

# Uncommon Desires Newsletter



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Number Eight

October-November 1992

## Thought Control from the Third Circuit: *U.S. v. Knox*.

by Lawrence A. Stanley, Esq.

On October 15, 1992, the Third Circuit Court of Appeals rendered a decision which criminalizes photographic images of *fully clothed* minors engaged in no sexual activity. In *United States v. Knox*, the Third Circuit affirmed the conviction of Stephen Knox for receiving and possessing "child pornography" -- in this case, three videotapes showing teenage girls in modeling sessions dressed in bathing suits, cheerleading outfits, leotards, and skirts. The sequences contained on the videotapes were produced and distributed by the Nather Company, located in Las Vegas, Nevada, which advertised in national publications. Because Knox was the previous victim of a government sting operation, he received a mandatory minimum sentence of five years, eight-five percent of which he must serve under current federal guidelines.

Although the Court of Appeals stated that the models depicted in the videotapes were "striking provocative poses for the camera" and were "obviously being directed by someone off-camera," this is primarily a fiction. Actually, the poses were typical to the fashion industry. The poses were *not* "provocative" in any pornographic sense. The videotapes in question were mostly taken during group modeling sessions in which the videographer was one of many photographers present, as other photographers are visible in the vignettes. Such modeling sessions, which afford aspiring models and photographers an opportunity to acquire modeling and photographing experience, are public events, requiring the consent of the models and their parents, as well as registration by the photographers. In some cases, mothers were obviously present and one can hear them directing their children's poses. Such images, as feminist Paula Webster observed in a slightly different context, are "not unlike ones we could all find in family scrapbooks". We can also find them in church bulletins, school yearbooks, children's fashion magazines, department store catalogs, parenting magazines, and major motion pictures, as well as on television during gymnastics season.

What made the videotapes "child pornography," according to the Court, was the fact that the videographer occasionally "zoomed in" on bikini bottoms, upper thighs, or underwear momentarily revealed under skirts and the way in which the videotapes were described in a brochure. But the Third Circuit did not stop there. "Lasciviousness," the Court held, is not dependent upon such close-ups or advertising. Rather, these are only two factors among many which might determine "lasciviousness":

"Whether a depiction is lascivious is essentially a subjective inquiry into whether or not the material is intended to elicit a sexual response from the viewer." (Opinion, p. 19).

When one considers that the brochure, although distasteful, advertised nothing illegal, one can see how essentially subjective the finding of "lasciviousness" really is. The brochure stated that the viewer would see "so much panty and ass you'll get dizzy." Unpalatable language, however, has *not* been criminalized and depictions of underwear and buttocks are *not* illegal under federal law. The brochure was accurate when it stated that the videotapes contained "no nudity or sex." The fact that "paedophiles" might enjoy the material in question is utterly irrelevant where the material in question doesn't even satisfy the bare requirements of the statute.

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Anyone who has followed controversies in the Reagan-Bush years concerning nude depictions of minors (e.g., the controversies concerning images by artists such as Robert Mapplethorpe, Jock Sturges, Graham Ovenden, Walter Chappell, Alice Sims, Sally Mann, and numerous others), knows that while a determination of "lasciviousness" is required in order for a depiction to be proscribed, what is "lascivious" is extremely difficult to discern, even for a sophisticated lawyer.

What is "lascivious," according to the formulation adopted by the federal courts, may depend upon a wide range of subjective factors, for instance, (a) whether the images were taken in a place "associated with" sexual activity, (b) whether the minor is in an "unnatural" pose, (c) whether the minor appears to be "sexually coy", (d) whether the "genitals or pubic area" are the "focal point" of the image, or (e) whether the images were "intended" to arouse the viewer sexually. Any of these factors could be used to justify a finding of "lasciviousness". Recently, the government has tried to push this even further, claiming that wholly innocent or artistic depictions of minors may be "transmuted into" "child pornography" by factors completely unrelated to the actual taking of the image -- for example, who is possessing it or where the depiction appears within a publication. In a hearing last May on a book of photographs by Graham Ovenden, entitled *States of Grace*, U.S. Dept. of Justice lawyer Robert Flores attempted to argue that the expression on a clothed model's face on one page of the book could render "lascivious" an otherwise non-lascivious nude depiction on the facing page:

For instance, the Court has identified one of these photographs which is opposite what I would term a very alluring photograph of a young girl, which, although not showing genitalia, since the two pages are facing, I would think that that would be something the grand jury would consider to determine whether or not this photograph on the left side of the page [sic] meets the definition for lasciviousness.<sup>1</sup>

#### A note on visual depictions in this issue:

A review of photographic depictions contained in books and films published, exhibited, and sold in the United States reveals an extremely large number of potential violators. Although it is obvious that the prosecutors would not go after images from books published in the U.S. by major publishers (or films released by major companies or distributors), what they *can* do is indict individuals, like Knox, for images which are substantially similar in content. Brooke Shields' *Brooke Book* (p. 3) contains several depictions which could be found criminal -- if both photographer and model were unknown. Starr Ockenga, a major American photographer, has also created images (both fully nude and non-nude) which could be prosecuted, but for the fact that she is a legitimate artist exploring important issues (with federal funding) about childhood and eroticism. The image included here (p. 5) is from her book, *Mirror After Mirror: Reflections on Women*. David Hamilton's books, too, are replete with images which could be prosecuted, but, again, Hamilton is a famous, established, and well-respected artist, published by Wm. Morrow & Co. The image on page 6 is from *The Young Girl*. On the other hand, the government has acknowledged that the image of the girl seated in a split on a wooden bench (p. 7), taken by Donald Marcus, indicted on other ("lascivious") images of minors and a former client of attorney Lawrence Stanley, is not contraband. It was, in fact, turned over to Stanley's defense team as non-contraband "evidence" in *U.S. v. Stanley*.

<sup>1</sup>Hearing Transcript, dated May 28, 1992, before Magistrate Judge Zachary W. Carter, in *U.S. v. Stanley*, Crim. No. 91-901, EDNY, p. 29. Any "lasciviousness" in the image on the left-hand page was surely added by Flores, whose mindless brand of prosecutorial overzealousness is itself prurient.



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The highly ambiguous nature of what is "lascivious" is further compounded by the fact that in *Knox*, no nudity or sexual activity was depicted in the videotapes in question. Simply put, the *Knox* decision says that an illegal "exhibition" or "display" of the "genitals or pubic area" may occur *even though these body parts cannot actually be seen by anyone*. The Court's purported concern with the misuse of children in actual pornography -- a concern which *UDN* shares -- is only window dressing for the fact that the judges simply didn't like what they saw. Imputing "harm" to a minor because a videographer has, unbeknownst to the subject, "zoomed in" on her fully clothed body, trivializes the real harms caused by actual sexual abuse and criminalizes not what a videographer or photographer actually *does* to or with a minor, but merely what he or she *thinks*.

That the decision was an example of the result-oriented "the-law-be-damned-let's-get-the-defendant" jurisprudence characteristic of the Reagan-Bush years is clear from Judge Cowan's looking-glass logic and moralizing as he engaged in a rhetorical strip-tease with the models depicted in the videotapes. At the outset of the opinion, the girls are more or less objectively described as wearing "bikini bathing suits, leotards, underwear or other

abbreviated [sic] attire." By page 19, close-up depictions of clothed children become "*scantily clothed displays of the genitals*," culminating in the horrifying specter of "pedophiles using as their subjects *children whose genitals are barely covered*." (Emphasis added.)

One of the more outrageous aspects of the decision is the Third Circuit's intentional misreading of the legislative history of the federal child pornography law. The original legislative proposal for the Protection of Children Against Sexual Exploitation Act of 1977 (amended in 1984, 1988, and 1990) contained a proscription on "nudity, if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction." The provision was abandoned after the Justice Department (under Jimmy Carter) advised Congress that it found this provision "troublesome... [because] it

would be difficult to determine by what standard the sexual stimulation or gratification could be assessed." The Justice Department specifically recommended the term "lewd exhibition of the genitals"...a phrase used by the Chief Justice [Warren E. Burger] in *Miller v. California*...to describe one of a variety of types of conduct which could be prohibited under state obscenity statutes." This latter suggestion was adopted in the final bill. When Congress changed the ban from "lewd" images to "lascivious" ones, Congress specifically stated that it intended no further expansion of the law.

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Despite clear Congressional intent to narrow the scope of the child pornography law from any nude depiction taken with or used for an arguably "lewd" purpose to a sexual act of the kind enumerated by the Supreme Court requires a leap of faith fueled by cynicism. In *Knox*, Judge Cowan found that Congress actually *expanded* the scope of the

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child pornography law, no longer requiring nudity at all. In doing so, he ignored all jurisprudence regarding images depicting "lewd" exhibitions of the genitals -- all of which, without a single exception in twenty years, have been *nude* exhibitions of the genitals. Another disturbing aspect of the decision is the Court's complete disregard of the constitutional principle that a defendant must be given notice of what is being prohibited before he can be convicted of a crime. Prior to the *Knox* case, every prosecution under the federal child porn and obscenity laws concerned real sexual activity or pictures in which the genitals or pubic area were actually visible. Common sense also dictated a reading of the statute as requiring that the genitals and pubic area be *seen* -- not imagined under clothing. Knox could not have known that the Nather materials were illegal. The fact that the advertisement said "no nudity and no sexual activity" (and was truthful in this regard) was enough to tell Knox that they *were* legal. Indeed, Knox's lawyers even said that had Knox come to them for advice on the legality of the videos, they would have advised him that they were legal -- and so would every other criminal defense lawyer, as well as and most prosecutors. It is instructive that the U.S. Attorney in Arizona twice refused to prosecute Nather on the basis that he thought the videotapes were legal. Knox's prosecution and sentence are especially outrageous in light of the fact that companies like Nather, Brazil, and Raphael -- who all produce similar materials, now illegal -- still operate openly.

Under the *Knox* decision, one could easily imagine many citizens arrested for "suspected" lascivious depictions of their children because they didn't aim the camera properly, because they were too close, or because their children were making "provocative" faces or playing with "provocative" poses while fully clothed. We might also expect that photographers or videographers in public places might have their cameras seized because someone suspects that they might be taking "lascivious" pictures of minors who might be in the area. These are not far-fetched scenarios, but are consistent with a pattern of law enforcement in which parents have been frequent targets for the most innocent pictures of their nude children and in which serious artists have had to defend their work against charges of "exploitation". With the removal of nudity as a requirement to a finding of "lasciviousness," the *Knox*

decision significantly expands the range of materials -- books, postcards, magazines, posters, videotapes, motion pictures, and other publications -- which might be found criminal to sell, purchase, and even own. If the Third Circuit's ruling in *Knox* is permitted to stand, the search for "lascivious" images will be nothing short of a witchhunt.

Sadly, the trend in United States law enforcement over the past decade has been to pass draconian laws criminalizing an ever-expanding range of conduct, so that citizens must increasingly rely on the good faith and judgment of prosecutors not to prosecute harmless, innocent, or unintentional conduct. The *Knox* decision affirms that trend.

The chances of *Knox's* case being accepted for review by the Supreme Court is extremely slim, as the Court accepts very few defense petitions at all. *Knox* is currently free on bail.

### *Debate on Oregon Referendum on Perversion Exposes Double-Standard in Gay Community*

Caricatures depicting drooling "paedophiles" lusting after children and the equation of homosexuality with child molestation surely set the high level of pre-election advocacy in Oregon of the failed referendum aimed at legalizing discrimination against those who harbor the dreaded perversions of homosexuality, paedophilia, and sadomasochism. Although supporters of the referendum claimed that they are only opposed to "special rights" being accorded to sexual minorities, the referendum would have legitimized persecution on the basis of sexual orientation, since homosexuality, paedophilia, and sadomasochism were defined in the referendum as "abnormal, wrong, unnatural...and perverse." (Of course, persecution of those with underage desires -- or gay and lesbian people, for that matter -- never required a referendum....)

But the referendums like those in Oregon pose an interesting quandary to the gay and lesbian community. Sure it isn't fair when homosexuality is linked to adult-child sex and sadomasochism. Homosexuals, as a group, probably have no more underage or s/m sex than do straights and there are certainly many fewer homosexuals. Moreover, despite what some psychologists claim, no one gets "seduced into" being gay or lesbian -- any more than they get "seduced into" practicing paedophilia or s/m as adults. Obviously, the link to paedophilia is misused to arouse fear and provoke homophobia. At the same time, however, much of the gay and lesbian community harbors a double-standard in the politics of perversion and would probably have little trouble with the referendum as applied only to "paedophilia" or "sadomasochism". Over the past decade, in attempting to convince the straight world that they are not "perverts," but responsible adults in monogamous, committed relationships, gay and lesbian leaders have often resembled their Oregonian oppressors: for instance, in 1989, the New York Lesbian and Gay Community Services Center banned a poetry reading by Allen Ginsberg because it was sponsored by the North American Man-Boy Love Association (NAMBLA) and the Center has steadfastly refused NAMBLA use of their facilities for monthly meetings -- just as various states threaten to (and Colorado actually will) withhold its facilities from mainstream gay groups.

Categorical claims that gay men are not attracted to and don't have sex with underage males is as much obvious bullshit as categorical claims that straight men aren't attracted to



and don't have sex with underage females. And yes, lesbians "do it," too. The strategy of mainstream gay and lesbian organizations to keep underage desires in the closet has always been doomed to failure. The gay and lesbian communities may choose to marginalize non-vanilla gay and lesbian desires even further. Or they may take a more humane -- and sex-radical -- direction and embrace the diverse and unpopular "sub-minorities" in its midst.

## Brief Notes

- In the "hypocrisy is the greatest luxury" Department: *The Lover*, Jean-Jacques Annaud's film of Marguerite Duras' interracial, cross-cultural, autobiographical love story about a 15-year-old French schoolgirl and her wealthy 32-year-old Chinese lover, was released in the U.S. to a fanfare of warm reviews and sizzling commentary on its stunning star, Jane March. (Check out articles in *Interview*, *Elle*, and *Vanity Fair*, among others.) Because the film contains graphic sex scenes which depict Ms. March, then 17-years-old, playing the role of the 15-year-old Duras, *The Lover* originally received an "NC-17" rating, which would have excluded teenagers. (Under this brilliant reasoning, March would have been prevented from watching her own performance.) But on appeal, Annaud agreed to drop a line which fixed the French girl's age at 15. An "R" rating was then substituted. The film is still technically illegal under the federal child pornography laws, however. Word has it that an uncut version of *The Lover* will be released for home video next spring.

- A reader from Tennessee writes: "I simply love young girls for everything they represent: perfect beauty, without need of vanity: innocence, mingled with an undeniable allure; and something that is right and truly wonderful in this imperfect and tattered world. I am *not*, nor have I ever been, a "child molester" or anything of the sort. But I will always love little girls, and nobody has a right to police my thoughts or tell me what I should or should not read or look at, when it's completely harmless. Any form of censorship is dangerous, and inevitably leads to more and more censorship, and like a malignancy, will eventually consume even the last vestige of freedom. The very history of mankind proves that! Let's keep the torch of liberty burning...if we can."

- *Sell a Record, Go to Jail*: Record store owner Victor Vanover, of Abingdon, VA, faces indictment in the sale to a minor of Ice T's *Body Count* LP -- not for "Cop Killer," but for the tracks "KKK Bitch" and "Evil Dick". Under Virginia law, material is "obscene for minors" if it lacks "serious literary, artistic, political, or scientific value" for minors. Of course, no minors will be permitted to testify as to the work's artistic and political value -- and there is no doubt that the songs are political. Too bad the thought police, politically (and "morally") offended by such songs, are always trying to decide for everyone what does or doesn't have value. (*Billboard*, October 17, 1992). In the meantime, the State of Washington passed a law criminalizing sales of stickered records to minors. October's *NAMBLA Bulletin* shows a woman wearing a t-shirt which boasts: "I sell records to minors." Since then, however, the law was put on ice by the Washington State Superior Court.

- A "*Lolita*" for the 90s, but this girl's no victim: Next June, Dutton will release *Nude Men*, by Amanda Filipacchi, about a 29-year-old fact-checker, Jeremy Acidophilus, whose life takes a dramatic turn when a beautiful woman approaches him in a coffee shop and asks him to pose for her. She calls herself Lady Henrietta and paints nude men. Though Jeremy thinks

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*A lascivious exhibition of the calves? Photo by n.s. aristoff*

he's in love with Henrietta, it is Sara, her precocious 11-year-old daughter who seduces him in a wildly funny scene. Horrified by what he has done, Jeremy confesses to Henrietta, only to discover that she condones her daughter's desire. Dutton says: "And thus begins a not-so-classic triangle, in which conventional moral codes are abandoned and sexual restraint seems cruel, rather than correct."

### ***British Tabloid Round-Up: Children's Rights Activist Busted for Nude Pix, CB Sex Ring Scare More Prostitution Stings and -- of course -- Consensual Schoolgirl Sex***

Edited by Trevor Williams

*The Sun* (September 17, 1992). Peter Righton, the respected expert on child abuse who gave evidence last year which led to indictments of Staffordshire social service officials for throwing "problem children" into solitary confinement, was busted for nude pictures of boys -- a German book called "Die Sammlung EJ" and a magazine entitled "Boy Photo No. 1." Both of the publications are published and distributed by the Galerie Jansen in Berlin and are legal everywhere in the EC -- with the exception of the U.K., evidently. They depict only nude boys and there is no sexual activity involved or implied. Righton was fined £900 after admitting to importation and possession. Prosecutor Gordon Smith told magistrates that Righton "agreed that children were vulnerable but did not think they always need to be protected by the law from being photographed in the nude." Reasonable enough. Righton was the author of a chapter in Brian Taylor's *Perspectives on Paedophilia*, published

by Batsford Academic publishers in 1981.

*South London Press* (September 29, 1992). *Cops' Alert Over Sordid Sex Rings*. "Sick CB'ers are using the airwaves to snare youngsters into sordid sex rings. Police fear the perverted paedophiles are monitoring the CB radio chatter, waiting to pounce as soon as they hear a youngster on the air. They then cut into the conversation and entice the victim into a meeting, showing off their knowledge of the CB network. Once in the trap the victim can be made to keep quiet with bribes of equipment. Now the police fear there could be many young victims of CB paedophile rings who they do not know about. A spokesman from the Camberwell Police Child Protection team said, 'It is quite possible that this is a tactic heavily used by paedophiles.... There are so many promises they can make, and the youngsters are very vulnerable. They are talking about a common interest. It's very frightening. The children are often sitting in their bedrooms and the parents do not really know what is going on. These people do not miss an opportunity.'" Sounds like the Camberwell police will finally get those CB's they've wanted for so long!

*Daily Sport* (August 29, 1992). And what a sport it is: *A DJ's Lust For Young Virgins, 13. One brought her condoms*. "A randy DJ who satisfied his lust by having sex with virgins as young as 13 was put away yesterday. Andrew Lyon, 19, pleaded for a chance to go straight, but the judge told him: "Your offending has caught you up. You are an unpleasant young man." The court was told that Lyon regularly invited a group of four young teenage girls to his house to listen to records. He had sex with them one-by-one and made love to two 13-year-olds without using any form of protection. **But a 15-year-old girl brought her own supply of contraceptives and insisted on using them, the prosecutor Miss Caroline Bradley told Grimsby Corwn Court.** Lyon then lured another 15-year-old girl to his bedroom, touched her breasts over her underwear and fondled her genitals.... [Lyon's] defence lawyer, Richard Insall, said all the girls had consented to sex. Sending him to an institute for young offenders for a total of two years nine months, Judge David Wilcox told him: 'You had your way with young girls, satisfying your sexual desires on virgins of your acquaintance. These sentences should be far greater.'" **Not!**

*News of the World* (September 8, 1992.) *Lineker Brother Met Zoe When She Was 12*. The 29-year-old brother of soccer star Gary Lineker has fallen for a 15-year-old schoolgirl. Divorced father-of-two Wayne Lineker was seen kissing and cuddling pretty Zoe Davey at a posh disco on Friday night. The left in a £75,000 Ferrari at 3am. The couple have also holidayed together on Tenerife.... Wayne and Zoe met on the island when Zoe was 12 and holidaying with her parents.... *Both [families] stress their relationship is not sexual.* But [Zoe's dad] admits: "They have a lot of affection for each other." It's always okay when the rich do it!

*Evening Standard* (September 30, 1992). (OK, so the *Evening Standard* aspires to be more serious than a mere "tabloid.") *In praise of younger women*. by Dai Llewellyn. "Roman Polanski...is a man who inspires both envy and loathing. The reason for this is his unashamed preference for younger women.... Political correctness prevents the rest of the male population from vigorously agreeing with him.... Coincidentally, one of my most significant relationships with an under-age girl took place in Gstaad, Switzerland, in the mid-70s, just 100 yards from Roman Polanski's chalet. I arrived from London to hear excited chatter about an exquisite German baroness who was 17 and at an exclusive school there. Most of L'Equipe Anglaise, headed by the legendary playboy Rupert Deen, had set

their cap at her, and so had the guests at Roman's chalet. Alas, for them, with no success. However, the visiting Welshman got lucky and took her back to our chalet which had a swimming pool in the basement. My little 17-year-old stripped off her clothes with abandon and revealed the body of a pubescent gazelle; whereupon she dived into the pool followed by the admiring and occasionally leering glances from my normally laid-back friends. The following weekend her father arrived in Gstaad to celebrate her birthday. He invited me to dinner at the famous Palace Hotel where I proposed a toast to her on reaching her majority at 18. An embarrassed hush descended over the table, after which I was informed that I had been making love to a 15-year-old for a week, albeit unwittingly. Much mirth accompanied my discovery of her little fib, but I remember pondering whether I would have gone ahead if I had known her real age. She remains a beautiful friend today.... Let's face it. No amount of tut-tuts from old biddies behind lace curtains is going to stop men fancying young girls; whether or not the men do something about it is another matter."

*Star* (October 6, 1992). *Race Ace in Kid Vice Storm*. "Welfare groups are furious about an inflight magazine report on the delights of young girls in Thailand. The former world racing ace, Niki Lauda, now boss of Lauda Air, has refused to apologise for the article which praises the pleasures of child prostitutes [sic]. Protesters are planning to march on the airline's Bangkok office. Organiser Samphasit Koompraphant said: 'Mr. Lauda has shown scant regard for the welfare of young children in Thailand who are being exploited by foreign tourists.' The article included four fictitious postcards which travellers had sent to friends.... The magazine was withdrawn after protests from Thailand's Taskforce to End Child Sexploitation. But campaigners are angry after Lauda was reported as dismissing the complaint as 'the best joke I ever heard.' Mr. Koompraphant hit back: 'He was demonstrated a chauvinistic and heartless attitude to one of our country's serious problems. Lauda Air has used child sexploitation to sell their services.'" *Williams comments*: Of course, regular travelers to Thailand will know that it is extremely difficult to find "young girl" prostitutes there, if one considers "young" to be under the age of 14 or 15. Calling adolescents who have chosen prostitution as an alternative to poverty "young girls" is politically convenient and makes for good rhetoric. Forced prostitution is already rare in Thailand and rarer still for pre-adolescents. Those who regularly travel to Thailand may also be aware that many "young girl" prostitutes have rejected the Task Force's offers to be "saved" from prostitution.

*Star* (October 10, 1992). *Cop Is Gymslip Sex Bait*. 'Pervert' snared. "A petite part-time woman cop acted as bait to trap a man who wanted sex with a schoolgirl, a jury was told yesterday. Special constable Linda Reynolds, 25, put on school uniform and white ankle socks after Geoffrey Bowden allegedly asked a prostitute to find him a 13-year-old schoolgirl. But Merthyr Crown Court, South Wales, heard the prostitute tipped off police because she was sickened by Bowden's request. Officers arranged for Linda, a 5 ft. 1 inch blonde who had been a volunteer officer for only three weeks, to trap the ambulanceman. Father-of-three Bowden, 42, met Linda and the prostitute, wearing a concealed microphone, at a pub near Cardiff. He asked them to follow him to a nearby beauty spot where the £60 deal was finalised in his car. Nicholas Gareth-Jones, prosecuting, described how Bowden then looked into the prostitute's car to check over the schoolgirl. He told him: "You saw a little blond girl wearing a white blouse and tie." Bowden denied looking into the car and claimed he had no idea the prostitute had brought a 13-year-old girl. But Mr. Gareth-Jones said the prostitute had asked Bowden what age group he wanted and he had replied: 'Thirteen...yeah.' Bowden, of Taffs Wells, Mid Glamorgan, denies inciting the prostitute to

procure a young girl for sex." Although the *Star* didn't say so, the bleach blonde undercover constable didn't look even remotely like she might be 13.

*South London Press* (October 9, 1992). "*Safety net for pupils*" incarceration: Under the guise of providing a "safety net" for children of working parents, Lambeth Council in London has passed a resolution which prohibits any child under the age of 13 from walking home alone or with other students. After "perverts" allegedly tried to kidnap young girls in Vauxhall and Brixton, the Lambeth Council snapped into action. Children whose parents have failed to collect them from school must remain there until 5:00. If they are still not collected, they are taken to the children's home in Lorn Road, Stockwell, while police try to find their parents. "If it gets to be 5 p.m. and a teacher finds themselves [sic] in charge of an uncollected child under 13, the home is called. It's a safety net," said a Lambeth Council spokesman. Given the record of physical and sexual abuse of children who are in care, the "safety net" may be more of a "safety snare". In any event, stigmatizing and punishing children of working parents by forcing them to stay after school and to be taken temporarily in care hardly seems an appropriate response to what the Lambeth Council spokesman admits is hardly a problem.

### *"Cleopatra", Book 3, Chapter 7 from Aphrodite (1896)* *by Pierre Louys*

Queen Berenice had a young sister named Cleopatra. Many other princesses of Egypt were called by this name, but this one was later the great Cleopatra who slew her empire and killed herself upon its corpse.

She was then twelve years old and no one could say what her beauty would be. Her long, thin body was disconcerting in a family where all the women were plump. She ripened like a badly-grafted bastard fruit of foreign, obscure origin. Some of her features were violent as those of the Macedonians; others seemed to come to her from the depths of gentle, brown Nubia, for her mother had been a woman of inferior race and her origin was still doubtful. One was astonished to see lips almost thick under the curved, thin nose. Her young breasts, very round, very small and very far apart, were crowned with large rounded aureoles which marked her a daughter of the Nile.

The little princess dwelt in a spacious chamber open upon the expanse of the sea and connected with that of the queen by a pillared vestibule. There she passed the hours of the night upon a bed of blue-tinted silk where the skin of her finely toned young limbs took a still more somber hue.

Cleopatra arose long before the dawn. She had just slept but little and ill, uneasy from her recent maturity and the extreme heat of the air. Without waking her guardian women, she placed her feet gently upon the ground, slipped on her golden anklets, girdled her little brown belly with a strand of enormous pearls and, thus dressed, issued from the room.

In the monumental vestibule, the guards, also, slept, except one who stood sentinel at the queen's door. This one fell upon his knees and whispered, full of terror, as though he had never found himself caught in such a conflict of duties and perils:

"Princess Cleopatra, thy pardon...I cannot let thee pass."

The girl drew herself up, frowned violently, struck the soldier's temple with her fist and exclaimed, softly but ferociously:

"Thou, if thou touchest me, I will cry rape and I will have thee quartered."

Then she silently entered the queen's chamber.

Berenice slept, her head upon her arm, her hand hanging down. A lamp, suspended above the great crimson bed, mingled its feeble light with that of the moon which reflected the whiteness of the walls. The supple nudity of the young woman bathed its vague and luminous outlines in a slight shadow between the two lights. Slender and straight, Cleopatra seated herself upon the edge of the bed. She took her sister's face between her little hands and awakened her with gesture and voice, saying:

"Why is thy lover not with thee?"

With a start, Berenice opened her beautiful eyes.

"Cleopatra...What art thou doing here? ...What dost thou wish?"

The little girl repeated insistently:

"Why is thy lover not with thee?"

"He is not..."

"Certainly not, thou knowest."

"It is true. He is never here.... Oh, Cleopatra, how cruel thou art to waken me and tell me so!"

"And why is he never here?"

Berenice sighed mournfully.

"I see him when he wishes...in the daytime...an instant."

"Didst thou not see him yesterday?"

"Yes...I met him on the road...I was in my litter. He entered it."

"Not as far as the Palace."

"No...not quite; but almost at the door I still saw him..."

"And thou saidst to him..."

"Oh, I was furious...I said the most evil things...Yes, my dear."

"Really?" said the young girl ironically.

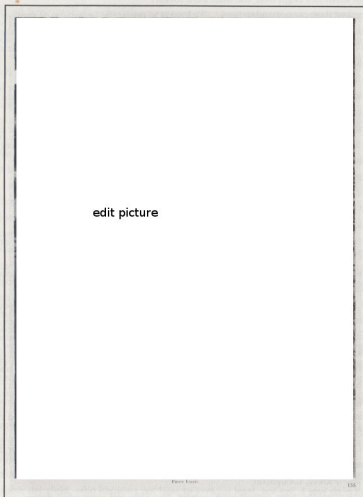
"Too evil, doubtless, for he did not reply.... At the moment when I was quite red with anger, he told me a long fable and as I did not quite understand it, I did not know how to answer in my turn.... He slipped out of the litter although I thought I could keep him."

"Why didst thou not have him ordered back?"

"For fear of displeasing him."

Cleopatra, swelling with indignation, caught her sister by the shoulders and spoke, looking into her eyes:

"What, thou art queen, thou art the goddess of a people, thou possessed a half of the world, all that is not Rome's is thine, thou reignest over the Nile and over all the sea, thou



Portrait by Pierre Louys, ca. 1895.

*[The image above is from Le Nu 1900, edited by Philippe Julian, and available from booksellers throughout the United States (The particular copy from which the above plate was taken was purchased at A Photographer's Place Bookstore in New York.) Most of Louys' images, unlike the image above, are unsuitable for publication in the United States. However, for those familiar with Serge Nazarieff's widely available Stereo Nudes, 1850-1930, the pubescent girl in the lascivious "spread-leg" pose was almost surely not (as claimed by Nazarieff) taken by Louys.]*

reignest even over the heavens since thou speakest to the gods form nearer than any other, and thou canst not reign over the man thou lovest?"

"Reign...but thou cannot understand.... To love is to prefer the happiness of another to that which one formerly wished form one's self.... If Demetrios is pleased, I will be also, even in tears and far from him.... I can no longer desire a joy which may not at the same time be his, and I am happy with all that I give him."

"Thou dost not know how to love," said the child.

Berenice smiled sadly at her, then stretched out her stiffened arms to each side of her couch, inflated her breasts and arched her loirs.

"Ah! presumptuous little virgin!" she sighed. "When thou wilt have swooned for the first time in the midst of a loving embrace, then thou wilt understand why one is never queen of the man in whose embrace one lies."

"One is when one wishes."

"But one can no longer wish."

"I can! Why canst not thou, who art older than I?"

Berenice smiled again.

"And upon whom, little girl, wilt thou exercise thine energy? On which of thy dolls?"

"Upon my lover," said Cleopatra.

Then without waiting for the astonishment of her sister to find words for expression, she continued with increasing exultation:

"Yes, I have a lover! Yes! I have a lover! Why should I not have a lover like everyone, like thee, like my mother and aunts, like the lowest of the Egyptians! Why should I not have a lover since I have been a woman for six months and thou hast given me no husband? Yes, I have a lover, Berenice, I am a little girl no longer!... I know! I know! Be silent; I know better than thyself...I too have clasped my arms to the breaking point over the back of a man who believed himself my master. I too have clenched my toes upon the air, feeling as though life were leaving me and I have died an hundred times as thou swoonest, but immediately afterwards, Berenice, I was standing erect.... Be silent! I am ashamed to have thee for a sovereign, thou who are someone's slave!"

Little Cleopatra, erect, made herself as tall as possible and put her hands upon her delicate shoulders.

"The hast a lover, Cleopatra?"

She spoke timidly, now, almost with respect. The little girl responded dryly:

"If thou dost not believe me, look."

Berenice sighed.

"And when dost thou see him?"

"Three times a day."

"Where?"

"Dost thou wish me to say?"



"Yes."

Cleopatra questioned in her turn:

"How is it that thou dost not know?"

"I know nothing, not even what happens in the Palace. Demetrios is the only subject upon which I allow myself to be entertained. I have not watched thee; it is my fault, my child."

"Watch me if thou wilt. The day when I can no longer have my will, I will kill myself. Then it will be all the same to me.

Shaking her head, Berenice replied:

"Thou art free...Beside, it is too late for thee to be confined....But tell me, dear...thou hast a lover...and thou holdest him?"

"I have my way of holding him."

"Who taught thee?"

"Oh! I alone. One knows that instinctively or one never knows it. At six years, I already knew how I would later hold my lover."

"And wilt thou not tell me?"

"Follow me."

Berenice rose slowly, put on a tunic and a mantle, aired her hair, damp from the perspiration of the bed, and the two left the room together. First the young girl traversed the vestibule and went straight to the bed she had lately left. There, from under the mattress of fresh, dry byssos, she took a new, engraved key. Then, turning:

"Follow me -- it is far," she said.

She ascended a staircase in the middle of the vestibule, followed a long colonnade, opened doors, walked over rings, flagstones, pale marble and twenty mosaics of twenty empty and silent halls. She descended a stone stair, crossed dark thresholds, passed echoing doors. Now and again, two enormous guards stood upon mats, lances in hand. After a long time, she crossed a court illuminated by the full moon and the shadow of a palm tree caressed her hip. Berenice still followed, enveloped in her blue mantle.

At length, they arrived at a thick door banded with iron like a warrior's torso. Cleopatra slipped the key into the lock, turned twice, pushed the door; a man, gigantic in the shadow, rose to his full height at the back of this prison.

Berenice looked, was seized with emotion and drooping her head, said very gently:

"It is thou, my child, who knowest not how to love...at least, not yet...I was right in telling thee so."

"Love for love, I like mine better," said the little girl. "This love, at least, gives only joy."

Then erect upon the threshold of the chamber and without taking a step forward, she said to the man standing in the corner:

"Come kiss my feet, son of a dog."

And when he had done so, she kissed his lips.

*Pierre Louys: A Selected and Slightly Annotated Bibliography.*

Pierre Louys was one of the most popular French writers in the 20th century. Although he was famous for his books which refer to "classical" settings -- *Aphrodite* and *The Songs of Bilitis* in particular -- his erotic writings are clearly his best work. He was an avid photographer of both women and girls (whom he usually invited from Northern Africa to stay with him in Paris), and his often erotic images are well known to photo-historians throughout the world. Collectors should note that while many editions of Louys' writings are illustrated, only a very few maintain the intent and integrity of the author's words -- which is to say, most of the illustrations are unmitigated garbage. This is particularly true of the books published in English after 1930. Although Louys often describes his characters as peri-pubescent or adolescent, they are generally depicted as Vargas-like or statuesque in a manner that Louys would have found ridiculous and inappropriate. In 1994, Ophelia Editions plans to publish a volume of Louys' photographic work, as well as the first English translations of *L'Île Aux Dames* and *Les Memoires de Josephine*.

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## More State "Child Porn" Laws.

Readers are urged to refer to *UDN #7* for a discussion of how state and federal laws intersect. The laws of Massachusetts and Ohio will be discussed in *UDN #10*. Federal law prohibits the creation, production, receipt, sale, and possession -- in fact, any handling at all -- of depictions of minors under the age of 18 engaged in "actual or simulated sexually explicit conduct," meaning: intercourse, oral-anal, oral-genital contact, sadistic or masochistic abuse, bestiality, or "lascivious exhibitions of the genitals or pubic area of any person." All state laws prohibit sexual conduct involving minors.

**Michigan Penal Code.** Michigan prohibits "erotic nudity," which means the display of the human male or female genital or pubic area, or developed or developing female breast, in a manner which lacks primary literary, artistic, educational, political or scientific value and which the average person applying contemporary community standards would find appeals to prurient interest. ("Erotic nudity" is defined as a "sexual act" under the law.) There are no cases under Michigan law which define the term "primary" as applied to artistic value, but the act appears to modify the *Miller* standard (applicable to adult obscenity), which requires a lack of "serious" artistic value.

**Minnesota Criminal Code.** Minnesota follows federal law definitions.

**Mississippi Criminal Code.** Mississippi criminalizes the depiction of "all forms of ... nudity, when such nudity is depicted for the purposes of sexual stimulation or gratification of any individual who may view such nude depiction." "Nudity," however, is not defined, so make sure you cover those ankles!

**Missouri Criminal Code.** MO is the same as MI.

**Montana Criminal Code.** Montana doesn't seem to prohibit lascivious exhibitions of the genitals. (Anyway, federal law already prohibits production and possession, and try using materials not manufactured in interstate commerce!) Montana law prohibits depictions of minors engaged in "sexual contact," i.e. "any touching of the sexual or other intimate parts of the person of another for the purpose of arousing or gratifying the sexual desire of either party." The law doesn't tell us what other parts are "intimate" besides the genitals.

### *The Little Rose Merchant (CXXIX)*

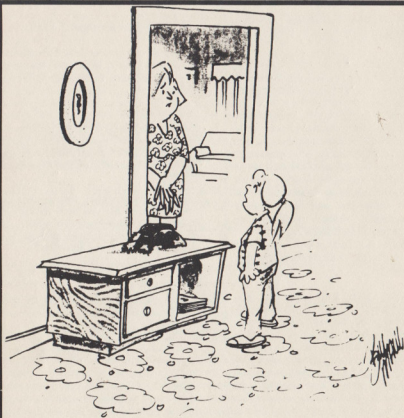
"Yesterday," Nais said to me, "I was in the market when a little girl in red tatters, carrying roses, passed before a group of young men. And this is what I heard:

'Buy something from me, -- Explain thyself, little one, for we know not what thou sellest. Thyself? Thy roses? Or all together? -- If you will buy from me all these flowers, you may have mine for nothing.'

'And how much wishest thou for thy roses? -- I must have six oboli for my mother, else I shall be beaten like a bitch. -- Follow us. Thou shalt have a drachma. -- Then shall I go for my little sister?'

"And both followed these men. They had no breasts, Bilitis. They knew not even how to smile. They trotted along like kids which one leads to the butcher."

- from *The Songs of Bilitis* (1894) by Pierre Louys -



*"Is it permissible for a girl to phone a boy  
if she just wants to call him a fuckhead?"*

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