

'Erotica of underground'

# DA in film crackdown

**T**HERE WAS enough alleged obscenity in Santa Barbara last week to please or displease just about everybody.

Police chiefs, sheriffs and district attorneys from all over the state gathered at a special attorney general's conference to talk about ways of safely prosecuting cases of obscenity and pornography.

The Magic Lantern Theater put on a program of short films advertised as "erotica of the underground."

Dist. Atty. David Minier

coordinated the two events by playing host to the law enforcement officials and ordering the confiscation of one of the Magic Lantern's movies on suspicion of being obscene.

Mere coincidence or not, the Isla Vista theater bust and the conference spliced together, providing the visiting police chiefs with a working example.

The film in question is Andrew Noren's "Change of Heart," which shows a naked man and woman, sometimes embracing, sometimes not.

The Magic Lantern program was restricted to "adults only," and theater patrons were individually warned at the ticketbooth that some scenes are "very graphic, and we're so advising you in case you would be offended."

**SOME PEOPLE**, including sheriff's investigators, bought tickets anyway, were offended and told the district attorney about it.

Municipal Court Judge Frank P. Kearney didn't see "Change of Heart," but according to Minier the judge heard about the film and wondered whether something might be done.

"He came to us," said Minier. The district attorney and his wife saw "Change of Heart" on the eve of the attorney general's conference. "I decided when I saw it that we should go ahead and confiscate it," Minier said.


Obtaining a search warrant from Judge Kearney, the D.A.'s office and sheriff's department picked up the suspicious movie the next night.

Michael Serio, chief obscenity investigator for the Los Angeles sheriff's department, went along for the "raid." He was in town for the conference, and as Minier explained, he is "sort of an expert in such things."

**MINIER SAYS** there are "a lot of pitfalls" in proceeding on alleged obscenity cases and the more expert help, the better. Putting together an obscenity case that will stand up in court was, in fact, the whole purpose of the attorney general's conference.

Whether the case against "Change of Heart" will hold up is something for the courts to decide—and recent court decisions have narrowed down the field considerably.

Thomas Sammon, attorney for Magic Lantern manager James Babb, says the film is "not obscene in any view and clearly not obscene under California law, which says that an obscene film or whatever must be utterly without redeeming social value



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# Obscenity and the law

Gazette-Citizen Thu. Sep. 21, 1967

Sec. B p. 9

ALTON BOCK



**ONE DEFINITION** of obscene, according to Webster's third edition unabridged dictionary, is "repulsive by reason of malignance, hypocrisy, cynicism, irresponsibility, crass disregard of moral or ethical principles."

It's a definition which some think better fits the action taken by the district attorney's office against the Magic Lantern Theater in Isla Vista than the film which was the subject of the action.

Ethical principles and high morality are matters that are really outside written law and therefore are seldom dealt with by the police and courts.

In confiscating a film which the sheriff and district attorney believe to be obscene, they may be—to nobody's surprise—taking a short view of art, life and morality.

Throughout the history of censorship, those who play censor have invariably been lacking in liberal imagination. The censors often—almost always—claim to act in the public interest, and sometimes they do speak for the majority in a community.

**THE QUESTION** arises, however, as Attorney Tom Sammon pointed out, as to whether the law enforcement officials are representing the Isla Vista community by seizing an allegedly obscene movie.

A large number of students, and

certainly many of the regular Magic Lantern patrons, believe that the movie, "Change of Heart," is quite all right.

By getting upset over the film, the police are lagging behind popular—at least by Isla Vista standards—views of what is obscene and what is not.

This is all, of course, to be expected and one might easily say hom-hum to the whole affair. The Magic Lantern shows a film which it certainly knows will fascinate and shock the sheriff's department while possibly boring 18-year-old students. And, playing the game as we all expect them to, the sheriff's investigators and district attorney label the film obscene.

\* \* \*

**BUT BEYOND** this predictable confrontation, there is the troublesome fact that law enforcement people still feel obliged to make judgments about the value of certain films and books.

They rush in, against the grain of changing conventions, and make fools of themselves. The last time I recall this happening was when Marin County Dist. Atty. Roger Garety decided that Henry Miller's "Tropic of Cancer" wasn't fit to be sold at the neighborhood bookstore. The courts and a literate public proved

him to be mistaken, and that particular misadventure is the only thing Garety is remembered for.

Whether or not it succeeds as a work of art, the Magic Lantern's controversial movie can, I believe, be judged an honest and serious effort. Justice William O. Douglas will, I'm sure, agree on this point. He is, admittedly, still at times in a minority position on a number of obscenity cases, but he's not alone and his view—which allows for new frontiers in art—is fortunately gaining in the Supreme Court.

Chief Justice Warren, who has taken a more conservative view in this area, is, we must remember, a former district attorney himself.)

**LEST OUR** own Dist. Atty. David Minier takes the wrong hint, I'm not making general assumptions about district attorneys. We like to think, for that matter, that they are more astute than their investigators.

That's why it's disturbing that they sometimes move into a field where they may be poor judges and run the risk of confusing morality with their personal notion of propriety.

And that's why, although they will argue they are upholding the law, the charge by local law officers against the Magic Lantern's film is crass irresponsible and repulsive—to say nothing of hypocritical.

Thursday Jan. 11, 1968

# 'Change of Heart' is filthy sex, rules judge

**A** MUNICIPAL COURT judge was given a special showing this week of the allegedly obscene film, "Change of Heart," and declared that he could find "no redeeming value" in it.

Judge Arden T. Jensen of Solvang, sitting in the Santa Barbara-Goleta court, was neither amused nor edified by the movie which the district attorney's office confiscated last September from the Magic Lantern Theater in Isla Vista.



**IN FACT**, he concluded that the "predominant theme" of the controversial movie is "filthy sex."

Attorney Boyd Hornor, representing theater manager James Babb and owner William Hess, told Judge Jensen that he was missing the point. The film, Hornor said, intended to show the "deathly, dull aspect of a deteriorating relationship between a man and a woman . . . It's anything but obscene, it doesn't appeal to prurient interests at all."

(Continued on Page A-2)

# Judge raps camera work

"I wish I could say something exciting about this film," Judge Jensen said, "but to me it's a tawdry, cheap, disgusting thing."

"That's just the point," Hornor explained. "It's not its intent to be beautiful. It's drab and dead and clinical. The emphasis is on death."



**CONTINUING** his criticism of the film, Judge Jensen said that there is "certainly nothing about the technique that is better than amateur . . . I'm a camera bug myself, not movies especially though. I don't go to many movies, but I saw a tremendous picture—I can't remember the name of it—which shows a relationship between a man and a woman but it was a beautiful picture . . ."

The late afternoon showing of the film

in a darkened municipal courtroom was attended by Judge Jensen, Hornor, Atty. David Minier, the clerk, the bailiff, a couple of reporters and a few other attorneys, clerks and investigators. William Steele, district attorney's investigator who picked up the film, operated the projector.

The special showing was the conclusion of a long hearing on Hornor's motion asking that the film be returned because it was confiscated improperly and without being seen by a judge. The ruling by Judge Jensen that the film is obscene and without social merit is not the end of the affair, for Hornor will appeal the decision to the county Superior Court. Pending the outcome of that appeal, the jury trial of Babb and Hess, charged with exhibiting an obscene movie, has been continued.

# A change of heart

Gazette-Citizen

ALTON BOCK



**THE DISCUSSION** — wearisome at times—that took place last week in Municipal Court over recent decisions concerning censorship made one thing clear:

That there is a trend toward liberalization of censorship laws but the trend isn't yet clearly enough defined to set an example for courts throughout the land. The case in question, the allegedly obscene movie which was shown last fall at the Magic Lantern Theater in Isla Vista, ought to be followed closely for it seems certain to become a signpost in that trend.

Judge Jensen's determination that the film, "Change of Heart," is obscene was preceded by a debate on the proper interpretation of U.S. Supreme Court decisions on similar films and books as well as rules for confiscation, protection of free speech, right of due process under the law and so on.

Considering the broad interpretation that can still be put upon the words "redeeming social value," which the law says a work must have if any alleged obscenity or pornography is to be tolerated, it's not surprising that Judge Jensen decided that "Change of Heart" has nothing redeeming about it. This, of course it, because of the judge's particular background, interests and experience.

\* \* \*

**IT WOULD BE** equally not surprising if another judge, rather differently inclined, were to find—quite properly under the law—that the film in question has redeeming social value to spare.

Decisions as to the merit of works charged with being obscene are obviously based on very personal tastes, even

when a judge might try conscientiously to ascertain the more general public taste.

The absence of a precise legal standard makes such decisions difficult, but until the public can trust itself in these matters and allow no legal limitations on obscenity and pornography, it's a good thing that the law is imprecise. The lack of hard and fast rules leaves it up to the courts to establish examples, and the recent examples from the Supreme Court seem to reflect what is called our permissive society.

But the examples from the highest court are in some instances not really definitive and still lie within an area of controversy, such as the close split vote over the Ginzberg "Eros" case. The examples are not clear enough to be guidelines, in other words, for Judge Jensen, who said he doesn't go to many movies although he also said he's read "Tropic of Cancer" and can "understand" why it's no longer banned. The point is that Judge Jensen might not hold that opinion of Miller's book (and may not have even read it) had it not been already approved by another court.

\* \* \*

**IT'S EASY** to say that censorship of any kind shouldn't be tolerated, but as an English author and director lately pointed out, the law can work both ways. Legal sanctions for certain works protect those works from being torn to pieces by an outraged public. It's better at this point, no matter how clumsy the process is, to resort to the courts when obscenity is a question than to leave it at the mercy of a possibly offended pub-

lic. The attempt, in California, to pass the "CLEAN" initiative is an example of what happens when people begin to feel insecure under existing laws.

Everything pretty much comes down to a matter of how much the public in a given place will tolerate. This is where the real flaw exists in the entire controversy over "Change of Heart." It isn't so much the "value," or lack of it, inherent in the film. It's whether or not the public exposed to the film finds it offensive.

The film was shown in Isla Vista to audiences comprised of university students and other more or less regular patrons of the Magic Lantern Theater who apparently were not upset by the film; in fact they came to the defense of the film and the theater.

Yet the confiscation of the film was ordered by a judge, district attorney's investigators and the district attorney himself—all of whom, by their own admission, seldom if ever attend that theater. A judge from Solvang, sitting in a Santa Barbara court, decided supposedly in the best interests of those unoffended Isla Vista audiences, that the film is obscene.

There's a significant line in the movie in question: "This is a body. Stop trying to make trouble." There are hints from the Supreme Court that the public in the United States should be, perhaps is, sufficiently grown up so as not to care to make trouble over things which were once considered offensive. The time is hopefully near when certain local people will discover adequate direction in these hints and will cease trying to make trouble.

# Film-makers to meet in Isla Vista

Gazette-Citizen

Sec. A. P. 1

Thursday, July 4, 1968

**L**EADING FILM-MAKERS and actors will gather in Santa Barbara next week for a special educational seminar sponsored by the American Film Institute.

Movies and lectures will be held by the institute at the Magic Lantern Theater in Isla Vista from July 8 to Aug. 2.

The new institute, founded last year in Hollywood, has as its purpose the encouragement of film-making and young film-makers in America. The institute's leaders are George Stevens and Gregory Peck, both of whom are expected to be on hand for the Santa Barbara meeting.

Tentatively scheduled to give talks and show their work are Richard Brooks, July 8; Saul Bass, July 15; Billy Wilder, July 24; John Korty, July 25; Ernest Lehman, July 29, and Charlton Heston, July 31.

The films and lectures will be open to the public.