Though intellectual freedom defies precise definition, the right to seek answers to the questions that the mind propounds and to be stimulated to ask more questions must be included in our attempts at definition. Included must be the right to be challenged by encountering alien, even offensive, ideologies. Included must be the duty to seek such challenge, for only a belief which has been challenged is held with any kind of certainty. Included must be the right to encounter not only the great minds of the past and the great minds of the present, but also the second rate, the third rate, the mediocre, and even the inferior minds. Included must be the right to read what they have produced, to be stimulated, moved, repelled by their ideas, their portrayal of life, and their reaction to the human situation. Included must be the right of access to a rich and varied collection in every one of our public libraries, a collection, not only of books, magazines and pamphlets, but also of tapes, pictures, films, recordings and all other material from which knowledge can be derived. The public library, accordingly, must be the bastion of intellectual freedom.

The mortal enemy of intellectual freedom is, of course, censorship. Censorship not only stifles the opinions and theories which have been expressed, but also those which might come to life if eager minds were allowed to receive the suppressed ideas, to elaborate them, or to refute them. Censorship ever leaves us unsure of the beliefs we hold, for, as John Stuart Mill pointed out:

The beliefs which we have most warrant for, have no safeguard to rest on, but a standing invitation to the whole world to prove them.

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unfounded. If the challenge is not accepted, or is accepted and the attempt fails, we are far enough from certainty still; but we have done the best that the existing state of human reason admits of; we have neglected nothing that could give the truth a chance of reaching us . . . this is the amount of certainty attainable by a fallible being, and it is the sole way of attaining it.¹

Public libraries in this nation are, by and large, governed by boards of trustees. These boards are either appointed or elected. In some instances city managers or other trained officials prefer to deal directly with the librarians without the interposition of a policy-making body. But whatever the nature of the governing body, its function is a public trust and its obligations include employing a competent and qualified librarian as well as determining and adopting written policies to govern the operations and programs of the library. The most important policy a governing body must make is that involving book selection. The following statement is an example of a book selection policy which clearly sets responsibilities and fulfills a board’s obligation to intellectual freedom:

The board of this library recognizing the pluralistic nature of this community and the varied backgrounds and needs of all citizens, regardless of race, creed or political persuasion, declares as a matter of book selection policy that:

1. Books and/or library material selection is and shall be vested in the librarian and under his direction such members of the professional staff who are qualified by reason of education and training. Any book and/or library material so selected shall be held to be selected by the board.

2. Selection of books and/or other library material shall be made on the basis of their value of interest, information and enlightenment of all people of the community. No book and/or library material shall be excluded because of the race, nationality or the political or social views of the author.

3. This board believes that censorship is a purely individual matter and declares that while anyone is free to reject for himself books which he does not approve of, he cannot exercise this right of censorship to restrict the freedom to read of others.

4. This board defends the principles of the freedom to read and declares that whenever censorship is involved no book and/or library material shall be removed from the library save under the orders of a court of competent jurisdiction.
5. This board adopts and declares that it will adhere to and support:

   a. The Library Bill of Rights, and
   b. The Freedom to Read Statement adopted by the American Library Association, both of which are made a part hereof.²

It should also be understood that the role of a governing body and that of the librarian are separate and distinct. The librarian's function is administration as opposed to the board's, which is policy making. The distinction is analogous to that between a board of directors and a manager.

It is also essential that governing bodies of libraries realize that their obligation is not to themselves, but to the community, and that this obligation precludes imposing their own prejudices, preferences, or views. It should be clear to all governing bodies of all public libraries, including those commissioned to govern the state libraries, that censorship of any form is abhorrent in a free society. A people haunted by fear, crushed by oppression or ruled by a dictator might accept censorship as did some of the people of other nations who saw the great burning of the books, but despite the cries from the conservatives, the do-gooder, the self-righteous, the bigot, and the well-meaning, no American with any sense of history and an understanding of the value of liberty will tolerate censorship. Rights of individuals in a rapidly growing society do seem to shrink. The very number of people makes the exercise of rights more difficult. Rights, however, must be defended more and must even be cherished more; if man is to live free despite the pressure to conform, all of his rights must be defended, especially his right to read.

Basically, censorship attacks come in four broad categories: political, religious, social, and pornographic. There are those who would suppress political viewpoints in order that their own might prevail, there are those who would suppress religious ideas in order that their own creed might gain ascendance, there are those who would suppress racial and social theories in order that their own might gain credence, there are those who would suppress what they are pleased to call obscene, pornographic, lurid, or indecent literature in order that they might impose upon society their own views of morality. One might be inclined to admit that there is a great deal of garbage being passed off as literature, but one should also remember what Thomas Jefferson had to say about censorship:

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I am really mortified to be told that, in the United States of America, . . . a question about the sale of a book can be carried before the civil magistrate . . . are we to have a censor whose imprimatur shall say what books may be sold, and what we may buy? . . . shall a layman, simple as ourselves, set up his reason as the rule for what we ought to read . . . ? It is an insult to our citizens to question whether they are rational beings or not.

Thomas Jefferson championed the right of free expression even for those who opposed his political ideas. So strong was his opposition to a constitution without a bill of rights that he originally opposed the adoption of the Constitution because it included no safeguards of rights, though he was eventually persuaded that the Constitution should be adopted as written, and a bill of rights added as soon as possible. Jefferson’s Virginia Statute of religious freedom was the model for the freedom of religion clause in the First Amendment. Jefferson, one of the best-educated men of his day, undoubtedly knew of Socrates and Euripides and the trouble which they had with censorship, though it did not bear that name then. He undoubtedly knew of the clash of religions in the first centuries of the Christian era which gave rise to bitter attempts at thought suppression when the early Christians were tortured and put to death to force them to worship the emperor, a sacrilegious act in their view. He undoubtedly was aware that as soon as Theodosius made Christianity the sole legal religion of the Roman Empire, the Christians began persecuting the pagans. A man of his learning would have been familiar with Arius, Origen, Donatus, Pelagius, and Nestorius, all of them victims of orthodox intolerance, and all major thinkers and writers of Western civilization. He must have known of Roger Bacon’s scientific experiments which earned him the enmity of his Franciscan brethren and landed him in jail, of Pierre Abélard’s theological treatise which was condemned at the Council of Sens and destroyed, of Vesalius hounded into abandoning his brilliant anatomical researches, of Galileo forced to recant his subversive belief that the earth revolves around the sun, and of Lorenzo Valla persecuted because his examination of the donation of Constantine had exposed it as spurious. Though men tend to forget the lessons of history today, fortunately for us this was not so with our forefathers who understood that our world would be infinitely poorer if these men had been silenced, as it is infinitely poorer because of the works which persecution prevented them from writing.

Article I of the Bill of Rights provides that “Congress shall make
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no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the rights of the people peaceably to assemble, and to petition the Government for a redress of grievances." The protection of certain rights, including freedom of speech, appeared so important to the founding fathers that this article is the only one which expressly forbids Congress to make laws.

It is true that rights are not absolute. For example, no one has the right falsely to cry "fire" in a crowded building, nor can anyone slander another, but in both examples the exercise of right caused harm, and in both instances the harm could be punished because it was a provable effect. In 1919, Article XVIII was enacted, banning the manufacture, sale, or transportation of intoxicating liquors. This great social experiment was terminated in 1933, when it was found that the sale and transportation of intoxicating beverages apparently could not be controlled. No sane person will deny that there is a causal relationship between drinking and behavioral patterns. It should also be noted that approximately 50 percent of the fatal accidents on highways can be attributed to drinking. Of course no statistics are available to indicate the rapes, attempted rapes, robberies and other antisocial acts which can be attributed to alcohol, nor how many unwanted pregnancies or how many unexpected consentual intimacies occur because of the influence of alcohol. Yet very few people today advocate a return to legislation which proved unenforceable. With reading, on the other hand, not only is it impossible to define pornography or enforce laws against it, but its effects can neither be measured nor predicted. Two people may read the same thing and have entirely different reactions. What one period considers shocking will merely amuse the next; likewise, the mere bawdiness of one age will be filth to another. It is thus that the so-called "pornographic" books of a period have often become the classics of the next: witness Madame Bovary, Lady Chatterley's Lover, and Ulysses. On the other hand, the Decameron, universally read in Chaucer's day, contains passages that most modern editors prefer to leave in the original Italian.

Censorship must first of all cope with the problem of fighting something which defies definition and varies with every person, every area, and every period; it must also cope with this "something" without any firm basis for prohibition. It can be asked if there is a demonstrable causal relationship between reading and behavior patterns. If it were
possible to prove that antisocial sexual behavior such as rape and sexual assault followed the reading of pornography, then laws might properly attempt to regulate something which, as of now, is still legally undefinable (though those laws might prove as unenforceable as prohibition). If, however, no relationship can be established between “pornography” and antisocial sexual behavior, such legislation is purely an attempt to impose a certain moral view on society.

The effect of words, written or spoken, on behavior is hard to trace. For centuries, churches have taught, led, expounded, and preached to convince their disciples of the creed which they professed. No one can say what effect this teaching had on the mind of the faithful, but one might well question the existence of a causal relationship between the “believer’s” behavior and the beliefs or doctrines taught, particularly that of charity. Yet this religious effort to influence behavior has been sustained over centuries. In the case of pornography, no study to date has proved that exposure to pornography has caused antisocial behavior. A most thorough recent study was conducted in 1969 by the department of psychiatry at the University of Chicago’s Pritzker School of Medicine.

Questionnaires in the University of Chicago survey went to 7,500 psychiatrists and psychoanalysts (about half of those listed in the directory of the American Psychiatric Association) and to more than 3,000 psychologists whose listing in the directory of the American Psychological Association indicated experience with patients. More than 3,400 professionals in the mental health field responded to the questionnaire.

Since words such as “pornography” and “antisocial sexual behavior” may have different meanings to different people, the questionnaire included definitions of both which were to be used in responding.

Pornography was defined in the words of Supreme Court Justice Potter Stewart in the case of Ginzberg v. The United States. That definition indicates in part that pornography includes “photographs, both still and motion picture, with no pretense of artistic value” depicting sexual acts. Comic strips, pamphlets, and booklets “with no pretense of literary value” are also included in the definition.

Antisocial sexual behavior was defined for the questionnaire as “that behavior which violates the rights or invades the privacy of some person or persons and is of an obviously sexual nature.” Examples include rape and sexual assault.

Responses to individual questions show:
80 percent of the psychiatrists and psychologists had never encountered any cases in which pornography was a causal factor in antisocial sexual behavior.

7.4 percent did encounter cases in which they were somewhat convinced of a link between pornography and antisocial behavior.

9.4 percent had cases in which they suspected but were not convinced of a link.

83.7 percent believed persons exposed to pornography are no more likely to engage in antisocial sexual acts than persons not exposed.

57.9 percent, however, did not believe exposure to pornography tends to act as a valve for antisocial sexual impulses. However, 38.9 percent believe pornography does help decrease the likelihood of antisocial sexual behavior.

62 percent did not believe pornography which includes violence is any more likely to lead to antisocial sexual behavior.

60.4 percent did not think pornography can be therapeutically useful for people experiencing fears of sexual impotency.

61.4 percent did not think seeing violence on television or in the movies acts as catharsis to reduce the tendency for people to actually act out violent impulses.

49.4 percent did not believe violence, when publicly depicted in various forms, tends to create a permissive atmosphere within which individuals have a greater likelihood of acting out their own violent impulses.

76.2 percent did not believe watching violence on television or in the movies tends to excite some people or frequently lead to violent behavior.

65.5 percent did not feel eliminating censorship would reduce the desire for pornographic materials.

86.1 percent believed people who vigorously try to suppress pornography are often motivated by unresolved sexual problems in their own characters.

64.9 percent believed censorship is socially harmful because it contributes to a climate of oppression and inhibition within which creative individuals cannot express themselves adequately.

55.7 percent believed some form of censorship should be applied to pornography, and depiction of violence (53.7 percent), but not erotically arousing materials exclusive of pornography (90.4 percent).

69.4 percent believed there is a real danger that censorship will suppress true art along with trash.

70.6 percent believed the real problem in censorship is in finding
persons qualified to exercise their judgment over the reading and viewing materials of others.\(^4\)

In the face of such negative evidence the only plausible explanation for any attempt to impose restrictions on reading is the desire of the would-be censors to impose their own religious morality upon others. Since moral beliefs are either a part of religious faith, or are, for atheists and agnostics, a form of religion, the attempt to impose one's moral views on others flies directly in the face of the prohibition contained in the First Amendment of the Constitution. Unless a casual relationship can be demonstrated, the continued attempts at censorship are attempts to regulate beliefs, thoughts, and ideas which are highly personal and cannot be regulated by the law.

Speaking through Justice Black, the Supreme Court condemned the imposition of a particular form of prayer.

By the time of the adoption of the Constitution, our history shows that there was a widespread awareness among many Americans of the dangers of a union of Church and State. . . . The First Amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of government for change each time a new political administration is elected to office. Under that Amendment's prohibition against governmental establishment of religion, as reinforced by the provisions of the Fourteenth Amendment, government in this country, be it state or Federal, is without power to prescribe by law any particular form of prayer which is to be used as an official prayer in carrying on any program of governmentally sponsored religious activity.\(^5\)

In \textit{Torcaso v. Watkins}, the Supreme Court stated: "We repeat and again reaffirm that neither a State nor the Federal Government can constitutionally force a person 'to profess a belief or disbelief in any religion.' Neither can constitutionally pass laws or impose requirements which aid all religions as against non-believers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs."\(^6\) Certainly imposing a moral viewpoint upon society is more serious than imposing a prayer since it is equivalent to imposing a way of life.

The Supreme Court, in a landmark decision, ruled in 1969 that the possession of obscene material in the privacy of the home is not
a crime. Speaking for the court, Judge Thurgood Marshall said, "If the First Amendment means anything, it means that a state has no business telling a man, sitting alone in his house, what books he may read or what films he may watch. Our whole constitutional heritage rebels at the thought of giving government the power to control men's minds." The Justice continued: "Georgia asserts the right to protect the individual's mind from the effects of obscenity," but

We are not certain that this argument amounts to anything more than the assertion that the state has the right to control the moral content of the person's thoughts. To some, this may be a noble purpose, but it is wholly inconsistent with the philosophy of the First Amendment. . . . Nor is it relevant that obscenity in general, or the particular films before the Court, are arguably devoid in any ideological content. The line between the transmission of ideas and mere entertainment is much too elusive for this Court to draw, if indeed such a line can be drawn at all. . . . Whatever the power of the state to control public dissemination of ideas inimical to the public morality, it cannot constitutionally premise legislation on the desirability of controlling a person's private thoughts.

Perhaps recognizing this, Georgia asserts that exposure to obscenity may lead to deviant sexual behavior or crimes of sexual violence. There appears to be little empirical basis for that assertion. But more importantly, if the State is only concerned about literature inducing antisocial conduct, we believe that in the context of private consumption of ideas and information we should adhere to the view that "[a] among free men, the deterrents ordinarily to be applied to prevent crime are education and punishment for violation of the law." 7

What is the difference between private and public consumption of ideas? The basic principle to remember is that "whatever the power of the state . . . it cannot constitutionally premise legislation on the desirability of controlling a person's thoughts." It should be unequivocally clear that laws in the American system can regulate only external behavior and cannot attempt to dictate belief, ideas, and thoughts. However, intellectual freedom deals directly with thoughts, ideas, and beliefs, and censorship, including laws restricting access to any material, attempts to control thoughts, beliefs, and ideas. Such actions deny man the rights to which he is entitled since he cannot read what is not printed or what is withdrawn from circulation. Censorship therefore affects directly not only constitutional rights, but also civil rights. Furthermore, it uses unconstitutional means when
it stops the circulation of written works. Any deliberate interference with this circulation—by private persons, public officials, or the law itself—is an abridgment of the freedom of the press, an action directly prohibited by the First Amendment. It follows that every man undeniably has the freedom to read, or to reject, whatever he wishes. By the same token he has no right to dictate what others may read. To do so denies them their freedom to read and their right to read, both of which are constitutionally guaranteed.

It is important to recognize that value judgments are highly subjective. When an individual, a group, an official, a legislature or congress attempts to impose its subjective judgment upon the majority, it in fact denies the majority a freedom indispensable for the development and enlargement of their thinking. Thoughts are subject only to voluntary restrictions, such as religion or morality which seek to impose and which the mind can accept or reject. It seems pertinent to ask the intent of placing within one article the prohibition against the establishment of religion, as well as against abridging the freedom of speech, of the press, or the rights of the people to assemble or to petition. Is the juxtaposition accidental or intentional? If one considers the interrelationship of the freedoms guaranteed in this article, particularly those of speech, of the press, and of religion, the reason for the juxtaposition becomes obvious. The right to speak, the right to think, and the prohibition against imposing one’s morals upon others, are obviously facets of the larger freedom, intellectual freedom.

All governing bodies of libraries must therefore recognize that every adult has the right to read any printed matter—books, articles, papers, magazines, or pamphlets—and that any attempts to prevent his doing so have been banned by the Supreme Court. Today, as Charles Rembar, a distinguished member of the New York bar and the author of *The End of Obscenity*, points out, “so far as books are concerned, then, the affront to intellectual freedom no longer comes from the law. On the contrary, the primary rule of the law is in defense of intellectual freedom. The affront comes from three sources: from government officials acting against the law, from non-governmental pressure groups, and from ourselves.” The self-censorship, as Rembar points out, does not ultimately come from within the self, but is created in great part by the surrounding culture which includes legal standards. There is, therefore, an interaction between self-censorship and legal censorship: courts are influenced by public opinion and public opinion tends to accept more readily what the courts have labelled
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acceptable. This self-censorship, however, being the most subtle, is the hardest to pinpoint and to oppose. Rembar points out that the library of the Harvard Club does not own any book Norman Mailer, a distinguished Harvard alumnus, wrote between The Naked and the Dead and The Armies of the Night. Was it literary taste or self-censorship that has kept The Deer Park from the shelves of the Harvard Club?

Self-censorship may be too subtle to be effectively coped with, but there is usually nothing subtle in the censorship exercised by government officials. Yet no one has the right to remove a book from the shelves of a library or to order it removed unless the volume has been declared obscene by a court of competent jurisdiction. As a matter of fact, as Rembar points out, when officials apply the pressure on their own, without recourse to legal process, the law is clear that they are acting unlawfully, and the courts will enjoin them. Then there are cases where enforcement officials employ legal process, but in a way which is itself a form of suppression; here it has been established that people may not be silenced except after a court has considered the matter. . . . in general it can be said that officials who seek to interfere with free expression on their own—that is, prior to a judicial determination that the book should be suppressed—will be stopped by the courts.8

The bodies governing libraries must remember that no book is obscene on its face, no book can be prejudged obscene by an individual, and no book can be held obscene until it has been so declared by a court of competent jurisdiction.

A librarian does not have to yield to that kind of pressure, and library governing bodies are there to protect him and back him. Should a librarian be fired for refusing to yield to pressure, the firing may be actionable under the Civil Rights Act which states:

Every person who, under cover of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.9

This way of looking at civil rights does bring about a new twist in legal thinking. Carrying it to its logical conclusion means as Rembar...
states, "that the selection of books is itself part of the speech and press the First Amendment protects, and that librarians are entitled to personal protection because they have a special function under the First Amendment. But is this not valid? Freedom of expression involves freedom of communication. It is not much good to be free to speak if you cannot make yourself heard. Public libraries are an immensely important link in the chain of communication."  

It should be pointed out that while those freedoms guaranteed by the Constitution have so far been held to apply to adults, there are the so-called "variable obscenity laws" which apply to juveniles. Stated simply, as quoted as Ginsberg v. New York the Supreme Court ruled that a State may regulate the dissemination to juveniles of, and their access to materials objectionable to them, but which a state clearly could not regulate as to adults. The effect of the Ginsberg case is that a publication which would not be obscene if sold to an adult may yet be obscene—and thus constitutionally unprotected—when sold to a minor. It should be noted that in the Ginsberg case the court did not decide whether the material involved was actually obscene for minors under seventeen since that point was not specifically raised. Since the court upheld the New York statute involved in the Ginsberg case, many states have adopted Ginsberg type laws, and it is quite likely that more states will follow. Generally, these variable obscenity laws prohibit the sale or loan for monetary considerations, to minors of materials defined in various statutes. The age of the minor varies, but generally is seventeen.

It is quite one thing to recognize, for voting purposes, twenty-one years as a requirement. By the same token it is rather easy to set the age of eighteen as the legal age in which one might purchase a drink. It is, however, quite different to set the age at which one may be given reading materials. It is obvious that in many instances young adults are more capable of handling sophisticated material than adults in their thirties, forties, and fifties. Yet the laws do not take different levels of maturity into consideration, which obviously is unjust.

It is apparent that we will live with these "variable obscenity" statutes for some time. So far criminal prosecution of librarians is unlikely because most statutes provide that they would only apply to sales or loans "for monetary consideration." But the governing bodies of libraries, as proper guardians of the constitutional freedoms and as recipients of a public trust, should check these laws and make certain that they except libraries and library personnel. It is hoped
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that the threat to intellectual freedom to others would concern them also and that they would broaden the exceptions as has been done in Minnesota. Ervin Gaines, Director of Libraries of Minneapolis, prepared for the Minnesota Library Association the following exceptions which have been enacted into law:

(a) Recognized and established schools, churches, museums, medical clinics and physicians, hospitals, public libraries, governmental agencies or quasi governmental sponsored organizations, and persons acting in their capacity as employees or agents of such organization. For the purpose of this section “recognized and established” shall mean an organization or agency having a full-time faculty and diversified curriculum in the case of a school; a church affiliated with a national or regional denomination; a licensed physician or psychiatrist or clinic of licensed physicians or psychiatrists; and in all other exempt organizations shall refer only to income tax exempted organizations which are supported by tax funds or supported by at least one-third publicly donated funds.

(b) Individuals in a parental relationship with the minor."

The adoption of such exceptions to the laws is necessary to give librarians the assurance that they are backed by their governing bodies. Library associations should vigorously assist in the passage of such exemptions.

The governing bodies of all libraries must realize that it is not only unreasonable but impossible to expect librarians to act as censors. By now it should be obvious that librarians—or anyone else—should not act as censors to adults, and they cannot fulfill these functions toward minors. Unlike parents who spend a great deal of time with their children, and even teachers who know children well, librarians cannot judge the child’s ability in general, his reading ability in particular, nor his level of intelligence, nor can they evaluate the sociological and psychological factors which enter into the child’s life. Librarians likewise are not usually familiar with the family background of the child which greatly influences the child’s level of understanding and his ability to cope with his reading. Parents are the only persons who should properly say what their children can or cannot read.

The grave difficulty which presents itself here is that in too many instances children are far more advanced than their parents. Particularly in this day of modern education, it is not unusual to see very young children with a great deal more intellectual sophistication than
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their parents, especially in rural areas, in the inner core cities, and in economically depressed areas. But this problem, serious as it is, is no reason to shift the responsibility for selecting the reading of young adults to the librarians and expecting them to become censors. Moreover, the number of trained librarians in any given library is quite insufficient to do the counseling which would be necessary if censorship were to work effectively.

The number of professional librarians varies from library to library, but the paucity of professionally trained librarians in any given library should convince any reasonable person, that it is humanly and physically impossible for the professional librarians to counsel personally every child and at the same time perform his multitudinous duties. Indeed, too many of our so-called libraries have no trained personnel at all. It is unthinkable that a totally untrained person should be given such responsibility. A review of the total number of unbudgeted, but needed, librarians should be proof enough, but even if the personnel were available to fill these unbudgeted positions, librarians would still have neither the time nor the training to act as censors.

The variable obscenity laws raise another problem, that of the rights of juveniles. It should be remembered that while the rights of juveniles vary from state to state, their rights to "due process" have been upheld, as were their rights to counsel. Furthermore some of the traditional procedural rights must be followed by juvenile courts if the basic rights of children to fair treatment are to be assured. In 1969 the Supreme Court, speaking through Justice Fortas, in the matter entitled In Re Gault, said, "Departures from established principles of due process have frequently resulted not in enlightened procedure, but in arbitrariness. . . . it would be extraordinary if our Constitution did not require the procedural regularity and the exercise of care implied in the phrase 'due process.' Under our Constitution, the condition of being a boy does not justify a kangaroo court." Further, Justice Fortas said:

A proceeding where the issue is whether the child will be found to be "delinquent" and subjected to the loss of his liberty for years is comparable in seriousness to a felony prosecution. . . . The child "requires the guiding hand of counsel at every step in the proceedings against him." . . . We conclude that the Due Process Clause of the Fourteenth Amendment requires that in respect of proceedings to determine delinquency which may result in commitment to an
institution in which the juvenile's freedom is curtailed, the child and his parent must be notified of the child's right to be represented by counsel retained by them, or if they are unable to afford counsel, that counsel will be appointed to represent the child.\textsuperscript{13}

The court also pointed out: "We conclude that the constitutional privilege against self-incrimination is applicable in the case of juveniles as it is with respect to adults."\textsuperscript{13} Furthermore in February 1969, the Supreme Court in \textit{Tinker v. Des Moines Independent School District et al.}, held that high school and junior high school students had the right to engage in speech, notwithstanding the school authorities' regulations to the contrary, provided that their speech did not amount to a disruption of the educational process. Justice Fortas, speaking for the court, said: "The District Court recognized that the wearing of an armband for the purpose of expressing certain views is the type of symbolic act this is within the Free Speech Clause of the First Amendment. As we shall discuss, the wearing of armbands in the circumstances of this case was entirely divorced from actual or potential disruptive conduct by those participating in it. It was closely akin to 'pure speech' which, we have repeatedly held, is entitled to comprehensive protection under the First Amendment."\textsuperscript{14} In view of these decisions and the constant evolution of the law it is to be hoped that the rights of "juveniles" may one day be recognized as entitling them, certainly at a much earlier age than is now specified in most of our variable obscenity laws, to read any material they choose.

The usual fear expressed is that material thought to be "obscene" might fall into the hands of young adults and encourage them to delinquency or sexual experimentation. Yet actual study shows that delinquents typically are non-readers. A 1958 study by Brown University psychologists concluded: "there is no reliable evidence that reading or other fantasy activities leads to antisocial behavior." And Justice William O. Douglas pointed out in \textit{Freedom of the Mind}: "We know from researches in this age-old field that sex literature is not an important factor in arousing youth's sexual desire. Adults are the ones most afflicted, and men more than women. The male who is commonly aroused is an adult in the upper social groups. So the desire to protect either juveniles or society turns out to be a pretense. The real purpose is to make the public live up to the censor's code of morality."\textsuperscript{15}

It can be also pointed out that millions of devotees of James Bond and Mike Hammer remain law abiding citizens. In fact, it has been
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argued that novels of sex and violence provide a vicarious outlet for tensions, infinitely preferable to direct action. As William C. Kvaraceus states: “with the younger readers, it may be more strategic to let them experience an illicit love affair in the fantasy of Peyton Place rather than the back seat of a parked car in their home town.”

One more word should be spoken to reassure those who fear for the young adult or for children. Freedom may be the greatest safety for our young people, for it may be better for young people to be prepared by books to meet the evil they will undoubtedly encounter sooner or later. It may also be better for them to learn about sex in books with a literary value than in back-street under-the-counter pornography. We apparently cannot stop the supply of such contraband material. It will always be available for the curious and for the emotionally disturbed. It is not pornography, we have noted, which causes emotional imbalance, but emotional imbalance which impels a child or an adult to seek pornography.

References

4. From a report released by the Office of Public Information of the Division of the Biological Science and the Pritzker School of Medicine of the University of Chicago on Aug. 21, 1969.
10. Rembar, op. cit.
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