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The porn puzzle

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Abstract:

Boston, MA, newspapers were called upon to help the district attorney of Springfield, Massachusetts in his prosecution of a case involving pornographic books. Under Massachusetts law, obscenity charges can be filed only when the books in question have been advertised in the county they are being sold in, and in Boston. The Boston Globe was the only Boston paper willing to publish the names at the request of the Springfield D.A. The rival Boston Herald took the Globe to task on its editorial pages.

Full Text:

THE PORN PUZZLE

Among the milder titles of books and magazines at Video Expo in Springfield, Massachusetts, are Lust Seekers Number 3, Exercise Orgies Number 4, and Girls Who Love Girls Number 8. This spring William M. Bennett, the local district attorney, made these and 352 other titles part of state Superior Court case number 91-499.

Bennett chose to prosecute for obscenity under a state law that requires the cooperation of newspapers. The law mandates that before books and magazines can be brought into court for an obscenity determination, the titles must be published in a paid legal notice in two newspapers - one in the county where the publications are sold, one in Boston, the state capital. (No such procedure is required for videos, including the 188 tapes police seized in the raid.)

The journalistic dilemma this situation posed was neatly framed in a story in The Boston Globe: "Should a newspaper ever knowingly aid, or, for that matter, block a prosecution? And, considering that the First Amendment is its chief protector ... should a newspaper ever assist or encourage any form of censorship?"

The Springfield Union-News had no problem with running the ad. But in Boston first the Globe, then the Herald refused to run it - on the ground that the notice itself was obscene.

Overnight, however, the Globe experienced a change of heart. Publisher William O. Taylor gave more than one reason for the conversion: he ought to defend an advertiser's "right of access to columns of a newspaper unless the copy is to incite the population to riot or shoot the president"; he wanted to avoid litigation (Bennett threatened to sue to force the papers to take the ad); and, finally, he wanted to help the prosecutor as "a public service."

In response, Herald publisher Patrick Purcell was quoted in his paper as saying, "As a father and as a publisher, I am extremely disappointed with the Globe. I cannot believe they would publish this listing [despite] the First Amendment rights we have [to refuse advertising]." Also in the Herald, but from an anti-censorship point of view, contributor Alan Dershowitz, in a column headed globe wimps out to d.a., took the Globe to task for "unprincipled capitulation" to the government. "And since when is a newspaper supposed to be [helping] a district attorney do his job of prosecuting dirty books?" Dershowitz wrote, suggesting that Taylor return to school for a First Amendment brush-up.

The Herald's Purcell, in a mellower mood after the dust settled, now concedes that, on second thought, "I don't think we would have compromised the First Amendment if we had actually run this," his reasoning being that a newspaper has a legal right to reject or accept both advertising and editorial material as the publisher sees fit.

As for Video Expo, the obscenity case is scheduled to go to trial in January.

Berger, a former UPI reporter, teaches journalism at Northeastern University in Boston.

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