[MS-0087.008.005.012]

OBSCENITY AND CENSORSHIP--THE LEGAL SITUATION

Just when sex is showing its undisguised self in magazines, books, movies and plays, the censors come along to make it dirty again.

The censors' move has ben made possible by the 1973 U.S. Supreme Court decision concerning obscenity. In San Diego, municipal courts have been constantly busy prosecuting this bookseller and that movie house owner for distributing "obscenity." As supporters of the First Amendment, it seems to ACLU that the courts' time could be better used trying criminals who tread on the rights of others without consent, robbers and rapists, for example. No adult viewing sexually explicit materials is being forced to without his consent.

From 1957 to 1973 the U.S. Supreme Court tended to follow the definition of obscenity set forth in a 1957 case it ruled on and amplified upon in several following cases. The Court laid down a three step test to judge obscenity by, and the test was incorporated in many states' codes, including California's. The Court claimed that the First Amendment was not meant to protect obscene speech, which was defined as 1) that which appeals to the prurient interest in sex, 2) that which goes beyond customary limits of candor in the community, and 3) that which is utterly without redeeming social value.

In 1973, the Supreme Court once again ruled on obscenity, defining it as speech (or other similar material) dealing with sex or excretion that is without serious literary, artistic or scientific value. Furthermore, the government need not use experts to help define obscenity, and may rely on local rather that national standards to prove obscenity.

The upshot of this ruling is that prosecution and convictions are probably more easily obtained since the definition removes more material from the protection of the First Amendment and lessens the burden of proof since the community is smaller.

And so prosecutions have increased--limited the right to consent to see such films as "Deep Throat" or "Behind the Green Door," or to obtain books or magazines that deal with sex explicitly or unblushingly.

In San Diego, as in other California cities, juries are not agreeing with the prosecution readily. In recent months, several "hard core" magazines and movies have been acquitted or juries hung. However, the defense has been costly as experts in sexual psychology have been hired to testify as to the value of sexual materials, especially in solving difficulties based on sexual ignorance.

The mere danger of prosecution is inhibiting to a bookseller or theatre operator. "Behind the Green Door" is presently in court. Those who fail to see it now may never have another chance to know what the censors think is too sexy for the willing adult to view.

Hence the educational fund-raiser. Your contribution, either to attend or stay away, will help ACLU support the First Amendment.

.....

Fund-raiser details on the reverse of this sheet. Send reservations to ACLU, P.O. Box 6233, SD 92106. (Use enclosed envelope.) Deadline--Feb. 18.

Name_____ Address_____

Phone_____ Number of reservations____ Am't enclosed_____

Please enclose stamped, self-addressed envelope for return of tickets.

BEWARE THE EDUCATIONAL FUNDRAISER: A LEFT-HANDED INVITATION

A unique double feature, "Deep Throat and "Behind the Green Door," is offered to ACLU members on Wednesday, Feb. 20 at 7:30 p.m. by Russel Hoelscher, manager of the Penthouse Theater at 5th and G. Mr. Hoelscher, a dedicated member of ACLU, is a firm believer in freedom of speech and inquiry. The double feature, offered as an educational experience, will be at his theatre.

The "stag" show was once the exclusive province of men, but Linda Lovelace and Marilyn Chambers have made sex films an equal opportunity for pleasurable viewing. Men and women have been attending the films together.

"Behind the Green Door" has been called the first sex film for women, portraying one woman's fantasies in a highly refined art form. Like no other movie, this one takes sex out of the sleazy back room and clothes it--or rather fleshes it out--with beautiful photography and expert use of both silence and sound. Joyce Haber of the Los Angeles Times has called it the year's Most Underrated Film. (She also awarded "Deep Throat" the year's Most Overrated Film title.)

Those planning to attend may not want to see both films. After all, enough may be enough. "Deep Throat" will start at 7:30 and end at about 8:45. "Behind the Green Door" will begin at 8:45 and end at about 10. A donation of $4 per person is being asked; it will cover both films.

WARNING: These two films are not for everybody. If you think sex exhibition is fun or if you are curious about the new wave of explicit sex in art forms, this program will be educational. If you think graphic representation of sex acts on film is embarrassing, then exercise your First Amendment rights and stay home. ACLU supports the right not to view as well as to view. (The $4 would be appreciated whichever aspect of the First Amendment you support in the case of these two films.)

A FINAL WARNING: ABSOLUTELY NO ONE UNDER 18 MAY ATTEND

(Seating is limited--send in the reservation form on the reverse as soon as possible.)

AMERICAN CIVIL LIBERTIES UNION
P.O. BOX 6233
SAN DIEGO, CALIFORNIA 92106

BULK RATE
U.S. Postage
PAID
San Diego, Calif.
Permit No. 587

C U R E
3944 1/2 THIRD STREET
SAN DIEGO CA 92103
Z-1717100