

MINUTES

LEGISLATIVE FUNCTIONS COMMITTEE
FEBRUARY 28, 1977

Members Present: Chairman Glover
Mrs. Brookman
Mr. Bremner
Mr. Coulter
Mr. Murphy
Mrs. Wagner

Members Absent: Mr. Bennett

Guests Present: Yvonne M. Saddler, Douglas County Library
William E. Andrews, Washoe County Library
Betty J. Montgomery, Lyon County Library
Joseph J. Anderson, State Library
Martha Gould, Nevada Library Association, Nevada
PTA, State Department of Education
Dr. Elmer R. Rusco, American Civil Liberties Union
of Nevada
Mylan Roloff
Arthur Gould
Dennis Rexrode
Joan Kirschner
Kathy Clarke
Ruth K. Lesser
Jeanne Bundy, Ormsby Public Library
Charlton G. Laird
Beverly Christian
Amy Christian
Robert D. Armstrong
Greg McIntyre

Chairman Glover called the meeting to order at 2:30 p.m.

ACR 6: Directs the legislative commission to study provisions relating to obscenity.

Dr. Elmer R. Rusco representing the American Civil Liberties Union of Nevada gave the committee copies of the national policy of the ACLU on obscenity and censorship (Exhibit A). He stated that his organization did not feel there should be any criminal statutes regarding obscenity, that they feel there should be no law abridging freedom of the press or prohibiting the basic rights of the First Amendment. He added that you must be very careful of what the community means. ^{How do you} determine what community standards are, and what the impact is on other communities; that standards of one community should not be imposed on another community.

Mrs. Brookman asked Dr. Rusco if he had a good definition of obscene. He answered no that what was obscene for one person was not necessarily for another.

Mrs. Wagner stated that basically the resolution is not a question of what one's philosophy on obscenity is but rather the importance of addressing the problems and difficulties over a period of time through an interim study. She added that a similar bill last session passed the Assembly but was defeated in the Senate Judiciary Committee because of the constitutionality of the whole question. She noted that the Nevada State Library Association, the State Department of Education, and district and city attorneys are included in this legislation because they are and will continue to be directly involved in any legislation that may result from the study. She gave copies to the committee of letters received from John R. Gamble, Superintendent of Public Instruction (Exhibit B) and Larry R. Hicks, District Attorney for Washoe County (Exhibit C) both of whom support ACR 6.

Mr. Murphy added that basically the committee was not making a value judgment on obscenity but simply approving the concept of a study to define it.

Mr. Joe Anderson, State Librarian for Nevada, stated that they were very interested in the study aspect because they feel the implications of legislation are very strong. He added that the selection process for one county might run afoul in another county and might also cause difficulty in crossing state lines. (Exhibit D)

Martha Gould representing the Nevada Library Association, the State Department of Education, the Nevada PTA read letters from the Nevada Library Association (Exhibit E) and the Nevada PTA (Exhibit F) in support of an interim study on obscenity and referred to letters from the Nevada State Advisory Council on Libraries (Exhibit G), the Department of Journalism UNR (Exhibit H), the Department of Art UNR (Exhibit I), Robert L. Van Wagoner, City Attorney Reno (Exhibit J), three newspaper articles (Exhibit K), and a letter from Harold G. Morehouse, Director of Libraries (Exhibit L) all in favor of ACR 6. She then read a supportive statement from her and her husband asking that a careful, considerate and cautious approach be taken. (Exhibit M)

Mr. Bremner asked Mrs. Gould if she had seen or had any input on anti-obscenity legislation in the Senate. She answered yes, that a critique had been prepared which she would make available to the legislature.

Mylan Roloff, speaking as a parent and an individual, supported the bill but felt the rights of the businessman and the rights of the general public must be protected.

William E. Andrews, Director of the Washoe County Library, read a letter sent to Chairman Glover (Exhibit N) stating his support for ACR 6 because he feels legislation should only be proposed after a thorough study with free and complete input from all sections of the state.

Yvonne Saddler, Director of the Douglas County Library, stated that she and her Board of Trustees supported this bill. She mentioned that she had spoken with Senator Gary Sheerin and Assemblyman Jacobsen and both approved this study.

Chairman Glover asked Ms. Saddler if the Douglas County library had the same type of books that Washoe or Clark County had. She stated that for purchase they rely on literary values but would order any book that a patron requested. Mr. Murphy added, and Ms. Saddler agreed, that essentially, in this case, the community was setting the standards.

Charlton G. Laird, a former professor at the university, stated he had been asked by the library people to appear before the committee and added that as a writer and editor he objected to any obstruction to an individual reading and knowing what he wanted. He read a statement (Exhibit O) in which he supported ACR 6 because he feels that great damage can be done if legislation is enacted without complete knowledge through slow and careful study.

After a few moments recess, Mrs. Wagner moved a DO PASS on ACR 6, seconded by Mrs. Brookman and carried unanimously by the committee.

Chairman Glover adjourned the meeting at 3:10 p.m.

Respectfully submitted,

Patricia Hatch

Patricia Hatch, Assembly Attache

59th NEVADA LEGISLATURE

LEGISLATIVE FUNCTIONS COMMITTEE
LEGISLATION ACTION

DATE FEBRUARY 28, 1977

SUBJECT ACR 6: Directs the legislative commission to study provisions relating to obscenity.

MOTION: DO PASS

Do Pass x Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mrs. Wagner Seconded By Mrs. Brookman

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

Moved BY _____ Seconded By _____

MOTION

AMEND

AMEND

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
BROOKMAN	_____	_____	_____	_____	_____	_____
BENNETT	_____	_____	_____	_____	_____	_____
BREMNER	_____	_____	_____	_____	_____	_____
COULTER	_____	_____	_____	_____	_____	_____
MURPHY	_____	_____	_____	_____	_____	_____
WAGNER	_____	_____	_____	_____	_____	_____
GLOVER	_____	_____	_____	_____	_____	_____

TALLY: CARRIED UNANIMOUSLY

ORIGINAL MOTION: Passed X Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes February 28, 1977

National policy of the American Civil Liberties Union

Policy #4

Obscenity and Censorship

(a) The ACLU opposes any restraint, under obscenity statutes, on the right to create, publish or distribute materials to adults or the right of adults to choose the materials they read or view. Freedom of speech and press and freedom to read can be safeguarded effectively only if the First Amendment is applied as it was written and intended — to prohibit any restriction on these basic rights. In pursuing this policy, the ACLU emphasizes that it is neither urging the circulation nor evaluating the merit of material charged with being obscene.

* * *

(b) Obscenity statutes which punish the distribution of material purchased or viewed by minors violate the First Amendment, and inevitably restrict the right to publish and to distribute such materials to adults. The complex social problems which prompt such statutes cannot be solved by avoiding their real causes and making freedom of speech and press a diversionary whipping boy.

The ACLU is well aware of the concern of parents, clergy and community officials about the exposure of children to what many regard as hard-core pornography, whether through its availability at neighborhood stores and newsstands or by its unsolicited dissemination through the mails. The Supreme Court has held that the distribution of such material to minors is not protected by the First Amendment. However, the Union maintains that a causal relationship between exposure to obscenity and juvenile delinquency has never been carried to the point of definitive proof. (See policy on Comic Books.)

As a practical matter it would appear that there can be no legal substitute for parental responsibility. Whereas the avowed dealer in pornography is usually astute enough to keep minors out of the emporium, the proprietor of a small candy store cannot effectively censor the hundreds of paperback books displayed on racks. While a proprietor might decline to display a periodical with a patently offensive cover — and might well be persuaded to do so at the request of customers — it is unrealistic to expect an examination of the contents of every publication offered for sale. Coercive sanctions would inevitably threaten the distribution of non-pornographic materials.

* * *

(c) The ACLU believes that the constitutional guarantees of free speech and press apply to all expression and that all limitations of expression on the ground of obscenity are unconstitutional. But so long as courts sustain such limitations in any form, it will also work to minimize their restrictive effect. Under the First Amend-

ment and the due process clause of the Fifth Amendment, such statutes should be required to define precisely the forms of proscribed speech, provide strict procedural safeguards, and choose the least restrictive methods of regulation.

The following safeguards for freedom of expression should be required:

1) The statutory definition of obscenity must be drawn precisely and narrowly limited to the category of materials which the Supreme Court has determined to be "obscene."

2) Book publishers and bookstores, motion picture producers, exhibitors and play producers and actors and others involved in theatrical productions, and libraries and museums, should not be threatened with the sanctions of criminal statutes for distributing or being connected with a work before it has been determined obscene in an adversary civil proceeding. The state should be required to select a civil proceeding, as the least restrictive method of censorship.

3) Obscenity statutes should be required to provide for prompt trial, determination and appellate review within specified time periods; and to require proof of scienter, under clearly defined and reasonable standards.

4) Obscenity statutes should assure defendants the right to counsel; and, if a defendant is acquitted, the defendant should be entitled to recover the costs and reasonable attorneys' fees incurred in defending the person's First Amendment rights.

5) Publishers, booksellers, exhibitors, play producers and others involved in theatrical production and places where art is exhibited should not be subjected to harassment by a multiplicity of proceedings. The state should not be entitled to subject a work to more than one civil proceeding to determine its obscenity. This could be accomplished either by requiring that its Attorney General institute such proceeding (or designate a district or county attorney to do so), or by providing that once an obscenity proceeding has been commenced in a state against a work, no other proceeding may be instituted against the same work in other counties, cities or towns until and unless there has been a final judgment that the work is obscene.

6) The bookseller or motion picture exhibitor or play producer, or museum or art gallery proprietor should not be obliged to risk punishment by misjudging the age of a minor. Such persons should not be required to keep records of evidence submitted by minors; and should be entitled to rely reasonably on a minor's statement of age (e.g., if the child is actually within three years of the age claimed to be).

7) There should not be a variable standard of obscenity for minors.

8) With reference to obscenity, no state should be entitled to define a minor as anyone over the age of sixteen.

* * *

(d) The ACLU has long maintained that the Supreme Court's 1957 definition of obscenity (*Roth v. United States*) — "whether to the average person, applying community standards, the dominant theme of the material taken as a whole appeals to prurient interest" — is erroneous because this type of judgment is inevitably subjective and personal. Courts and juries continue to differ over what constitutes obscenity, often including in that category books that have won world-wide acclaim.

Similarly, the now-overruled standard that to be judged obscene a work must be "utterly without redeeming social value" is imprecise and uncertain. It is impossible to draw the exact line between "important" and "worthless" material because the informed, critical community is itself just as often divided on the issue of the social importance as on the "appeal to prurient interest" of any given work. Attempts to

define "obscenity" frequently result in condemning most severely expression of a controversial nature — the very kind of speech for whose protection the First Amendment was written. For these reasons the Union is deeply dismayed by the trend toward the imposition of unprecedentedly heavy sentences on convictions in obscenity cases, involving complex constitutional questions of freedom of speech. [Board Minutes, April 16, 1962 and February 14-15, 1970.]

Further information (not policy)

Under the ACLU policy above the tri-partite test established by the Supreme Court in *Miller v. California* (1973) is similarly deficient. The elements of that test are: (1) whether the average person, applying contemporary community standards, (interpreted to mean standards of the local community) would find that the work taken as a whole appeals to the prurient interest; (2) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (3) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value. Like the earlier test, this standard also involves subjective and personal judgments under criteria which are imprecise and uncertain.

The Supreme Court explained more fully the impact of the *Miller* "community standards" test in *Jenkins v. Georgia* (1974) and *Hamling v. U.S.* (1974). Juries need not be given explicit instructions as to what community is the relevant one for determining standards; the jury's understanding of a state or county-wide community is acceptable. This is true even where the conviction is under a federal statute. The effect of this is to give states considerable leeway in defining the relevant community and to allow attempts to apply the most restrictive standards possible in attempts to define obscenity.

Policy #5

Comic Books

The ACLU recognizes that comic books, like the other mass media, may play an important part in the development of children's minds and behavior. But in view of the divergent — even contradictory — opinions expressed by responsible and qualified persons, there is as yet no definitive basis for assuming that crime comics are a significant cause of juvenile delinquency. Until it is shown that the circulation of crime comic books constitutes a clear and present danger with respect to the occurrence, or continuance, of juvenile delinquency, and until alternative means to combat this evil are shown to be inadequate, there is no justification for curtailing a basic right guaranteed by the Constitution—a free press unhampered by governmental interference. To condone pre-censorship, even of a few selected subjects, is to invite a spreading of censorship to other reading material. Private groups which seek to inculcate their particular point of view are always eager to broaden the scope of banned material and seize on censorship as an ally. Self-imposed codes of propriety adopted by the comic book industry and supervision by volunteer citizen "watchdog committees" over the contents of newsstands and bookstores are likewise improper in their effects of inhibiting both the creative artist's free expression of ideas and the individual parent's freedom to choose what his and her children will read.

(See also policy on Motion Picture and Book Codes.)



OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Capitol Complex

Carson City, Nevada 89710

JOHN R. GAMBLE
Superintendent

February 7, 1977

Assemblywoman Sue Wagner
Member, Legislative Functions
Committee
Nevada State Legislature
Carson City, Nevada 89710

Dear Assemblywoman Wagner:

It has become obvious that applying the present laws with respect to obscenity is relatively time-consuming and ineffective. Assembly Concurrent Resolution 6 appears to be an effort to resolve the present frustrations.

The Department of Education supports all efforts to bring the problem of defining obscenity into perspective. We would support A.C.R. 6.

Sincerely,

A handwritten signature in cursive script that reads "John R. Gamble".

John R. Gamble

JRG/mb



Washoe County District Attorney

Washoe County Courthouse
 South Virginia and Court Streets
 P.O. Box 11130 • Reno, Nevada 89510

LARRY R. HICKS
 District Attorney

February 2, 1977

The Honorable Sue Wagner
 Assemblywoman,
 State of Nevada
 Legislative Building
 Carson City, Nevada 89701

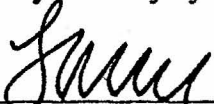
Dear Sue:

Thank you for the note on A.C.R. 6 supporting a commission to study provisions relating to obscenity. I am very much in support of this resolution as it is clear to me that our obscenity laws are in need of revision. Obscenity is a complex issue with difficult solutions and I concur with your belief that this type of a study, with input from those most directly affected, is the best approach to a meaningful solution.

I expect that I will be able to attend any committee hearings in regard to A.C.R. 6, however, in the event I should be unable to do so, please mention this letter and my support of the resolution.

Best regards.

Very truly yours,


 LARRY R. HICKS
 District Attorney

LRH/rg

cc: The Honorable Allen Glover
 Chairman,
 Assembly Legislative Functions Committee
 Carson City, Nevada

William E. Andrews, Director
 Nevada Library Association
 Box 2151
 Reno, Nevada 89505

EXHIBIT D

Mr. Chairman, I am Joe Anderson, State Librarian of Nevada. We are certainly interested in the study aspect because we feel that the implications of legislation are very strong in this area. They cross so many lines, they will create so many uneven applications of law. The problem that I see in terms of administering the state and federal grant funds, for example, to libraries--we make, among other things, book and material grants to all the public libraries. We have a state-wide system of inter-library loans and, theoretically, you carry the logic of legislative proposals we have looked at in the past to their appropriate and evenly applied conclusions, you would find that selection process in Humboldt County would run afoul in Clark County, and very often materials are loaned because of the inter-library finding systems and inter-library loan activities that are engaged in in all the state and across state lines. Inarticulate legislation, or legislation that was rushed to in this area could create these kinds of difficulties for us and create difficulty in developing the entire library base of the state.

NEVADA LIBRARY ASSOCIATION

February 28, 1977

The Nevada Library Association urges your support of ACR 6. It is the belief of the Library Association that only by such a study as provided for in ACR 6, can evenly applied legislation be drafted.

After what happened in 1975 with AB722 and AB802, the Library Association moved to provide information and educational materials in the area of censorship and model legislation to the 59th Legislature. We are most pleased that the concept of a study in such a critical and sensitive area has been introduced, in the form of ACR 6. I would remind the Committee that the Assembly Judiciary introduced such a measure in the 1975 Legislature, ACR 87.

Pressures for the drafting of restrictive legislation in the area of obscenity and pornography come from the Office of the Las Vegas City, Attorney. As a representative of the Library Association, I have met twice with Richard Koch, Deputy City Attorney, Las Vegas, and once with Carl Lovell, City Attorney, Las Vegas. In these meetings we have tried to make them understand that the problem is not one of just controlling or suppressing adult bookstores and theaters, but rather, one of protecting and preserving first amendment rights of individuals.

In our last meeting Mr. Lovell made the comment that Libraries have nothing to fear from such legislation. We beg to differ. The American Library Association has documented case after case of censorship and censorship attempts, from present day back through the years. Mr. Koch has admitted that he is not familiar with the findings of the Presidential Commission on Obscenity and Pornography. He further stated in a newspaper interview, " I have not given it the deep reflection that these people (librarians) have ... If I was told to, I could draft a statute including their ideas." This quote is from the Las Vegas Sun, Feb. 4, 1977.

The Library Association supports ACR 6 as the only way to proceed in this area. Aside from time for careful consideration, it would give opportunity for discussion of alternative means of approaching the problem, and it would provide time for the proponents of restrictive legislation to do their homework in constitutional law and the history of censorship.

It is the hope of the Nevada Library Association that you will support ACR 6.

The District Attorneys of Washoe County and Carson City, the City Attorney of Reno, the State Department of Education, the American Civil Liberties Union, and the PTA have all indicated support for ACR 6.


Martha Gould
Intellectual Freedom Chairwoman

NEVADA LIBRARY ASSOCIATION

February 28, 1977

The Nevada Parent Teacher Association has no position on pornography as a legislative issue.

The PTA has long held the attitude of protection of the rights of minors, and can in no way position themselves as censors or monitors of adult activity.

We do feel, however, that a thoroughly researched and educated approach to the growing social question of pornography is the duty and function of a responsible legislative body.

Any action without careful legal and moral investigation might result in more devastating results than action taken more slowly and thoughtfully.

The Nevada Parent Teacher Association philosophically supports the study mandated in ACR 6.

Mrs. Ann Lynch
2nd Vice-President and
PTA Legislative Chairwoman

NEVADA STATE ADVISORY COUNCIL ON LIBRARIES

401 NORTH CARSON STREET
CARSON CITY, NEVADA 89701
(702) 885-5130 TWX 910-395-0139

MIKE O'CALLAGHAN, *Governor* • Alice Lohse, *Chairman* • JOSEPH J. ANDERSON, *Vice Chairman, Secretary*

February 24, 1977

Assemblyman Alan Glover, Chairman
Government Affairs Committee
Nevada State Legislature
Carson City, NV 89701

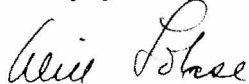
Dear Mr. Glover:

At a meeting in Carson City last week the Nevada State Advisory Council on Libraries voted to support ACR 6.

The Council, composed of working librarians, trustees and interested members of the community, favors the two year study of obscenity legislation proposed in ACR 6. The City Attorney of Reno, the District Attorneys of Washoe County and Carson City, the State Department of Education and the local chapter of the American Civil Liberties Union have indicated support of this measure.

We feel the approach offered by ACR 6 would give the state of Nevada the opportunity to draft model legislation in this area. We therefore urge your support.

Sincerely yours,



(Mrs.) Alice Lohse, Chairman

UNIVERSITY OF NEVADA

RENO, NEVADA 89507

DEPARTMENT OF JOURNALISM

February 25, 1977

Mrs. Martha Gould
Chairwoman
Intellectual Freedom Committee
Nevada Library Association

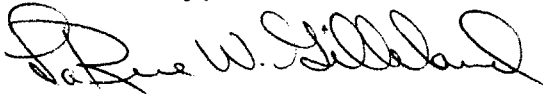
Dear Mrs. Gould:

This letter is to personally endorse Assembly Concurrent Resolution No. 6 calling for study of obscenity laws and for a report to be made to the 60th session of the Nevada State Legislature.

The Nevada Library Association and other supporters of ACR 6 are right, in my opinion, in advocating a careful approach to legislation. Poorly written legislation could produce more harm than good.

The obscenity issue is complex. It is important that thorough study has been advocated by the Washoe County district attorney, the Reno city attorney, the American Civil Liberties Union, and the State Department of Education, among others.

Sincerely,



LaRue W. Gilleland

Department of Art
University of Nevada, Reno
Reno, Nevada 89557
February 26, 1977

The Honorable Allen Glover
Chairman
Assembly Legislative Functions Committee
Legislative Building
Carson City, Nevada

Dear Assemblyman Glover,

I am writing this letter to indicate my strong support of A.R.C. 6 as introduced by Assemblywoman Sue Wagner.

It is evident the issues involved in determining the dangers of obscenity to our fellow Nevadans are very complex. I am deeply concerned that the enforcement of so-call obscenity laws may call into play judgements which present more dangers to the citizens of this state than the forms of expression they are intended to control.

As Chairman of the Department of Art at the University of Nevada, Reno, I am well aware of the numerous incidents in the history of the visual arts when zealous public officials have invoked laws of censorship to further their own purposes. Further, such laws tend to discourage creative expression because they codify as obscene, without specific example, certain graphic and symbolic forms which in and of themselves are not obscene. Indeed, such artists as Rembrandt and Rubins might find themselves in severe trouble here in Nevada if restrictive legislation was selectively enforced.

It is my belief that Assemblywoman Wagner's proposed legislation would provide a fair forum for discussing these difficult questions of First Amendment rights.

If there is any assistance I can provide in this matter I would be pleased to serve.

I would like this letter read into the testimony for A.R.C. 6.

Sincerely,

James C. McCormick
James C. McCormick

ROBERT L. VAN WAGONER
785-2056
City Attorney

CITY HALL
P.O. BOX 1900
RENO, NEVADA 89505

JACK SCHROEDER
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LOUIS S. TEST
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WILLIAM R. SHERMAN
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MICHAEL SMILEY ROSE
785-2050
Assistant City Attorneys

January 31, 1977

William E. Andrews, Director
Washoe County Library
P. O. Box 2151
Reno, Nevada 89505

Dear Mr. Andrews:

Thank you very much for your letter of January 27, 1977 and enclosed Resolution A.C.R. 6. I can assure you that I would support the Resolution and certainly have no objection to a reasonable study approach in developing a model statute for Nevada.

I am somewhat concerned that for the last two or three years we have done nothing in this area at the statewide level; however, I do believe A.C.R. 6 is appropriate.

Sincerely yours,



ROBERT L. VAN WAGONER
CITY ATTORNEY

RLV:km

Las Vegas Sun
Las Vegas, Nev.

Date: FEB 4 1977

By KEN LANGBELL
SUN Staff Writer

The Las Vegas city attorney's office is trying to sell its obscenity bill to Carson City, but it's not out for "blood," Deputy City Atty. Richard Koch said Thursday.

It will not wait to learn the fate of a proposal for a two-year study on pornography, and it will go ahead with or without the blessing of the Nevada Library Association (NLA).

"The present state law is unwieldy," Koch said. "I'd hate to see us sit around for two years and do nothing."

Koch was referring to a proposal by Reno Assemblywoman Sue Wagner to form a committee to study obscenity and the attitude of Nevadans on the subject.

Findings of the committee would be presented to the 1979 State Legislature for action.

Koch met with Wagner Wednesday when he was in Carson City, where he also met with Martha Gould and Bill Andrews of the NLA Intellectual Freedom Committee.

City Atty. Carl Lovell had planned to be there too, but canceled out at the last minute.

The library association was afraid the new statute would endanger material presently in libraries, museums, schools and other public places.

Gould and Andrews as individuals, Koch said, felt an

adult should have the freedom to read or view anything he or she wants.

Koch reassured them libraries, museums and schools were exempt from his statute, which was aimed at persons who tried to commercialize pornography.

"I've never run across any challenge to their constitutional right to have what they like," Koch said, referring to public institutions, "and I certainly wouldn't try."

Referendums held in the state, Koch said, seem to suggest Nevadans would prefer to ban the sale of hard-core pornography. But, he added, the NLA has raised questions as to the conduct of these referendums.

Asked if he was swayed personally by their arguments, Koch said, "I've heard the arguments before.

"I haven't given it the deep reflection that these people have. I'm a lawyer, not a sociologist. If I was told to, I could draft a statute including their ideas."

Koch said they promised him an opinion on the obscenity statute in a week, and he would definitely prefer to have them on his side.

While in Carson City, he presented copies of the proposed bill to the city's chief lobbyist, Assistant City Manager Richard Bunker, who will pass them on to legislators.

The main difference between Koch's law and that presently on the books is the inclusion of a list of sexual acts designed to state what specifically obscenity includes

Porno Bill Pushed

ART BUCHWALD

Everyone's an Expert on Obscenity

WASHINGTON—Mark Shields, a philosopher friend of mine, said the other night, "This country has come to a pretty pass when Harry Reems of 'Deep Throat' and Larry Flynt of Hustler magazine have become the Sacco-Vanzetti of 1977."

What Shields was talking about was the fact that Reems and Flynt have been tried in Memphis and Cincinnati respectively on obscenity charges, and we civil libertarians have to defend them to protect ourselves.

Since the Supreme Court, in a cloudy decision, has left the question of obscenity up to local communities, it is getting more and more difficult to define exactly what it is.

For example, I have an aunt who lives in Boston and she thinks Vogue magazine is obscene because it has printed photographs of topless models.

One of my best Catholic friends believes Ms. magazine is obscene because it publishes stories advocating abortion.

I have a cousin in Tucson who canceled her subscription to Time magazine because it did a long takeout on pornographic films with photographs, and my sister in New York thinks Cosmopolitan articles on how to steal somebody else's husband are the height of obscenity.

I must confess I'm rather loose about these things. I occasionally write for Playboy magazine, usually about tennis. But my wife won't read the publication and thinks I shouldn't be earning money from an obscene publication.

I did walk out after the first five minutes of "Deep Throat" because it made me queasy, but Russell Baker of the New York Times, with whom I went, stayed to the bitter end and got a column out of it. I told him later the column was obscene, but he just laughed at me.

My nephew, however, doesn't find anything in any magazine obscene. He thought the Vietnam War was obscene and had no redeeming feature.

A brother-in-law in Cincinnati is not disturbed by the sale of Hustler on magazine stands, but thinks the advertisements urging people to buy bigger and bigger cars, when there is an energy shortage, are obscene.

A liberal friend of mine has told me he considers Bill Buckley's National Review obscene, and a columnist colleague who works across the hall from me keeps telling me my humor appeals to people's prurient interests.

In California, Frank Sinatra thinks most gossip columnists are obscene, and many gossip columnists say Frank Sinatra is obscene.

A school library board in New York State has decided Kurt Vonnegut is obscene and has voted to withdraw his books from its shelves.

Several parents' organizations have protested that a lot of black poetry is really filth and their children shouldn't be exposed to it.

Thanks to the Supreme Court ruling, many local prosecutors have decided obscenity is the fastest stepping stone

to higher political office and have become national TV personalities overnight.

So everyone in this country and many in the same towns and cities have their own definition of what obscenity is.

The problem is that people are being thrown in jail because of it.

The excuse is that the communities are trying to protect their children. This makes a lot of sense except for the fact that these same children are exposed to about 80 hours of violence each week on television, and many people consider violence the ultimate in obscenity compared to bare bottoms and the other junk that people have to pay a lot of money to see and read.

If they're going to throw Harry Reems and Larry Flynt into the slammer, I think they ought to go after Russell Baker, too. A guy who sits through the entire uncut version of "Deep Throat" is, in my opinion, a menace to the community.

The Safire Column

Libertarian Views Pornography: Let The Individual Decide

By WILLIAM SAFIRE

WASHINGTON — A speechwriter of the campaign of 1968 was asked to come up with an indignation-stirring statement to appeal to the voters of Salt Lake City, and promptly drafted a blast at the smut peddlers who were illegally using the mails to send unlicensed obscene material to children.

Unfortunately, the statement was lost in the shuffle of papers aboard the campaign plane. Just before landing, a panic-stricken Nixon aide rushed down the aisle asking "Who's got the obscenity statement?"

THAT INNOCENT use of an obscenity to describe a diatribe against obscenity comes to mind as local prosecutors have broken out in a rash of indictments against pornographers.

In Memphis, a 33-year-old prosecutor is angling for the gover-

nor's job by getting a dozen hard-core convictions, including the male star of "Deep Throat." In Wichita, prosecutors are trying to drive New

publisher of the raunchy Hustler magazine.

The first reaction of most conservatives is to share the indignant reaction against the wave of newsstand porn and exploitation films. Conservatives respect tradition, and want to uphold moral values and standards of good taste. The "anything-goes" set is not our crowd.

BUT CERTAIN principles are at stake in the way smut is suppressed.

First, government does not belong in the personal-morality-among-adults, business. We should teach morality, we should preach morality, but we should not legislate morality.

Next, the conspiracy statutes that are being used so often to harass pornographers are an abomination. Whether the targets are rioters, White House aides, or even less popular souls, whenever the government cannot prove a person guilty of a

crime, it ought not then be able to jail that person for "conspiracy to commit" that crime.

Finally, government ought not to intrude on the right of adults to see or read whatever they choose, provided that performance or publication does not include the commission of, or incitement to, a crime.

SURELY, A CHORUS will reply, there are legal limits to free expression — yelling "fire" in a crowded theater, and all that. Doesn't society have the right to protect itself from moral degeneracy?

Yes! but! The Supreme Court has rightly been directing obscenity decisions down to the local level, to "community standards." But its purpose has been to allow local areas to curtail local distribution, and not to stop national publication by jailing editors or actors. Neither New York nor Wichita should impose its standard on the other.

The problem — in any community — is to defend the rights of those who do not want to be exposed to pornography while defending the rights of those who do. Such a balance of rights is not impossible.

The solution is to allow localities to stop pornographers from grabbing all citizens, including minors, by the lapels. Curtail the hard-sell, not the hard-core. Actors should be allowed to prance about naked onstage, where admission is by ticket only, but not down the public streets; similarly, a publication should be able to exhibit its tastelessness on the inside, but not on the cover or where people who don't want to see it are forced to see it.

The absolute, anything-goes demand is as wrong as the absolute, put-em-in-the-slammer philosophy, the freedom that needs protection is not so much the pornographer's freedom or the bluenose's freedom as

the freedom of the average person to make his own choice.

IT'S A FREE country. Let actor Harry Reems do what some people want to pay to see, let editors Al Goldstein and Larry Flynt hustle what many others feel the urge to purchase, and let all the other people who find such products repellent and degrading have the right not to have smut thrust at them against their will.

That seems to this libertarian conservative more sensible than to let legislators decide that anything in the prurient interest is not in the public interest, or to let judges taste the power and pleasure of being editors, or to let pornographers take over the streets and airwaves.

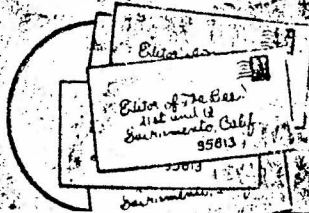
After eight years, I have an answer to the aide who lost my obscenity statement somewhere over Salt Lake City: Let individual Americans make their own — decision about obscenity.

New York Times News Service



William Safire

York-based smutneer Al Goldstein out of business by applying local Kansas standards. In Cincinnati, a crime-conspiracy statute is being stretched to snare Larry Flynt.

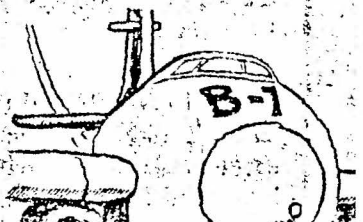


Letters From The People

To The Editor Of The Bee

Guest Cartoon

ROSAEYNN, IN PREPARATION FOR ASSUMING THE AWESOME BURDENS OF HIGH OFFICE I THINK I'LL TAKE ONE OF MY LONG RESTFUL WALKS ALONE WITH NATURE!





THE UNIVERSITY OF NEVADA·RENO

The University Library

February 28, 1977

Committee on Legislative Functions
Assembly of the State of Nevada

In the interests of the libraries of the State of Nevada, and of all the people of the State who are concerned with the problem of maintaining some control over the exposure of our citizens to obscene materials, and at the same time recognizing the importance of preserving our constitutional guarantees of free speech and press, I would like to urge your support of ACR-6.

As the librarian responsible for the largest collection of library materials in the State of Nevada, I feel that it is very important that any law relating to obscenity be carefully drawn after we have the results of a study of this complex question. This is the only way to insure that we have the best possible law, a constitutional law which will stand up in the court, and a law which will not inadvertently diminish important freedoms while attempting to protect our citizenry from obscenity and immorality.

Thank you very much.

Sincerely,

Harold G. Morehouse
Director of Libraries

HGM/jr

February 28, 1977

Assembly Legislative Functions Committee
Alan Glover, Chairman

In October of 1976, while my husband and I were in Jerusalem, we visited Yad Vashim, the memorial to the Holocaust. In the museum at Yad Vashim is a pictorial exhibit on the rise of Nazi Germany. Prominently included are photographs of book burnings. My husband and I came away grateful that we lived in a country that provided protection of individual rights, and understanding that these rights have, in the near past, almost been lost. I refer to the McCarthy era, wherein the American Government burned the works of such authors as Hemingway, Lewis, and Mark Twain. I also refer to Watergate.

We realize that the move toward control of adult bookstores and theaters is reaction to what many feel are excesses. However, in an attempt to stop such excesses, you face the danger of destroying the fabric of our judicial system. Once you move to except a single segment of the citizenry from due process of law, and first amendment rights, you move in the direction Germany took in the 1930's. To say that such legislation in the area of public morality would not harm libraries or educational institutions is false. The American Library association has documented evidence of such attempts to censor and control going back over the years. Within the past year Kurt Vonnegut books were burned in South Dakota. The Citizens Against Pornography in Huston Tx. moved against the public library. Parents moved to close schools in West Virginia over textbooks. And attempts are being made in Clark County to remove books from libraries. You move in the direction of restrictive legislation, and you open the door to a pandora's box of horrors.

Perhaps because my husband and I lost family to the concentration camps of Europe, we tend to be very protective of our Constitutional rights. I would, respectfully remind you, as elected officials, you have the responsibility of protecting such rights. In an area as sensitive and emotional as legislation dealing with first amendment rights, we urge that a careful, considerate, cautious approach be taken. We ask your support of ACR 6.

Mr. & Mrs. Arthur Gould
Mr. & Mrs. Arthur Gould
1690 W 6th Street
Reno, NV. 89503

February 28, 1977

Assemblyman Alan Glover, Chairman
Government Affairs Committee
Nevada State Legislature
Carson City, NV 89701

Dear Mr. Glover:

First, I would like to go on record as endorsing and supporting ACR6, directing the Legislative Commission to study all provisions of law relating to obscenity.

There is one statement with which I believe many of us are in agreement - There are wide, wide differences of opinion on obscenity and obscenity legislation. This in itself is extremely important.

After working with and watching proposed legislation over the past 6 years I am well aware of the differences. For some obscenity becomes a deeply emotional issue out of all proportion to its character, good or bad. Legislation based upon undue emotional attitudes is almost universally poor and works only toward confusion rather than solution of the problem.

For many of us here it is also a matter of principle allowing the adult citizen freedom to select and choose for himself reading and viewing material without interference from either his neighbor or the state.

A basic fact of a democratic society is the acceptance of disagreement and the solution of many moral issues by discussion and accommodation. We have never had universal agreement or acceptance on the drinking of alcoholic beverages, the smoking of cigarettes and use of tobacco, gambling, wagering and betting in all forms, and even today, the use of marijuana.

Speaking as a member of the Intellectual Freedom Committee of the Nevada Library Association and for myself I would prefer not to be here today and not to have this issue exist. However, when confronted with the legislation proposed by Carl Lovell I cannot sit idly by and accept, without loud and strong protest, the 19th century regressive approach of the City Attorney of Las Vegas. Today, we may live in a permissive society with all of the attendant evils but the solution is not a return to the days of Anthony Comstock; The Society for the Suppression of Vice; The New England Watch and Word Society, and the Sunday blue laws.

If we are to propose legislation it should only be after a thorough study of the situation as it exists today and full, free and complete input from all sections of the state.

Very truly yours,


William E. Andrews

Charlton G. LairdFebruary 28, 1977

Ever since Eve tasted the forbidden fruit, and got a man into the act, we have had problems knowing what is and what is not decent--the Snake is a wellknown sex symbol. And in recent years all the media have been warning us that the media themselves have provided the lewd and lascivious with means unheard of a few years ago. We all know this, and we are not allowed to forget it.

Accordingly, I should like to remind you of some things we all know, but can readily forget. They are few, but I believe fundamental:

1. Regulating obscenity is censorship. It is denial of liberty. It is an affront to freedom. It is saying to somebody, thou shall't not know some things you want to know; thou shall't not do some things you want to do. It may be a lesser evil, or can be made a lesser evil, but we shall do well to remember as lovers of what America stands for that it is an abridgement of the freedom to think, to know, to act as we want to.
2. Most attempts at censorship have done more harm than good. On the whole we don't need censorship, and most of us want as little as possible. Hitler needed it; Idi Amin may need it, but we need very little of it. When we sign away part of our freedom, we had better sign away too little than too much.
3. Obscenity is hard to regulate. Morality and sex are even harder to control than gambling, which causes us puzzles aplenty. Taste, good judgment, and morality cannot be much inculcated by law. On the whole, this has been the danger in censureship, even in well intentioned censorship, that men and women who were too ignorant tried to do too much too fast. Angry, frightened, or bewildered, seeing their families or their way of life threatened, they have struck back blindly. This is no time, and obscenity no subject for hasty action.
4. If we are to attack obscenity, we had better know how to do it. Maybe we should do nothing. In some areas we have too many laws already, and some sociologists tell us the problem of obscenity will be getting better rather than worse, that as the teenage group declines in numbers, as a more self-disciplined generation of young people matures, both mugging and pornography will lessen. Maybe the state level does not offer the best approach? If pornography is rampant in Las Vegas but not in Lemoille, maybe the problem is local? Or national? And there are new approaches to controlling obscenity. Which seem most successful? Which would work best in Nevada? For some, the evidence is not yet in. The plain fact is that we do not know enough to draft intelligently conceived legislation.

Thus I should like to encourage the adoption of ACR 6. In general I discourage procrastination. I don't like postponing until tomorrow what needs attention today, but this is one of those areas in which we know too little, and can do great damage if we move with too much haste.