Stiffer Anti-Smut Measures Proposed

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On Jan. 8, 1963, the first day of the 1963 Regular Session of the California State Legislature, I introduced two entirely different, anti-obscenity bills, Assembly Bill 3 and Assembly Bill 14 These are also so-called anti-pornography bills.

Each bill is absolutely independent of the other and both strengthen and add to our present California laws on obscene materials. Therefore, if either bill passes both Houses of the legislature and is signed by the governor, or if both bills become laws, the people of the state have more protection against the present flood of filthy literature, photographs, motion pictures, phonograph records, statues, and similar objectionable objects than we have now.

PLEASE DO NOT write to me for copies of these bills, if you want fast action. Please write to Legislative Bill Room, Room 215, State Capitol, Sacramento 14, Calif., enclose an addressed stamped envelope and ask for two free copies of Assembly Bill No. 3 and Assembly Bill No. 14 by Chapel.

I do not object to your asking mefor the bills but I must send to the Legislative Room, the messenger must wait his turn, and even a member of the Assembly is limited to the number of copies of his bill that he can have free without a vote of the Assembly permitting additional copies.

Therefore, you definitely can get the bills faster by writing to the Legislative Bill Room. If you want more than two free copies, ask the Legislative Bill Room the cost of the number you want in excess of two.

MY ASSEMBLY Bill No. 3 modifies the present statutory definition of the word "obscene" which says that "Obscene means that to the average person, applying contemporary standards, the predominant appeal of the matter, taken as a whole, is to prurient interest; that is, a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters and is matter which is utterly without redeeming social importance."

My bill modifies the above by striking out the words "and is matter which is utterly without redeeming social importance," but retains the remainder of the definition. The reason is that the phrase "and is matter which is utterly without redeeming social importance" is an "escape hatch" which criminal lawyers for the defendants have used to get acquittals in clear, definite cases of the printing, painting, circulation, sale, etc., of filthy materials.

THE BILL would authorize the district attorney to bring in action to obtain an injunction against distribution or exhibition of particular obscene matter by the defendants. This injunctive remedy would be a new remedy in California. The provisions of the bill on this subject are similar to a New York law on the subject (Sec. 22a, N.Y. Code of Criminal Procedure).

Under the provisions of the bill the defendant would be entitled to an early trial. If the material is found obscene, distribution and exhibition would be enjoined, and the defendant would be required to surrender the material to the sheriff, and the sheriff would be directed to seize and destroy the material. Violation of the injunction would be punishable as a contempt of court by fine of $250 to $1,000, or imprisonment in the county jail for 30 days to 6 months, or both. The granting of an injunction would not prevent the district attorney from also bringing a criminal prosecution with respect to the same material.

If, in the injunction proceedings, the material, or some of it, is found not to be obscene, then, of course, no permanent injunction will issue: and, in addition, the material found not to be obscene cannot be used as the basis for a criminal prosecution.

Law in Action

Each year more than 100 million fans watch or take part in sports. They get hurt by foul balls, flying pucks and the like. Most of them get no damages from the show owner or promoter. For the fan assumes the legal risk. The law regards him as a "participant."

Now and then there are unknown risks like a collapsing grand stands which the spectator does not assume. Dangerous sports such as auto racing may call upon owners to provide fans with places of safety.

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OF LATE the injured "true" participant of the sport, golf for instance, has raised some new problems because of bad shots often made by other golfers or caddies.

The golfer has two legal duties: to make sure no one is within the area of his aim, and to give a loud warning before he swings. With these as a rule, he usually has no liability for the ball or club that hits someone, even though the ball "hooked" or "sliced" in a wrong direction.

For the injured person on the course has assumed the legal risk. One judge said that to hold a golfer for every ball that goes awry would call for more care than the Creator endowed the player with power to carry out.

If the ball hits someone way off the course, the golfer is usually held responsible. In general the same holds for horseshoe pitching, skiing, bowling, and the like.

As a rule, participants and spectators assume the legal risks and have no claim. Even so, one court held a promoter to blame for injuries to spectators placed in a dangerous spot to see a ski jump.

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THE SPORTS injury rules apply to strange events; In one rolling pin throwing contest a pin went awry and knocked out a spectator. No recovery: he'd assumed the risk. In another case contestants tried to see who could catch a hen. Some eager hen-catchers pushed a spectator and a participant through a plate glass window. No financial recovery.

In sporting events, you can expect—and be prepared for—noise, sometimes horseplay in the crowds, foul balls, and other objects such as bottles, pillows, and the like. The timid had better stay home.