

## REMARKS ON CENSORSHIP BY SHERIFFS

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At the third general session of the biennial meeting of the N. C. L. A.,  
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I asked our President for time on this morning's program in order to call the attention of our Association, briefly, to a few facts which in my opinion ought to be of concern to all of us as librarians. Many of you have read in the newspapers, as I have, accounts of how the sheriffs of certain North Carolina counties have recently started campaigns to ban a number of magazines and other publications from the newsstands. These developments have occurred so recently that there was not time to take the matter up with our Committee on Intellectual Freedom before this meeting.

Now, please do not go into a state of alarm, or think that I have come here to wave a flag or make an emotional speech on the dreaded subject of censorship. That is not my intention. All I wish to do is to present to you certain facts which I believe you will find interesting. In my opinion the facts are just that—interesting, but not alarming.

On November 17, 1957, the *Durham Morning Herald* carried the following editorial, under the title "Censorship-by-Sheriff for Durham County":

... The Sheriff is trying to banish from Durham County a list of magazines which somebody considers objectionable. This list somehow got the approval of

the N. C. Sheriffs' Association, and was distributed by the Association to all sheriffs as a guide in enforcing the so-called obscenity statute which the 1957 General Assembly was induced to pass. Most of the Sheriffs have made it plain that they want to have nothing to do with the complex issue of censorship, but Durham County's sheriff has adopted, and apparently with relish, the role of censor.

... Here we have the suppression of a magazine with no knowledge of what it contains. The Sheriffs' list condemns magazines by title, not by individual issues. Issues yet unpublished ... are to be suppressed ... and all of this is to be done not by legal action against the publications but by pressure upon the distributor. To anyone who knows anything about judicial precedents in the field of censorship, it is obvious that this action, if challenged in the courts, won't stand up.

... The tendency of censorship is to add to the list of banned publications. The Sheriff ... has made the acquaintance of the novel, 'Peyton Place,' and he doesn't think it's the sort of book Durham people ought to read. The logic of the censor will not allow him to stop there. He will have to go on to other books.

... Censorship-by-sheriff ... creates more ills than it cures. And if we are to have censorship-by-sheriff let it be according to law. Most of us would prefer to have the courts make decisions in these matters rather than the sheriffs.

Perhaps this is a small thing and nothing to get excited about. Perhaps it is not a small thing. We can't say at present. But our duty as librarians may well be to watch just such small things. Small things have a way of getting out of hand. Look at the atom. We used to think the atom was a small thing.

Let me describe briefly the 1957 "obscenity statute" to which the editor referred. I wish to emphasize particularly the fact that this statute is not by any means a statute to disturb even the most ardent opponents of censorship. The General Assembly was careful to avoid making the statute sweeping or oppressive in its effect. The law provides several safeguards against condemning any suspect matter that is in fact not obscene. Provision is made for admitting evidence on at least five important points whenever there is a prosecution involving allegedly obscene publications; and of course the use of the word "prosecution" shows that the General Assembly meant prosecution in the courts:

(1) The character of the audience for which the material was designed or to which it was directed;

(2) What the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;

(3) Artistic, literary, scientific, educational or other merits of the material;

(4) The degree of public acceptance of the material throughout the United States;

(5) Appeal to prurient interest, or absence thereof, in advertising or to the promotion of the material. Expert testimony and testimony of the author, creator or publisher relating to factors entering into the determination of the issue of obscenity shall be admissible.

I repeat that these provisions are fair and reasonable enough, and the "obscenity statute" need not cause us any alarm, if only prosecutions on grounds of obscenity are

conducted in the courts and the matter is not left to the somewhat haphazard efforts of sheriffs to enforce their own local bans.

Sheriffs in several counties of North Carolina have recently been engaging in such book-banning activities as have been described. I have cited the case of Durham County because I have most information about that case, but I have read of similar clean-up campaigns in other counties also: Buncombe and Edgecombe Counties, I believe, provide other instances.

The North Carolina Sheriffs' Association has distributed the list of objectionable publications (compiled anonymously, I think) to serve as a guide to sheriffs. There are, as I recall, fifty-one titles on this list, including *Playboy* and *Bat Man*. I remind you that according to the editor of the *Durham Morning Herald* most of the sheriffs of North Carolina have "made it plain that they want to have nothing to do with the complex issue of censorship." But several sheriffs, at least, do not feel that way about it.

Perhaps the North Carolina Sheriffs' Association, the "N. C. S. A.," would appreciate some help from the N. C. L. A. in all this business. The sheriffs are really on the spot. On the one hand, they have their sworn duty to uphold and enforce the law. On the other hand, the "obscenity statute" is extremely difficult to interpret and apply. We ought to sympathize with the sheriffs. Theirs is no small problem. In order to know what they are doing, they need to know as much about law as the Supreme Court Justices themselves, and to read many heavy volumes of case reports. The whole issue is clouded in obscurity and beset with pitfalls for the conscientious sheriff. The wording of the 1957 statute is frequently vague. There are loopholes in it. Lawyers, judges, and professors of law have wrangled since 1868 (at least) in a vain effort to define "obscenity" satisfactorily. One lawyer, in a state of depression, said in effect, "What we need to clear all this up is someone who will give direct, positive testimony that a certain book—any book—is obscene and has a tendency to corrupt morals, 'because that is the book which corrupted me!'" But no such witness has been forthcoming, and so the argument has been merely one man's opinion against another's, with no provable facts. Maybe this problem could be solved by one of us, who might speak as a librarian and therefore something of an expert on books, and might say, "The book by which I was corrupted was—so-and-so."

Until this happens, we should not be surprised to find sheriffs and others seizing the first "list of objectionable titles" that come along, and using that list in their work of upholding the law, because somebody has taken the trouble to draw up a list and "they say" these titles are undesirable.

Nor should we be surprised to find individual sheriffs quietly adding a few titles to the list—books as well as periodicals—on their own authority. This is the way the paper-back edition of *Peyton Place*, by Grace Metalious, got on the black list in Durham. Incidentally, it is interesting to note that in Durham County one may still purchase the hard-cover edition of *Peyton Place* without a qualm, since it is only the paper-back edition that has incurred the sheriff's displeasure. (This could be called unfair discrimination against one publisher and favoritism toward another.)

I have a copy of *Peyton Place*, the paper-back edition, here with me, and I should like to read you several selected passages; but time is limited, and so I must content myself with quoting only one short passage. In the book it comes just after a conversation between the two Page sisters, in which these delightful ladies use some words which are not exactly ladylike. The author then says:

The two sisters bit off these words as crisply as if they had been chewing celery, and the fact that these same words in print would have been an occasion for book banning and of shocked consultation with the church did

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not bother them at all, for they had the excuse of righteous indignation on their side.

Thus the author appears to have anticipated the sheriff's action.

There is no need for me to conclude with a lot of high-flown language about the devotion of librarians to the cause of freedom, or to quote from the "Library Bill of Rights" and other such things. We believe in these things already, and I have not been speaking to you on so lofty a level. My purpose, as I have said, was rather to draw your attention to some facts on the local level about which I think we should be concerned. I do not think we are confronting a grave crisis, but I do think we should always keep our guard up and be watchful of small developments when they are in the direction of something that we do *not* stand for.

What should we do, as an Association? I don't know whether we should do anything or not, but I suggest that there should be an investigation of the facts, and then, if action is necessary, the proper people in the N.C.L.A. can recommend whatever action seems appropriate. If *no action* seems to be the best policy—and of course this little tempest could very well blow over—then they can simply say so.

Mr. President, I should like to put my suggestions in the form of a motion, as follows:

I move—

*First*, That the North Carolina Library Association Committee on Intellectual Freedom be asked to examine carefully all available facts concerning the censorship or suppression of co-called "obscene" or "undesirable" publications *by local authorities* without court action;

*Secondly*, That the N. C. L. A. Committee on Intellectual Freedom report their findings to the Executive Board; and

*Thirdly*, That after full discussion of the whole question the Executive Board recommend to the Association any action on the part of the Association that they deem appropriate.