

Book Vendors Move to Drop 5-1 8-8-69 Seizure Suit

Following up a victory in federal court, newsstand operators today moved to dismiss their suit to keep police and the district attorney from arresting them and seizing their books.

Yesterday, a three-judge federal panel knocked down part of Louisiana's anti-obscenity law. The news vendors apparently felt this action protects them sufficiently and made their suit unnecessary.

Sidney Pampo, operator of Sidney's News Stand, 901 Decatur, and others, filed a motion in Federal District Court to dismiss their \$48,000 suit against Dist. Atty. Jim Garrison, Police Supt. Joseph I. Giarrusso and members of the vice squad.

THE FEDERAL panel yesterday declined to declare the entire anti-obscenity law unconstitutional.

The decision, written by U.S. Dist. Court Judge Edward J. Boyle Sr., yesterday said part of the law obviously was too broad to be valid.

He said, "Literal application thereof would, for example, make it a criminal offense to display, for any purposes, universally accepted anatomical works or recognized works of art of the like anywhere but in 'art galleries.'"

THE RULING involved two

cases filed as a result of raids and arrests at newsstands in Jefferson and St. Bernard Parishes in which books and magazines were seized as obscene.

The court ordered that the books and other materials confiscated in the raids be returned, and declared them unusable as evidence.

Distribution of a work which is alleged to be obscene should not be impeded until an independent determination of its obscenity has been made by a judicial officer, including an adversary hearing, the ruling said.

"**APPLYING THESE** principles to the cases before us, the arrests as well as the seizures . . . are clearly invalid for lack of a prior adversary determination of the obscenity of the materials upon which the arrests and seizures were based," the court said.

Regarding a St. Bernard Parish ordinance under which some defendants were charged, the court declared it unconstitutional, unenforceable, poorly drafted and in some respects unintelligible.

Judge Boyle and Judge John Minor Wisdom of the 5th U.S. Circuit Court of Appeals joined in the decision. The third member of the panel, U.S. Dist. Judge Alvin B. Rubin, said he would file a dissent later.