

# The Front Page

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## The Question of Pornography, Part Two

by Eric Shindler

In our last issue, we ran the first part of this article on the current campaign to tighten up North Carolina's pornography laws. For this issue we promised you a discussion of the law of child pornography and a rundown of the specific cases brought against North Carolina's adult bookstores in the past three years.

As we mentioned last time, a study commission appointed by the legislature will meet in Raleigh November 12 to recommend changes in the state's pornography laws. Perhaps in anticipation of the committee's meeting, the Christian Action League is holding a series of conferences to teach people techniques for fighting pornography. The league's anti-porn roadshow came to Raleigh October 16, but only 25 people showed up to hear many of the same speakers who addressed the "Rally for Decency" in Greensboro March 30.

One change the Obscenity Laws Study Commission is considering is the elimination of the present requirement of a court hearing before someone can be arrested for violating the obscenity law. Another change—which the commission is sure to recommend November 12—is a tough new child pornography law that has been drafted by the office of Attorney General Rufus Edmisten.

The new child porn law will probably be modeled after a New York statute that the United States Supreme Court upheld in a unanimous decision July 2. Earlier, at the March 30 "Rally for Decency," Attorney General Edmisten announced that he would ask the North Carolina General Assembly to establish a mandatory jail sentence for anyone convicted of using children in pornography.

The New York law upheld by the Supreme Court prohibits distribution of any sexual performance by a child, whether or not the performance is "obscene." A New York bookstore owner named Paul Ferber was convicted under the law after he sold undercover police officers two movies showing young boys engaged in sex acts. The court upheld his conviction on the theory that existing legal standards for obscenity could not solve the problem of child abuse that is inherent in the production of child pornography.

"We consider it unlikely that visual depiction of children performing sexual acts or lewdly exhibiting their genitals would often

constitute an important and necessary part of a literary performance or scientific or educational work," the court said.

Ferber's lawyers had argued that films like "Pretty Baby" or "Luna" and almost all sex education books designed for children could be banned under the law. The court said, though, that it would deal with such questions at a later time if such cases were to arise.

The court's decision thus leaves open the possibility that a new North Carolina law could prohibit acclaimed gay films like *You Are Not Alone*, as well as films like *Pixote* and *The Devil's Playground* that show young boys "lewdly exhibiting their genitals" but which have been shown commercially in North Carolina.

building was largely untested for two years, but in December, 1979, when a federal appeals court upheld the law, police in Wake County, Guilford County and Craven County began to move against these businesses.

In Raleigh, five persons were arrested January 24, 1980, when police raided four adult bookstores: The Camera's Eye, Chateau II, Raleigh Book Store and Adult World Book Store.

The first arrest took place at the Camera's Eye on South Wilmington Street. Local television and other news media were apparently tipped off by the police, as they arrived on the scene, according to an eyewitness report, even before the police. While the cameras were present, the manager

Court on January 22, 1980, and were dismissed. These cases involved the Executive Health Salon and the Gypsy Book Store. Charges were voluntarily dismissed by an assistant district attorney after District Court Judge Joseph A. Williams raised questions about the nature of the adult materials involved and, according to a report in the Greensboro *Record*, indicated that the state would not win the cases.

Other cases were brought against The Adult Book Mart, the 24-Hour Book Store, and Dudes.

In Havelock, acting Police Chief Bill Dodson raided Players Adult Bookstore and two other adult bookstores in the area January 3, 1980. According to the New Bern *Sun-Journal*, an undercover officer went to the store with a marked \$20 bill, purchased an adult homosexual film and viewed an adult movie. Nearly \$1500 worth of merchandise was reportedly confiscated in the raid.

Several months later, in November, 1980, Havelock police cooperated with Craven County sheriff's deputies in the arrest of the operators of Man's World adult bookstore. They were charged with violating the law which prohibits more than one kind of adult establishment in one location (*Sun-Journal* 11/17/80).

On July 11, 1980, Durham law enforcement officers charged managers and employees of four Durham adult bookstores—Player's, The Camera's Eye, Swinger's and Tri-State News—with operating more than one adult establishment under one roof. However, District Court Judge Karen Galloway ruled September 11, 1980, that the raids had been conducted unconstitutionally, and all the charges were dismissed.

A Sanford bookstore, Swedish Relaxation, was raided April 17, 1980. Superior Court Judge Anthony Brannon dismissed the case for insufficient evidence October 18, 1980.

In August, 1980, High Point police seized a number of magazines from the Purple Tiger bookstore and charged its owner with operating more than one kind of adult establishment in one location. However, of the 358 magazines seized, only 123 could be classified as "obscene." District Court Judge Joe John dismissed the charges September 16, since a majority of the stock on hand was "non-sexually-oriented material."

In November of 1981 the Village Twin theater in Gastonia was showing the R-rated

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Even without the new North Carolina law, federal prosecutors arrested a North Carolina man on child porn charges in September. James G. Everette, an employee of the Employment Security Commission in Wilson who had been given the ESC's "Outstanding Rural Manpower Representative" award in 1981, was charged September 8 with "mailing photographs of minor children in sexually explicit conduct, including sexual intercourse."

U.S. Attorney Sam Currin, a Jesse Helms appointee who has participated actively in the Christian Action League's anti-porn campaign, announced that Everette was involved with people throughout the East and Midwest who dealt in child pornography.

A case of a different nature arose in High Point last fall when Adam & Eve, the mail order house based in Carrboro, mailed brochures for adult magazines and sexual paraphernalia to a 13-month-old boy (*High Point Enterprise* 11/16/81). The embarrassed company quickly apologized, and apparently no charges were filed.

Most of the cases that have been brought recently in North Carolina have not involved children in any way.

A 1977 North Carolina law limiting the number of "adult" businesses in a given

of The Camera's Eye was led out of the store in handcuffs. In later arrests, with no cameras present, no handcuffs were used.

"We were not hitting the adult bookstores in an effort to close them," Det. Lt. C. R. Stinson, head of the Raleigh drug and vice squad, told reporters at the time. "We hit them because they were found to be in violation of the law and to bring them into compliance with the law."

Another bookstore, the Batchelor's Library, was outside the city limits and escaped the raid. However, the Wake County sheriff made an arrest there in mid-February, 1980, on the same charges.

Each of those arrested was charged with one misdemeanor count of selling more than one type of adult entertainment in the same building. The operators of the Raleigh establishments were convicted in Wake County District Court, and they all paid fines after dropping their appeals. One of the employees of the Camera's Eye was a moonlighting junior high school teacher, who was suspended from his teaching job after his conviction.

In Greensboro, several adult establishments were also raided and arrests made, but the cases fared poorly in court.

Several cases came before the District

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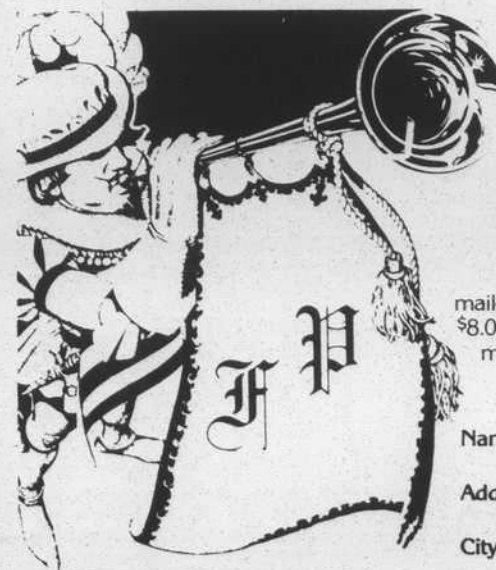
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