evaluated by "a few paragraphs." Reported in: *Rutland Herald,* November 14.

television

Hollywood, California

NBC censors hamfistedly rewrote an episode of "James at 15," Gary Deeb, television critic for the *Chicago Tribune,* charged in January.

In response to the NBC censors' rewriting of the episode, the series' creator and story editor resigned. "I don't want to be involved in a program in which a teen-ager has to be punished every time he has a sexual encounter," Dan Wakefield declared. "That's awfully depressing, and it's not

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from the bench

U.S. Supreme Court rulings

In a brief order handed down in November, the U.S. Supreme Court refused to accept appeals filed by public officials who wanted to collect damages from publications that supposedly libeled them maliciously.

The officials–a New York judge, an Indiana assessor, and a St. Louis alderman–lost cases in lower courts on the grounds that they had failed to prove malice on the part of an author, a magazine writer, a reporter, and their publishers.

New York State Supreme Court Justice Dominic S. Rinaldi lost his $5 million suit against Jack Newfield and Holt, Rinehart & Winston, publisher of Newfield's book, *Cruel and Unusual Punishment.* A divided New York Court of Appeals, New York's highest bench, said: "There are no evidentiary facts which would support [Rinaldi's] claim that Newfield's accusations are false. Further, there is no triable issue as to actual malice."

In the case of the assessor, Thomas R. Fadell, U.S. District Court Judge Allen Sharp dismissed the complaint against George Crile and *Harper's Magazine.* In 1972 *Harper's* published an article by Crile, "A Tax Assessor Has Many Friends," which accused Fadell of improper conduct in office.

Delores Glover, a member of the St. Louis Board of Alderman, filed suit against the *St. Louis Globe-Democrat* for attributing to her a remark made by a colleague. The Missouri Supreme Court reversed a $7,000 damage award against the paper, having found that the author of the article was unaware of the error in his story, an error attributed to a rewrite editor, and that Glover had failed to show actual malice. Reported in: *Washington Post,* November 29.

Press may report allegations of others

In a brief order filed in December, the justices left intact a lower federal court ruling which dismissed libel charges against the *New York Times* for printing allegations made by the National Audubon Society against scientists in the pesticide industry.

The case arose in 1972 when the *Times* published an article which repeated suggestions by the Audubon Society that the scientists had been acting as "paid liars" on behalf of the pesticide industry.

"We do not believe," the U.S. Court of Appeals for the Second Circuit said in its decision on the case, "that the press may be required under the First Amendment to suppress newsworthy statements merely because it has serious doubts regarding their truth. . . . We must provide immunity from defamation suits where the journalist believes, reasonably and in good faith, that his report accurately conveys the charges made." Reported in: *Washington Star,* December 12.

Court ducks gag cases

Three cases involving judicial orders limiting news coverage of trials were refused review by the justices in January. One case involved an order by a U.S. District Court judge in South Carolina who banned all coverage of out-of-court statements by participants in the conspiracy trial of a state senator.

In another case, involving a state court, a judge in Philadelphia closed a pre-trial hearing in the second murder trial of W.A. (Tony) Boyle, former president of the United Mineworkers Union, and sealed all records in the case.

In the South Carolina case, the U.S. Justice Department filed a brief backing the judicial gag order, arguing that reporters "are only vicariously interested" in court orders that limit their access to all participants in trial when such orders are formally directed only to lawyers, parties, witnesses, jurors, and court officials.

The decision of the Supreme Court not to review the case left standing different standards among the various federal appellate court circuits. Two, the Ninth and Tenth Circuits, have supported gag orders, as the Fourth Circuit did in the South Carolina case, when there is a "reasonable likelihood" that publicity may threaten a fair trial. Two other circuits, the Sixth and the Seventh, have adopted a more stringent rule, authorizing such gag orders only in cases involving a "serious and imminent threat" of interference with a fair trial. Reported in: *New York Times,* December 19; *Chicago Sun-Times,* January 11.

Access to safety data blocked

A decision of the U.S. Court of Appeals for the District of Columbia which held that a lower court had erred in dismissing a suit against the Consumer Product Safety Commission was set aside in January by the Supreme Court. The action of the high court was taken after a U.S. District judge in Delaware issued a permanent injunction against the release of certain television safety data sought by the Consumers Union and the Public Citizens Health Research Group.

Twelve television manufacturers who contested release of the information to the groups contended that the permanent injunction in Delaware barred the U.S. Court of Appeals from ordering a trial of the same issues in the U.S. District Court for the District of Columbia.

The federal appellate court for the District of Columbia had ordered the trial in the U.S. District Court for the District of Columbia on the grounds that the earlier temporary injunction of the U.S. District Court in Delaware had no bearing on proceedings in the District of Columbia (see *Newsletter,* Nov. 1977, p. 159). Reported in: *Access Reports,* January 23.

news media

San Jose, California

California's shield law for reporters appeared in danger in December when a Santa Clara County Superior Court judge ordered CBS to surrender all non-broadcast film shot for a "60 Minutes" documentary on drugs.

The judge, Peter Anello, ordered the film delivered to lawyers for two men facing trial in San Jose on charges of selling six cigarettes laced with phencyclidine (PCP), an animal tranquilizer, to undercover officers at the Santa Clara County fairgrounds. The negotiations, transaction, and arrest were filmed by CBS.

The California shield law was passed by the legislature and signed by Governor Ronald Reagan in 1974. It protects not only unpublished notes, tape recordings, and film, but also reporters themselves from contempt citations for refusals to produce such material.

However, a lawyer for one of the defendants contended that the constitutional right to a fair trial takes precedence over the state shield law. "The film would represent the best evidence of what actually happened," argued John L. Williams, defense attorney. He said the film not used by CBS could serve to acquit his client. Reported in: *San Francisco Chronicle,* December 15.

Indianapolis, Indiana

Bowing to heavy judicial pressure, Marion County Court Judge John B. Wilson Jr. decided in December to ban news cameras and video and audio recording devices whose use he had allowed in the trial of a man accused of murdering a wealthy Indianapolis woman.

Judge Wilson was warned by Chief Justice Richard Givan of the Indiana Supreme Court that he could be guilty of a "major breach of judicial conduct" if he continued to allow photographers and television and radio reporters to record and broadcast proceedings of the murder trial.

For the first five days of the trial, Judge Wilson permitted the broadcast media to tap into his courtroom's closed circuit television system. Courtroom scenes were videotaped and broadcast on a delayed basis.

"No matter how reasonable the procedure may have been, I am compelled to abandon it and eliminate all cameras . . . and go back to the old way," Wilson said.

Justice Givan warned Judge Wilson in his role as chairperson of the nine-member Judicial Qualifications Commission, which controls judges for disciplinary purposes under a 1973 Indiana law.

Justice Givan said that video recordings of court proceeding should be allowed only under the following conditions: the means of recording do not distract participants or impair the dignity of the court; consent from all parties has been obtained; videotapes are not exhibited until after the proceedings have been concluded and all appeals have been exhausted, and then only for instructional purposes in educational institutions. Reported in: *Editor & Publisher,* December 17; *Variety,* December 28.

Hackensack, New Jersey

A constitutional battle over possession of a reporter's tape recordings of a jailhouse interview was abandoned in November by the *Hackensack Record.*

The recordings, containing nearly three hours of conversation between a murder suspect and John Banazewski, a *Record* reporter, were turned over to Judge James F. Madden of the Superior Court in response to an order from the court.

Earlier, the *Record* had said it would appeal the order to higher courts. Reported in: *New York Times,* November 29.

New York, New York

In a far-reaching ruling restricting news coverage of judicial proceedings, the New York State Court of Appeals, the state's highest tribunal, held in December that the press may be excluded from pre-trial hearings on the admissibility of evidence, unless the press can prove that the public has "an overwhelming interest" in keeping the proceedings open.

In deciding whether to exclude the public and the press from pre-trial hearings, at which the admissibility of confessions and evidence is ruled upon by judges, a judge's "primary" consideration should be "the public's interest in avoiding any developments that would threaten to truncate a defendant's right to a fair trial," the high state court said.

Judge Sol Wachtler, writing for the four-judge majority, declared that "public disclosure of potentially tainted evidence, which the trial court has the constitutional obligation to exclude," would "involve the court itself in the illegality."

Writing for himself and Judge Jacob D. Fuchsberg, Judge Lawrence H. Cooke dissented: "To allow closure on the mere showing that press commentary would 'threaten' the impaneling of an impartial jury affords almost no protection to First Amendment rights, for the simple reason that in cases of notoriety it will always be possible to show some risk of prejudice."

Of greater concern, Judge Cooke declared, is the fact that the majority "has turned the burden of proof around" in requiring the press to show that "alternatives to closure"–such as changing the site of the trial–cannot insure a fair trial.

The appeal in the case was filed by Gannett Newspapers, which publishes two dailies in Rochester. A reporter for the papers was excluded from a pre-trial hearing in 1976 at the request of attorneys for two defendants accused of murdering a policeman. Reported in: *New York Times,* December 20; *Editor & Publisher,* December 24.

White Plains, New York

Westchester County Court Judge Richard J. Daronco in January barred reporters from publishing "substantial" information on pre-trial hearings involving two men charged with murder in the highly publicized shooting deaths of two Lewisboro women.

Describing his order as a "different wrinkle" on a recent decision of the New York State Court of Appeals (see story elsewhere in this section), Judge Daronco noted that his directive did not exclude all reporters from the courtroom during the pre-trial hearings. Rather, news representatives covering the trial were admonished to report only names of witnesses but not their testimony, the "nature of the pre-trial proceedings" but not their "substance."

The Westchester judge's order was handed down on the same day the U.S. Supreme Court decided not to rule on constitutional questions posed by cases involving similar restrictions on press coverage of pre-trial hearings in criminal cases. Reported in: *New York Times,* January 15.

Easton, Pennsylvania

A press gag order issued in December by a Northampton County Justice of the Peace was declared unfounded one day later by the chief judge for the county, President Judge Clinton Budd Palmer.

In a statement issued December 14, Judge Palmer declared: "There is no statutory law, case law or Supreme Court rule which in my view would permit a justice of the peace in Pennsylvania to issue an order forbidding a newspaper from publishing testimony taken at a preliminary hearing."

The questionable directive was issued by Justice of the Peace Elmo Frey, who ordered reporters for the *Allentown Call,* the *Bethlehem Globe-Times,* and the *Easton Express* not to publish any testimony given in a preliminary hearing relating to a confession by an accused arsonist.

The *Globe-Times* of Bethlehem defied the court order. The *Call* in Allentown first published an account of the hearing which indicated that information had been suppressed on court order, but after conducting research into the legal question decided to run a full story. The *Express* in Easton discussed the issues surrounding the order in an editorial entitled "The People's Right to Know." Reported in: *Editor & Publisher,* December 31.

open meetings

Brooklyn, New York

Members of the public and the press must be allowed to attend meetings of the Newburgh City Council, according to a January ruling of the Appellate Division of the New York State Supreme Court.

The action before the court was filed by a Middletown newspaper which charged that two of its reporters were unjustly expelled from a council meeting last year. The council had characterized the meeting as a "work session" and claimed the right to exclude the public.

In its ruling, which reversed a lower court holding in favor of the city council, the appellate bench reaffirmed the provisions of the state's newly enacted open meetings law, which prevents legislative bodies from excluding the public from any meetings except formally announced and legitimate executive sessions. Reported in: *New York Daily News,* January 4.

freedom of information

Washington, D.C.

A suit seeking access to the vice-presidential papers of Richard M. Nixon was erroneously dismissed in 1974 by a lower court, the U.S. Court of Appeals for the District of Columbia ruled in December.

In setting aside the decision of the U.S. District Court for the District of Columbia, the appellate bench said it was necessary to reverse "because we find that [the 1974 ruling] was based on erroneous conclusions of law and because subsequent events have so altered the issues involved that further consideration by the District Court is essential."

Nixon's vice-presidential documents were provided to the General Services Administration in accordance with the provisions of the Presidential Libraries Act of 1955. Robert M. Brandon's 1973 request for access to the materials was rebuffed by the GSA. When Brandon filed suit in U.S. District Court, the bench ruled that the Presidential Libraries Act forbad disclosure and that Brandon had no legal standing on which to object to the agreement between Nixon and the GSA which limited access to the documents.

The appellate bench said that Congress had, in amending the Freedom of Information Act, rejected "extreme deference to agency discretion in interpreting exemptions to FoIA." Reported in: *Access Reports,* January 23.

Washington, D.C.

Access to transcripts of former Secretary of State Henry A. Kissinger's telephone calls should be controlled by the

State Department in accordance with federal law, a federal judge ruled in December.

The 33,000 pages of transcripts were wrongfully taken from the State Department by Kissinger, Judge John Lewis Smith Jr. declared. The transcripts were moved by Kissinger to a vault at Nelson Rockefeller's New York estate and donated to the Library of Congress under an agreement which required that they be kept secret for twenty-five years.

Judge Smith rejected Kissinger's claims that the transcripts were personal working papers, and that they were properly donated to the Library of Congress, which is not subject to the provisions of the Freedom of Information Act under which they were sought.

Judge Smith declared: "The records in dispute here were produced not only in accordance with department regulations but also on government time and with the aid of department employees, equipment, materials, and other public resources. Having been prepared and transcribed 'in the discharge of his official duties,' the notes are property of the United States. The court further finds that the records were wrongfully removed and should be returned to the State Department."

The FoIA case against Kissinger was filed by the Reporters Committee for Freedom of the Press, the American Historical Association, the American Political Science Association, the Military Audit Project, and nine authors and journalists. Jack Landau of the Reporters Committee called Judge Smith's decision "a major victory." Reported in: *Access Reports,* December 13.

Washington, D.C.

Nearly 60,000 pages of Federal Bureau of Investigation documents relating to the assassination of President John F. Kennedy were provided free in January to researcher Harold Weisberg.

Release of the information without charge was ordered by U.S. District Court Judge Gerhard Gesell. Weisberg, who sought the documents, contended that Section 552 (a) (4) (A) of the Freedom of Information Act applied to his case. According to that section, "Documents should be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as benefitting the general public."

Weisberg told the court that serious illness and indigence had made it impossible for him to pay for the documents. Reported in: *Access Reports,* January 23.

free speech and the Nazis

Springfield, Illinois

Members of the National Socialist Party of America have a constitutional right to march in Skokie while wearing uniforms displaying swastikas, the Illinois Supreme Court ruled in January. Skokie, a Chicago suburb, is predominantly Jewish.

In separate actions, the high state court reversed a three-judge appellate panel that had barred display of the swastika and dismissed a civil suit filed in Cook County Circuit Court by survivors of the World War II Nazi holocaust.

"We do not doubt that the sight of this symbol [the swastika] is abhorrent to the Jewish citizens of Skokie, and that the survivors of the Nazi persecutions, tormented by their recollections, may have strong feelings regarding its display," the Illinois Supreme Court said. "Yet it is entirely clear that this factor does not justify enjoining defendants' speech. . . .

"We accordingly, albeit reluctantly, conclude that the display of the swastika cannot be enjoined under the fighting-words exception to free speech, nor can anticipation of a hostile audience justify the prior restraint," the court said in an unsigned opinion.

"A speaker who gives prior notice of his message has not compelled a confrontation with those who voluntarily listen," the justices concluded.

In New York, the American Jewish Congress announced that it would urge the U.S. Supreme Court to prohibit the Nazis from marching through Skokie while wearing uniforms or swastikas "which identify them as implementing the evil objectives of Hitler."

David Hamlin, executive director of the Illinois division of the American Civil Liberties Union, which defended the Nazis, said the Illinois Supreme Court's ruling "couldn't have been stronger."

"The court's ruling is so strong that they're saying they won't rehear the suit, " Hamlin said, "and the ruling is so strong it's possible the U.S. Supreme Court will deny an appeal."

After the high state court action, only one legal barrier to a march remained. That barrier, consisting of three Skokie ordinances hastily passed to thwart marches by the Nazis, were under challenge in a suit before U.S. District Court Judge Bernard M. Decker. Reported in: *Chicago Tribune,* January 28; *Chicago Sun-Times,* January 31.

Houston, Texas

The Texas Appellate Court in January nullified a lower court ban on an American Nazi Party phone message offering "a $5,000 prize" for the killing of any non-white or Jew engaged in the act of attacking a white.

In its ruling on the civil action, filed by Marvin Zindler, a Jew who argued that the taped messages were not constitutionally protected because they advocated violence and posed a threat to the public, the three-judge panel agreed that the recorded messages were "vicious, disgusting, and repugnant." But the court declared that if the messages represented an illegal incitement to crime, action against

them would have to take the form of a criminal prosecution. Reported in: *Chicago Sun-Times,* January 19.

political signs

Denver, Colorado

Two Colorado laws banning political signs on residential lawns were found unconstitutional in December by a federal judge here. "There is no doubt that the statutes are unconstitutional on their face," declared U.S. District Court Judge Richard P. Matsch.

The statutes forbad the erection or maintenance of political campaign signs in nonindustrial or noncommercial areas. "Such broad restriction of expression is not permitted by the U.S. Constitution," the judge said. He reasoned that none of the purposes served by the statutes was strong enough to justify an abridgment of the First Amendment right of free expression. Reported in: *New York Times,* December 4.

obscenity law

Annapolis, Maryland

The Maryland Court of Appeals in December declared virtually all of the state's anti-obscenity law unconstitutional because the statute "arbitrarily" exempted employees of theaters from prosecution.

The four-to-two ruling of the state's highest court left Maryland without an effective state law prohibiting commerce in sexually explicit wares.

Under the voided law, a projectionist in an adult theater was expressly exempt from prosecution, whereas a clerk in a bookstore was subject to fines and imprisonment under its provisions.

No "rational distinction" can be made, the court majority held, between a person running a projector and a clerk selling books.

The court's decision was handed down in the case of a convicted bookstore employee. In the Maryland Court of Special Appeals, the state's second-highest bench, the employee's arguments against the law were rejected. The Court of Special Appeals held that "there is a rational basis for the legislative distinction between employees of bookstores and employees of motion picture theaters" because a theater can keep juveniles out while "no controls are present when obscene material is once removed from [a bookstore]."

The Court of Appeals rejected this reasoning, however, observing that an usher in a movie theater who passed out an obscene program would be exempt from prosecution while a bookstore employee who sold the same program could be punished. Reported in: *Baltimore Sun,* December 13; *Washington Post,* December 13.

In the wake of the high court's decision, a Baltimore County Circuit Court judge "regrettably" released sexually explicit goods worth $1 million to a Rosedale company convicted of distributing obscene material in October. In releasing 50,000 magazines and other items to the Noble News Company, Judge Edward A. DeWaters Jr. said he had no choice but "to perform my duties" according to the law.

A lawyer representing a Baltimore theater also filed a motion to overturn a 1974 court injunction that banned showings of the film *Deep Throat* in Maryland. Reported in: *Baltimore Sun,* December 24, January 12.

Boulder, Colorado

Colorado District Court Judge Richard Dana ruled in November that the state's 1977 anti-pornography statute is constitutional. Having upheld the law, Dana issued an order banning the sale of five sexually explicit magazines at an adult bookstore in Boulder.

"We're very pleased with the ruling," said Deputy District Attorney Jack Kerner, "and will vigorously defend Judge Dana's position on the appeal." Kerner said he was notified by Attorney Arthur Schwartz, who represented the bookstore, that the case would be appealed.

In arguments before Judge Dana, Schwartz contended that the law was vague and overbroad and that it was unfair because it exempted librarians from prosecution. Reported in: *Denver Post,* November 29.

New Orleans, Louisiana

The federal appeals court here ruled in November that the Baton Rouge City-Parish Council cannot deny an occupancy permit to a bookstore solely because members of the council consider the store's wares obscene.

The decision of the U.S. Court of Appeals for the Fifth Circuit reversed U.S. District Court Judge E. Gordon West, who declared that adult bookstores in Baton Rouge should be shut down because their goods "are so filthy, absolutely filthy, that it almost makes me puke. . . ."

The appellate bench held that the city-parish council's action against Baton Rouge bookstores were based on personal distaste, not on zoning laws, police power or any legislative enactment. Reported in: *Daily Iberian,* November 29.

Greensboro, North Carolina

Major portions of a new North Carolina anti-pornography law were declared unconstitutional in January by U.S. District Court Judge F.T. Dupree. The enforcement section of the law, a "moral nuisance" statute, was declared invalid because it barred the sale of material not specifically ruled obscene by a court.

State Assistant Attorney General Edwin M. Speas Jr. said Judge Dupree's ruling left the law "a shell of a statute." Under the law, if a judge found that a firm selling sexually explicit materials constituted a "nuisance," all

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is it legal?

in the U.S. Supreme Court

Lawyers representing nearly every American newspaper and broadcaster asked the U.S. Supreme Court in December to rule that police may not obtain warrants to make surprise searches of newspaper offices in efforts to find evidence of a crime.

A coalition of news organizations argued that searches of news offices jeopardize confidential material, disrupt news operations, and have a chilling effect on freedom of the press. The coalition contended that subpoenas would adequately serve police needs.

Briefs asking the high bench to authorize warrants for surprise searches were submitted by associations representing police, prosecuting attorneys, and the attorneys general of seventeen states. The law enforcement groups argued that the processes connected with the issuance of subpoenas are too slow and would hinder efforts to identify and apprehend criminals speedily.

The issues in the case stemmed from a 1971 search of the offices of the student-run *Stanford Daily* by the Palo Alto police. The police sought a news photograph of demonstrators at a hospital as they fought with police.

The campus newspaper's suit against the police was upheld by the U.S. District Court and the U.S. Court of Appeals for the Ninth Circuit.

In a brief supporting the position of the Palo Alto police, the U.S. Justice Department argued that a requirement of subpoenas "would create an unjustifiable risk that valuable evidence would be lost." Reported in: *New York Times,* December 20; *Chicago Tribune,* January 17.

Newspaper claims right to publish secret report

The Court was urged in January to rule that the press may not be punished for publishing secret evaluations of the performances of judges.

Attorney Floyd Abrams, who represented a Virginia newspaper, argued that the Constitution forbids punishment of the press when it accurately reports information about public officials and the performance of their duties.

At issue before the Court was a Virginia law that makes it a crime for anyone to disclose information about investigations of the fitness of state judges conducted by the Virginia Judicial Inquiry Commission. The *Virginian Pilot* in Norfolk asked the Court to overturn its conviction and $500 fine imposed under the law, which was upheld by the Virginia Supreme Court in March 1977.

An assistant attorney general for Virginia, James E. Kulp, told the Court that states would not be able to discipline judges unless the press was forced to observe the confidentiality of investigations into judicial fitness. Kulp also argued that it was important to observe secrecy so that citizens, lawyers, and judges would feel free to submit complaints about unfit members of the bench. Reported in: *Washington Star,* January 11.

Television station seeks access to jail

The Court was asked in November to allow media access to a California jail put off limits to the press by the Alameda County sheriff on the grounds that the general public is barred access to the same facility.

In 1972 a federal court found conditions at the Alameda County Jail so "shocking and debasing" that they amounted to cruel and unusual punishment in violation of the Constitution. When an inmate committed suicide under unusual circumstances in 1975, television station KQED in San Francisco sought permission to film conditions in the jail and was refused entrance by the sheriff.

A federal court filed an order requiring the sheriff to admit television cameras under conditions that would not imperil security or discipline.

Newspapers defend broadcast ownership

A Washington lawyer representing newspaper interests told the Court in January that newspapers alone among all corporations cannot constitutionally be ordered to divest themselves of broadcasting stations. At issue in the case is a position taken by the Federal Communications Commission—upheld by the U.S. Court of Appeals for the District of Columbia—that freedom of expression will be enhanced if cross ownership of newspapers and broadcasting outlets in the same city is prohibited.

During the oral argument, Justice Potter Stewart suggested that the issue before the Court was whether there is a "new" constitutional right under the First Amendment—a right of newspapers not to have the fact that they are newspapers used against them to deny them certain benefits, such as access to broadcast licenses.

In anticipation of an unfavorable ruling from the high court, the company which publishes the *Washington Post* swapped its local station for one owned by a newspaper company in Detroit. Reported in: *Washington Star,* January 17.

During oral argument, several of the justices posed hard and seemingly hostile questions. Justice Byron R. White repeatedly characterized the access ordered for KQED as "a special privilege."

Citing a 1974 Supreme Court ruling that the press has no constitutional right of access to prisons beyond that afforded the general public, Justice Potter Stewart, who wrote that opinion, said "it's a perfectly logical position" to deny access to the news media where access is denied to the general public.

Justice William H. Rehnquist, who appeared to doubt that denial of press access to the jail would violate the Constitution, pointed out that the sheriff, who is elected, could be voted out of office if the public objected to his policy. Reported in: *Washington Post,* November 30; *New York Times,* December 1.

Immunity sought for police

The U.S. Justice Department asked the Court in January to declare that the chief of the District of Columbia police force cannot be sued for damages arising from the arrests of 1,200 persons during a 1971 rally on the steps of the Capitol.

The Justice Department represented Chief James Powell, who has maintained that he ordered the arrests after consultation with the Speaker of the House and other authorities because he feared that the safety of the members of Congress was endangered.

A jury awarded a $12 million damage judgment against Powell, the District of Columbia, and former Police Chief Jerry Wilson on grounds of false arrest, malicious prosecution, and violation of First Amendment rights.

The U.S. Court of Appeals for the District of Columbia found the defendants liable on the First Amendment claims but ordered a new trial on the amount of damages, which were declared unjustifiably large. Reported in: *Washington Star,* January 4.

Court to rule on "dirty words"

The Court agreed in January to rule on the Federal Communications Commission's power to ban the use of "dirty words" on radio and television shows.

The FCC contends that the "unique qualities" of the broadcasting media demand that the government forbid the use of "obscene, indecent or profane language" over the air.

In the case, which involves station WBAI-FM in New York City, the U.S. Court of Appeals for the District of Columbia ruled in March 1977 that the FCC had acted too broadly in banning the use of seven words.

The seven words at issue, which describe bodily functions, sex organs, and sexual activity, are included in George Carlin's album *Filthy Words,* which was broadcast by WBAI, a noncommercial educational station, as part of a program on contemporary attitudes toward the use of language. Reported in: *Chicago Daily News,* January 9; *Washington Star,* January 9.

freedom of information

Washington, D.C.

Ralph Nader's Public Citizen Health Research Group in January filed suit in U.S. District Court in an effort to determine whether professional standards review organizations (PSROs) are federal government agencies subject to the provisions of the Freedom of Information Act.

Created by statute, PSROs operate under rules and regulations promulgated by the Department of Health, Education and Welfare. Their purpose is the evaluation of medical care provided under government-administered health programs.

The Nader group suit was filed against HEW and the National Capitol Medical Foundation, the PSRO for Washington, D.C.

Using information from medical care evaluations and profiles of physicians and hospitals, the Public Citizen Health Research Group hopes to provide potential patients with facts regarding frequency of certain surgical procedures by specific physicians or hospitals, mortality rates, and other information helpful to medical consumers.

Ted Bogue, staff attorney for the Nader group, noted in the suit that PSROs allow regulation of physicians, and that "self-regulation has been tried and failed with other groups." Bogue contended that "there is no reason to expect doctors to do it better." Reported in: *Access Reports,* January 10.

blasphemy

Boston, Massachusetts

The Massachusetts Senate in November reversed its earlier position in favor of repeal of a seventeenth century law against blasphemy and voted twenty-six to thirteen to leave the measure on the Commonwealth's statute books: "Whoever wilfully blasphemes the holy name of God by denying, cursing or contumeliously reproaching God, his creation, government or final judging of the world, or by cursing or contumeliously reproaching Jesus Christ or the Holy Ghost, or by cursing or contumeliously reproaching or exposing to contempt and ridicule, the holy word of God contained in the holy scriptures shall be punished by imprisonment in jail for not more than one year or by a fine of not more than $300, and may also be bound to good behavior."

In August, the Senate voted in favor of repeal, but after heavy lobbying by Rita Warren of Brockton and her supporters, seventeen senators switched their votes.

Nearly one month after the Senate changed its mind, a municipal court judge in Boston refused to issue a complaint against the *National Lampoon* for allegedly breaking the law, adopted in 1697.

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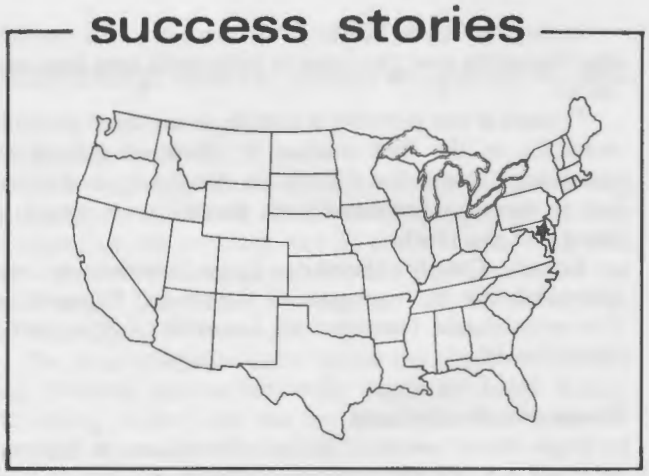
success stories



Frederick, Maryland

Frederick County's superintendent of schools declared in January that there would be no halt to the classroom use of two books called "obscene" by objecting parents. The books, *Grendel* by John Gardner, and *Tell Me That You Love Me, Junie Moon* by Majorie Kellogg, have been used in a literature unit at Middletown High School. However, the use of *Grendel* was restricted to eleventh and twelfth graders involved in course work relating to *Beowulf.*

Gordon M. Anderson, the superintendent, said in his ruling, "Personally I didn't like some of the language, but I would conclude that the words which the complainants consider profane are used sparingly, without sensationalism, and within the context of the authors' purposes."

A group called Concerned Citizens of Middleton Valley last year presented the school board with a petition signed by 160 persons who requested the banning of all books "containing obscene language or crude vulgarity."

Elizabeth B. Nichols, a leader of the protesting parents, said the group would continue to pursue the battle. Nichols explained that the issue arose last fall when her daughter brought the books home. She emphasized that the group was concerned with improving the curriculum, not "censoring" books. "If my daughter wants to take *Grendel* from the library and read it, okay, but it shouldn't be used as a school text," she said.

In his discussions with the group, Anderson emphasized that the school system allows alternate reading material when a student or parent finds any book offensive. He also stressed that the inclusion of a particular writer or point of view in the curriculum "does not mean the board of education or the teacher endorses that point of view."

The restrictions on *Grendel* were recommended by the twenty-two member instructional materials review committee which was impaneled to consider the two books after complaints were received.

The books were assigned by Daria Baldovin, an eleventh-grade English literature teacher, who said her course on existentialism attempted to bring out different points of view on the human condition. Reported in: *Hagerstown Herald,* November 25, December 9; *Baltimore Sun,* January 10.

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the type of message I want to push. So I have resigned."

In the program which NBC found offensive, the lead character "has his first sexual experience on his sixteenth birthday with a Swedish exchange student. There's no explicit footage of the two in bed, but it's clear they've had sex," Deeb explained. James and the girl discuss birth control techniques, and it is apparent to the viewers that they have used some form of contraception.

Jerry Stanley, NBC's chief censor on the West Coast, explained the network's action: "We didn't want youngsters watching the show to feel that if you use contraceptives, then it's all right to have a sexual experience. We wanted the characters to show a feeling of guilt or remorse or retribution–so that viewers would see that it isn't proper for kids to jump in bed and have sexual intercourse."

NBC revised the script to remove all references to birth control and to show a protracted interval in which the girl fears she's pregnant.

Wakefield, a novelist and free-lance writer, is the author of *Going All the Way.*

New York, New York

Kay Gardella, television critic for the *New York Daily News,* charged in December that New York City's public service station, WNET-TV, engaged in censorship in its handling of a controversial episode of the public network's "Black Perspective on the News."

In September, when the episode of "Black Perspective" was offered to the Public Broadcasting Service by WHYY in Philadelphia, it was rejected by many public stations, including WNET, as journalistically unsound. The episode featured David Duke, grand dragon of the Ku Klux Klan of America, and Frank Collin, national coordinator of the Nationalist Socialist Party of America (see *Newsletter,* Jan. 1978, p. 9).

Several weeks later, WNET used portions of the "Black Perspective" program in connection with "balancing" material on racist extremism in America.

In commentary in the *New York Times,* Walter Goodman said the WNET result seemed to many "a mishmash." It included scenes from *Birth of a Nation,* taped statements by Jesse Jackson, and comments by Irwin Saul of B'nai B'rith's Anti-Defamation League, Bruce Ennis, legal director of the American Civil Liberties Union, and Seymour Martin Lipset, professor of political science at Stanford University.

"Had the original 'Black Perspective' been shown and

[the WNET] program presented as a follow-up," Gardella wrote, "we'd applaud it. The fact that it uses excerpts from the first program (and for some that might be quite enough) and then superimposes a new set of opinions upon it, it is a cop out. Worse, it is a form of censorship."

Philadelphia, Pennsylvania

The management of KYW-TV, the local NBC affiliate, refused in January to broadcast a three-hour NBC drama based on incidents of alleged neglect, beating, and murder at Farview State Hospital, Pennsylvania's only institution for the criminally insane.

The program, "The Other Side of Hell," was scheduled for broadcast by the network at eight o'clock in the evening. After the rejection by KYW, the program was slotted for airing at the same hour by WPHL-TV, an independent station.

KYW complained to NBC that the first hour of the program contained too much violence to be shown during the so-called family hour. "A lot of people have come to have certain expectations about the early evening period," said Alan J. Bell, general manager of KYW.

"Our own audience statistics indicate that from eight to nine in our area and in early winter, there are in excess of half a million children watching television," Bell explained. "We have a trust and an obligation to parents not to do with kids what they don't want done to their kids."

NBC prefaced the drama with an announcement: "This program is a dramatization depicting life in a mental institution for criminal patients. Although the treatment is fictional, the material is drawn generally from actual experience in such institutions. Parental discretion is advised." Reported in: *Philadelphia Inquirer,* January 12.

bookstores—newsstands

Lexington, Kentucky

Several popular books on sex were confiscated from three Lexington bookstores in December in the local police department's first enforcement of Lexington's new anti-pornography law.

The obscenity ordinance was adopted by the Lexington-Fayette County Council after cast members of *Oh! Calcutta!* were arrested on obscenity charges. The ordinance prohibits the display of sexually oriented material in places frequented by minors.

Confiscated were *The Joy of Sex, More Joy of Sex, The Joy of Gay Sex, The Joy of Lesbian Sex, Total Sex, Making Love, Xaviera's Supersex,* and *The Art of Sensual Massage.*

The books were taken from three bookstores—Coles, The Little Professor, and Walden Books. A spokesperson for Walden Books in Stanford, Connecticut said *The Joy of Sex* was sold by all of the chain's outlets around the country.

Lexington Mayor Foster Pettit reacted to the confiscation by saying that "an error in judgment" may have been made.

"I think it was probably a mistake to use these particular examples as the first citation in court to enforce the ordinance," Pettit said. "These are not the type of thing I had in mind, or had envisioned, the ordinance preventing being sold to minors. . . ."

Fayette County Quarterly Court appearances were scheduled for the managers of the stores. Reported in: *Lexington Herald,* December 16; *Louisville Courier-Journal,* December 16.

Greencastle, Pennsylvania

Hugh Hefner's publications are not welcome in this town of 3,000, according to a coalition of local clergy.

Yielding to pressure from the ministers, two Greencastle stores agreed in December to stop selling *Playboy.* The last to acquiesce in the ministers' demand that the magazine be banned was Fred Fisher, proprietor of Fisher's News Agency.

After visits from the Rev. Kenneth B. Hickey Jr., Fisher decided to stop stocking the magazine. Until then, Hickey said Fisher "had always maintained he would keep selling them." Fisher said he had a change of heart because "it's just a small town and I think it's better for everyone, including myself and my family." Reported in: *Hagerstown Herald,* December 17.

(From the bench . . . from page 36)

future transactions by the firm became subject to court interdiction. Reported in: *Variety,* January 25.

Dallas, Texas

A University Park ordinance controlling the location of adult movie theaters was declared unconstitutional in January by U.S. District Court Judge Robert Hill. The ordinance, which prohibited the exhibition of sexually explicit films within 500 feet of any area zoned for a church, school, park or residence, was challenged by the owners of the Fine Arts Theatre.

Noting that under the law one brief showing of a bare breast would allow the city engineer to revoke a theater's license, Judge Hill said the regulation violated constitutional rights of free speech and equal protection.

According to Judge Hill, it was the objection of certain members of the community to the content of films shown at the Fine Arts Theatre, and not evidence showing that the theater caused neighborhood deterioration, that prompted passage of the ordinance. Reported in: *Variety,* January 18.

obscenity: convictions, acquittals, etc.

Lexington, Kentucky

Fayette County Quarterly Court Judge Michael Roney in December dismissed all obscenity charges against nine members of the traveling cast of *Oh! Calcutta!* The nine were arrested in Lexington after two performances of the work at the Opera House in October (see *Newsletter,* Jan. 1978, p. 21).

The local ordinance under which the nine were charged was declared unconstitutionally vague by Judge Roney. According to the judge, the law lacked the specificity now required by rulings of the U.S. Supreme Court. Reported in: *Louisville Courier-Journal,* December 16.

New York, New York

A jury in the New York State Supreme Court in December acquitted a defendant of charges that he was a wholesaler of obscenity when it found the films in question "too disgusting and repulsive" to appeal to the prurient interest of average people.

Two films viewed by the jury depicted two men engaged in bestiality. The defense attorney, Herald Price Fahringer, argued that to be obscene, the films would have had to have aroused viewers sexually. Because the films were repulsive, he maintained, they obviously had no prurient appeal. Reported in: *New York Times,* December 18.

Grand Forks, North Dakota

The movie *Deep Throat* is obscene and may not be shown anywhere in North Dakota, a special panel of three district court judges ruled in November.

"I think this picture is the quintessence of obscenity," Judge James O'Keefe of Grafton said in delivering the unanimous decision from the bench. Others on the panel were Judges Robert Eckart of Wahpeton and Kirk Smith of Grand Forks.

The decision upheld an earlier finding of Judge Smith, who declared the film obscene after it was seized in April at a student-sponsored symposium on obscenity at the University of North Dakota. Reported in: *Pierre Journal,* November 15.

(Is it legal . . . from page 38)

A New York lawyer, Andrew McCauley, had sought the criminal complaint in an effort to stop the publisher from printing religious satire in the magazine. McCauley, the founder and single working member of Citizens Against Sacrilege in the Media, said he was particularly upset by a *Lampoon* cover portraying Mary, the mother of Jesus, being thrown out of her home by her father. The implication of the cartoon was that Jesus was born out of wedlock.

The judge, Margaret Burnham, cited no reason for her decision. Reported in: *Boston Globe,* November 30; *New York Times,* December 27.

obscenity

Atlanta, Georgia

Hugh Hefner, publisher of *Playboy* and *Oui* magazines, and Bob Guccione, publisher of *Penthouse,* were charged in December with distributing obscene materials in Fulton County. County Solicitor Hinson McAuliffe, first appointed to office by former Governor Lester Maddox, charged the two with abetting the sale of allegedly obscene items, the December issues of the magazines.

"Atlanta is now the number one hot spot for dealing with the obscenity issue," Bob Guccione told the *New York Times* in a telephone interview. "I might just show up there if it looks like we can successfully fight it. All of these arrests, particularly the ones involving the little guy, are having a tremendous chilling effect on free thought in Atlanta." Reported in: *New York Times,* December 12.

Raleigh, North Carolina

Wake County Assistant District Attorney Russell Sherrill announced in December that a jury would be impaneled in February to spend twenty-one days seeing films which he charges are obscene. "That's assuming we have two projectors going continually and never have any film break or any mechanical breakdowns," Sherrill said.

Michael Curtis of Greensboro, defense attorney, sarcastically called the operation "the largest porno trial in the world."

The defendant in the case, operator of the Camera's Eye, is charged with "knowingly, willfully, and unlawfully" exhibiting obscene materials in defiance of a new state law which declares obscenity a public nuisance.

The prosecutors have asked the court to close down the Camera's Eye, ban any business at its location, prohibit its owner from running such a shop anywhere in North Carolina, and confiscate all money he has made since the implementation of the law by selling magazines or showing the movies named in the complaint.

Wake County Superior Court Judge Pilston Godwin denied efforts by the defense to have the case dismissed. Reported in: *Greesboro Daily News,* December 6.

Columbus, Ohio

The Ohio Supreme Court agreed in December to hear the appeals of three adult bookstore employees convicted of pandering obscenity after they were arrested by Cleveland police officers.

The three were cashiers in three separate bookstores visited by police who viewed movies available at the stores.

The legal memoranda filed with the court on behalf of

the three contend that the Ohio law is unconstitutionally vague and overbroad. Reported in: *Columbus Citizen Journal,* December 2.

Philadelphia, Pennsylvania

District Attorney Edward G. Rendell and City Solicitor Sheldon L. Albert disagreed in January over enforcement of Philadelphia's anti-pornography law, which Mayor Frank L. Rizzo called the "most important law" he had ever signed.

Rendell announced during a January press conference that his office would no longer prosecute obscenity cases under the ordinance, which was struck down by Municipal Court Judge Michael J. Conroy on the grounds that it infringed an area of the law reserved exclusively to the state.

Albert argued that the state law did not impinge upon the enforcement of an ordinance passed by the Philadelphia Council. But Rendell said he would not grant the city solicitor permission to prosecute any criminal cases involving obscenity. Ordinarily, the city solicitor can participate only in civil cases. Reported in: *Philadelphia Bulletin,* January 12; *Philadelphia Inquirer,* January 12.

(IFC reports . . . from page 28)

version slightly different from that which was reviewed yesterday by the Executive Board. It is now offered for your consideration. [The resolution was adopted by the Council. It appears below.]

The resolution on the concentration of the ownership of information media is also offered for your consideration. [The resolution was adopted by the Council. It appears below.]

Respectfully submitted,

ZOIA HORN
IFC Chairperson

The members of the 1977-78 IFC are: Dorothy Bendix, Miriam Braverman, Richard M. Buck, Tyron D. Emerick, Jeanne English, Susan Kamm, Priscilla S. Moulton, Stephen L. Oppenheim, Elliot L. Shelkrot, Grace P. Slocum, and Zoia Horn, chairperson.

resolution on the CIA

Whereas, Recent disclosures document the use of news reporters as informants for the CIA; and

Whereas, The CIA has used publishers as conduits for CIA propaganda; and

Whereas, The CIA has manipulated news, information, and viewpoints; and

Whereas, These practices compromise free and open dissemination of information to the general public; and

Whereas, Such practices are in contradiction to the free access principles of the ALA; therefore be it

Resolved, That the ALA announce its opposition to CIA interference with the free flow of information, and express its wish to cooperate in opposing this interference to the Society of Professional Journalists (SDX), the National Coalition Against Censorship, the Reporters Committee for Freedom of the Press, the American Society of Newspaper Editors, and other groups opposing such CIA interference; and be it further

Resolved, That the ALA Washington Office transmit this position to the proper congressional committees whenever appropriate.

resolution on concentration of ownership

Whereas, Information is essential to people for their decision-making function in a democracy; and

Whereas, Newspapers, publishing houses, as well as other media, are the channels through which most information is communicated to people; and

Whereas, The concentration of ownership of newspapers, publishing houses, and other information media and the reduction of the number of media outlets may result in fewer viewpoints being available, thus placing limits on the public's knowledge of events that affect them, and also constricting the accountability of those providing information needed for decision-making; and

Whereas, The ALA supports free flow of information and encourages the fullest possible access to all points of view; therefore be it

Resolved, That the ALA is concerned about concentration of ownership of newspapers, publishing houses, and other information media; and be it further

Resolved, That the ALA monitor the deliberations of the Concentration of Industries Commission, chaired by Rep. Morris Udall of Arizona, and consult with other organizations so concerned.

Congress urged to halt CIA press manipulation

Three prominent newspaper editors told a House intelligence subcommittee in January that the Central Intelligence Agency should be required to halt its use of foreign journalists in CIA operations. The editors argued that CIA practices polluted the press abroad and contradicted U.S. preachments on the virtues of a free press.

Eugene Patterson, editor of the *St. Petersburg Times* and president of the American Society of Newspaper Editors, told the subcommittee that CIA employment of foreign reporters should be barred even if such action makes the agency's job more difficult. He criticized a letter which he

received from CIA Director Stansfield Turner, who wrote that extending such restrictions "beyond U.S. media organizations is neither legally required nor otherwise appropriate. . . ."

Until the CIA stops "paying off foreign journalists and fouling foreign news media, nobody in this world can credit the truthfulness of the American claim to stand for a free, untainted alternative to manipulated news," Patterson stated.

Patterson's opposition to CIA use of foreign journalists was supported by Gilbert Cranberg, editorial page editor of the *Des Moines Register-Tribune,* and Clayton Kirkpatrick, editor of the *Chicago Tribune.*

Kirkpatrick, U.S. representative to a United Nations conference on freedom of the press, said failure to end the use of foreign reporters by the CIA would undermine U.S. efforts to convince Third World governments to permit a free press.

Cranberg said the CIA should be "required to quit planting false and misleading stories abroad, not just to protect Americans from propaganda fallout, but to protect all readers from misinformation."

The CIA's use of journalists and manipulation of the news was the subject of a three-month investigation by the *New York Times* and two of its reporters, John M. Crewdson and Joseph B. Treaster. They investigated the backgrounds of more than 200 current and former American and foreign journalists and the histories of "nearly an equal number" of news organizations.

According to the *Times,* more than fifty individuals were found to have had some links to the CIA. Some were CIA officers posing as journalists abroad, while others were legitimate journalists or noneditorial employees who were hired by the CIA as part-time agents.

Others who were unpaid by the CIA were considered "assets," or valued sources of information or assistance, who according to the *Times* were unaware of their status or of the status of those with whom they were dealing.

Colby testifies

In testimony before the intelligence subcommittee, former CIA head William Colby admitted that propaganda planted by the CIA through news organizations in foreign countries had been treated as genuine stories by U.S. news organizations.

Colby also acknowledged that there had been "a few cases" in which U.S. journalists employed by the CIA had been ordered by the CIA to include certain stories in their reports.

Colby attempted to defend CIA methods:

"It is fashionable today to denounce these efforts as products of the cold war, and to condemn individual instances which were failures or even feckless. But a larger view of the cultural and intellectual battle which raged in Europe and the less developed world in the 1950s and the 1960s would recognize that CIA's support of the voices of freedom in the face of massive propaganda campaigns of the Communist world contributed effectively to the cohesion of free men during that period.

"And I say that the recent *New York Times* disclosures of the tactical maneuvers and strategems of that conflict should not dismay us today, but should rather give us pride that our nation met those challenges with the weapons of ideas and in fact won that ideological battle without recourse to bloodier weapons." Reported in: *New York Times,* December 28; *Editor & Publisher,* December 31; *Washington Post,* January 6.

high state court allows violence suit

California's highest tribunal refused in January to block a $22 million suit against NBC by a woman who claims that a program broadcast by the network, "Born Innocent," caused an assault on her daughter (see *Newsletter,* Jan. 1978, p. 4).

The network had appealed to the California Supreme Court after the California Court of Appeal reversed a ruling by San Francisco Superior Court Judge John Ertola. Ertola had declined to impanel a jury in the case on the grounds that the made-for-television film was fully protected by the First Amendment.

The high state court filed no comment with its four-to-three decision to refuse review of the Court of Appeal's finding. The Court of Appeal said Ertola's decision violated the plaintiff's constitutional right to a trial by jury. Reported in: *San Francisco Chronicle,* January 20.

FBI admits illegal entry

In 1966 agents of the Federal Bureau of Investigation illegally entered the offices of a Chicago organization that sought to abolish the old House Un-American Activities Committee.

The burglary of the Chicago Committee to Defend the Bill of Rights was revealed by the FBI in January in response to an order from U.S. District Court Judge Alfred Y. Kirkland. The directive was issued in connection with a suit filed by several groups of individuals who claimed the government illegally spied on them.

The FBI named a special agent "as being directly involved in the surreptitious entry," which yielded a list of "sustainers" of the Chicago committee.

The FBI also disclosed that its Chicago office spent more than $2.1 million for information on so-called "security" cases from 1966 through 1976. It also spent $340,000 for information on "extremists."

The Chicago Committee to Defend the Bill of Rights was established in 1960. Its founders included Robert Havighurst, professor emeritus of the University of Chicago, the Rev. Victor Obenhaus, retired head of the Lutheran School of Theology, and Curtis MacDougall, professor emeritus of journalism at Northwestern University.

Richard Criley, director of the committee until February 1977, commented: "I think the inference drawn from the surreptitious entry of this committee, which was almost notoriously law abiding, speaks volumes on the close relationship of the House Un-American Activities Committee and the FBI." Reported in: *Chicago Sun-Times,* January 21.

new laws in California threaten First Amendment

Two bills passed by the California legislature and signed by Governor Jerry Brown pose a threat to the First Amendment, according to the American Civil Liberties Union of Northern California, which opposed the measures.

S.B. 923, authored by Senator Dennis Carpenter, a former FBI agent, makes it a felony to utter threats which "terrorize" others, where such threats are made "to achieve social or political goals."

The ACLU characterized the law as "clearly contrary" to First Amendment principles. The act includes no requirement that the injury threatened be imminent, or that the person making the threat have the present ability to carry it out.

A.B. 1580 amends California's current obscenity offense, a misdemeanor, by making distribution of obscenity a felony if the material depicts minors performing specified sexual acts.

The ACLU charged that A.B. 1580 creates a classic Catch-22: If a bookseller or film distributor fails to list the names and addresses of distributors from whom materials are obtained depicting minors engaged in sexual conduct, a misdemeanor is committed. If, on the other hand, the bookseller or distributor does list the names and addresses, he or she has confessed to commission of a felony—as prohibited by A.B. 1580.

Illinois ACLU: private pressure on media okay

In response to the increasing popularity of economic boycotts and other forms of private pressure to influence programming by the broadcast media, the board of directors of the Illinois division of the American Civil Liberties Union debated whether such actions are protected by the First Amendment's guarantee of freedom of expression and decided that they are. Confronting the directors was one vivid result of such pressure—the disclaimer presented by NBC in connection with its broadcast of *The Godfather.*

NBC cautioned viewers of *The Godfather* that they should not assume that the actions of the people portrayed in the movie in any way represented a particular ethnic group, and that the film might be too violent for certain viewers despite the fact that it displayed violence in a negative light.

Broadcast of the disclaimer was doubtless designed to assuage two private groups—Italian Americans, concerned about the portrayal of Italians as gangsters, and the PTA, concerned about the effect of video violence on children.

The statement adopted by the Illinois ACLU board declared:

"The right of protest is an essential element of the First Amendment's guarantee of freedom of expression. Whether such protest is exercised by an individual or a group it deserves legal protection as a valid demonstration of free speech and as a useful means of increasing the diversity of information and opinion available to the public.

"In recent times, different groups of citizens have banded together to publicize their opposition, on various grounds, to particular films, books, magazines, radio or TV programs, or other organs of communication. These protests have taken different forms. There can clearly be no question about supporting forms of peaceful protest, such as public speeches and meetings.

"Difficult questions may arise for civil libertarians when certain other forms of protest, such as picketing or organized boycotting, are utilized. Frequently such actions are regarded as necessary to achieve access to media outlets, or even to influence the decision of those responsible for deciding what material a medium of communication may present.

"Even where the consequence of such tactics is to curb expression of opinion, such activity is nevertheless not inconsistent with the guarantees of the First Amendment."

Polish censorship rules revealed

Nearly 700 pages of material identified as instructions to Polish government censors were released in New York City in January by Freedom House. The material was reportedly smuggled out of Poland to Sweden by a Polish censor named Tomasz Strzyzewski.

According to Freedom House, the instructions included these:

"Any information about any direct threat to life . . . resulting from industrial development and the use of chemicals in agriculture must be eliminated."

"No figures depicting the growth of alcoholism . . . .can be passed for publication in the mass information media."

"No potential criticism can be allowed of decisions relating to wages or of current social policies."

The instructions also forbad the press to reveal: restrictions on Communist parties in Arab states; conflicts between African countries or among Arab nations; Polish contacts with South Africa; use of such terms as "military dictatorship" for any nation with which Poland has diplomatic relations except Chile, Paraguay, Guatamala, and the Dominican Republic.

Freedom House is a nonpartisan group devoted to strengthening free societies. Reported in: *Chicago Sun-Times,* January 7.

speaker, film, and book cause problems in Canada

A Toronto high school principal cited racial problems in the city as the primary reason behind his order—issued in January—halting a member of the Ku Klux Klan from speaking to a senior history class.

Lorne Howcroft, principal of Cardinal Newman High School in Scarborough, said the Klanner, identified as Jim Alexander, was not welcome to speak to students on his views of the U.S. Civil War.

"Toronto has a racial problem developing and I don't want to provide any bit of encouragement by permitting the use of our facilities to a racist organization," Howcroft said. "They [the Ku Klux Klan] have a history of oppression and violence and we didn't want to give them credibility by inviting them into the school."

Howcroft reported that the teacher of the class, Colleen Mawson, had been given permission by "another member of the administration" to allow Alexander as a guest speaker. However, when Howcroft found out about the visit, he immediately canceled it.

"The students understand why he wasn't allowed into class, but they were pretty disappointed," said Mawson, who is in her fourth year of teaching U.S. history at Cardinal Newman. "The students had done a lot of research on the history of the Klan and their beliefs. They were ready to give him [Alexander] a good argument."

One reader of the *Toronto Globe and Mail* criticized the decision in a letter to the editor: "It would be my hope that schools would be attempting to develop some critical faculties so that, as mature adults, [students] would not be duped by organizations like the Ku Klux Klan. . . . Mr. Howcroft's action is just a case of misguided paternalism.

"It is commendable that Miss Mawson, the teacher who organized the event, had this kind of imagination. There should be more attempts to bring the community into the classroom so that students can learn that prejudice is more than a textbook problem."

Film withdrawn from national library

The National Film Library of Canada announced in January that it had decided to withdraw from circulation all of its copies of a controversial documentary film, *How to Say No to a Rapist and Survive.*

Library Director Peter Dyson-Bonter said the library had responded to criticism of the film from rape crisis centers, women's groups, and public health units throughout the country.

The library, the largest private distributor of educational films in Canada, advised its clients that it would recommend other films dealing with the problem of rape.

Book on killing denied entry

Canadian officials decided last year to seize at the border all copies of a book on killing which was published in the U.S. The work, entitled *How to Kill,* outlines ten methods of homicide, including decapitation and killing by clubs and pistols.

The author, John Minnery, described the book as a godsend for police officers and military personnel "who deal in this sort of thing."

Canadian law prohibits the importation of "books, printed paper, drawings, prints, photographs or representations of any kind of a treasonable or seditious or of an immoral or indecent character."

prior restraint restricts British broadcaster

An international sugar manufacturer based in Great Britain won an injunction in December that prohibited the airing of parts of a television documentary which the sugar company said "grossly distorted" its operations in South Africa.

The documentary, part of a series on "The South African Experience," was to have been shown on the Independent Television Network. The disputed segments, which show black workers talking about their British employers, include twelve minutes devoted to the sugar company, Tate & Lyle.

The incident was reportedly the first in many years in which a broadcaster was subjected to prior restraint. An ITN official said the only similar case he could recall involved an Andy Warhol film, whose broadcast was delayed in the early 1970s because of alleged bad taste.

In its campaign against the documentary, Tate & Lyle said in advertisements in several national newspapers that the program contained "grossly distorted statements which combined to give a totally unrepresentative picture of the company in South Africa."

Tate & Lyle also stated that the producers of the film had earlier agreed to withdraw three sequences "after they were proved by us to be faked." Reported in: *New York Times,* December 18.

(Council orders distribution . . . from page 26)

Barbara Eisberg and Vision Associates President Lee Bobker and directed by Bobker, the film was designed to serve as a springboard for discussion of the issue of free expression.

It was authorized by the ALA-IFC and the ALA Executive Board and produced as a joint venture with Vision Associates. The IFC subcommittee that approved the script consisted of Florence McMullin, then IFC chair, Robert F. Delzell, and Judith F. Krug, director of the Office for Intellectual Freedom.

The IFC subcommittee, working with the writers, considered several topics that the film's speaker might address. They rejected such subjects as abortion and gay rights because they felt that these issues would not strike a broad range of people as controversial enough to provoke vigorous debate on the limits of free speech.

Bobker selected the idea for the film following an interview with Archibald Cox, who said his most difficult First Amendment challenge was not Watergate but his inability to deal with student and faculty efforts to prevent William Shockley from appearing on the Harvard campus.

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Preview prints of the film may be requested by writing to: ALA Office for Intellectual Freedom, 50 E. Huron St., Chicago, IL 60611.

Spanish film censorship ended

In a decree that rescinded restrictions imposed on films in Spain during the Franco regime, Spanish King Juan Carlos in December abolished all film censorship and gave royal approval to the establishment of Spain's first *X*-rated movie theaters.

It was only after Franco's death that censorship was relaxed sufficiently to permit exhibitions of such films as *The Great Dictator, Midnight Cowboy,* and *A Clockwork Orange.*

Under the new decree, a government regulatory organization will set spectator age limits for each film released in Spain. The decree also established special cinemas for showings of films containing "sex and violence." Such theaters will be restricted in size and limited to over-eighteen audiences.

The extent to which extreme sexual fare would be allowed remained questionable, however. Criminal laws not affected by the decree could be applied to films like *Deep Throat,* according to observers in Madrid. Reported in: *Chicago Tribune,* December 2; *Variety,* December 21.

pressed duck: Finns go after Donald

If officials in Helsinki have their way, Donald Duck will no longer appear in local public libraries. According to Matti Holopainen, chairperson of Helsinki's youth committee, the Walt Disney character presents a bad example for youngsters.

Donald Duck has been "going steady with the same woman for fifty years without result" and this sets a bad model for the young, Holopainen told a city council meeting in January.

In announcing the decision not to renew library subscriptions to Donald Duck, Holopainen contended that most library users are too old for Donald Duck and that the comics are "not informative."

"We must be careful what we buy" with public funds, he said, proposing that the city subscribe to nature and sports magazines instead.

Known in Finnish as Aku Ankka, Donald Duck enjoys a circulation of almost 300,000 in Finland, fifth largest among all magazines sold in the country. Together, Disney comics in translation are the most popular publications in Finland. Reported in: *Washington Star,* January 15.

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