

newsletter
on
intellectual
freedom



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**Library
Censorship:
two case
studies**

Library censorship has been big news recently. It seems some would-be censors interpret the apparent change in the country's political mood, indicated by November's election, as a mandate to step up efforts to impose their own moral and social values on library patrons. When Judith Krug, co-editor of the Newsletter, reported this in an interview with the Los Angeles Times in mid-November, the story was picked up by hundreds of newspapers, television and radio stations nationwide. Dozens of editorials appeared bemoaning this "new" phenomenon. Conservative columnist James Kilpatrick even stepped into the fray with a column offering "equal time" to the censorship efforts of "the barbarians."

Librarians and Newsletter readers are, of course, well aware that such pressures are hardly new. Yet the flurry of attention was not unwarranted. Judging from reports received by the Newsletter, and these are clearly just the tip of a very large iceberg, an upswing in censorship attempts in libraries and schools, which began just prior to the election, threatens to swell into a major assault. As Mrs. Krug told the Times, "All of the pressures that were just below the surface are now coming out, pressures to remove those materials that people object to on moral grounds or because they believe the materials do not reflect 'traditional American values.'"

To give our readers a closer look at this new wave of censorship efforts, the Newsletter asked two staff members from the ALA Office for Intellectual Freedom to give their impressions of two recent incidents, in Oak Lawn, Illinois, a residential suburb of Chicago, and Abingdon, Virginia, a small town in the largely rural southwest portion of that state. Although differing from each other in many respects, each incident typifies in its own way the extent and nature of the pressures being brought to bear on libraries and librarians.

(Continued on page 5)

in this issue

library censorship: two case studies

Oak Lawn, Illinois	p. 5
Washington County, Virginia	p. 5
decision in Island Trees case	p. 4
Virginia Beach referendum results	p. 6
tell us about it!	p. 7
Jeanne Layton reinstatement upheld in court	p. 7
the shoe on the other foot?	p. 8
continued FBI harassment of leftists revealed	p. 22
new world information order?	p. 23
when no other word will do	p. 23

targets of the censor

Books

<i>A Journey to the Arctic</i> (Education Development Center, 1968)	p. 10
<i>The Act of Marriage</i> (Zondervan, 1976)	p. 8
<i>Are You There God, It's Me, Margaret</i> (Dell, 1974)	pp. 9, 20
<i>Bloodline</i> (Morrow, 1977)	p. 5
<i>Concepts in Biology</i> (Brown, 1979)	p. 10
<i>Deenie</i> (Bradbury Press, 1979)	p. 20
<i>Documents on Australian Defense and Foreign Policy, 1968-75</i>	p. 14
<i>Goodbye, Columbus</i> (Houghton Mifflin, 1959)	p. 5
<i>Health</i> (Prentice Hall, 1976)	p. 10
<i>Illustrated Social History of Prostitution</i>	p. 20
<i>Life and Health</i> (Random House, 1976)	p. 9
<i>The Lonely Lady</i> (Simon & Schuster, 1976)	p. 5
<i>Modern Human Sexuality</i> (Houghton Mifflin, 1976)	p. 10
<i>Show Me!</i> (St. Martin's, 1975)	p. 5
<i>Songs and Stories of the Netsilik Eskimos</i> (Education Development Center, 1968)	p. 10
<i>Then Again, Maybe I Won't</i> (Bradbury Press, 1971)	pp. 9, 20

Periodicals

<i>Afrique-Asie</i>	p. 27
<i>Chic</i>	p. 11

<i>Doing Time</i>	p. 19
<i>High Society</i>	p. 11
<i>Le Monde</i>	p. 1
<i>Melbourne Age</i>	p. 14
<i>Ms.</i>	p. 18
<i>Our Own</i>	p. 16
<i>Palvo Verde Post</i>	p. 11
<i>Playboy</i>	p. 20
<i>The Quad</i>	p. 21
<i>Revolutionary Worker</i>	p. 11
<i>Stag</i>	p. 11
<i>Sydney Morning Herald</i>	p. 14
<i>The Vista</i>	p. 12
<i>Washington Post</i>	p. 10

Films

<i>Caligula</i>	p. 13
<i>Debbie Does Dallas</i>	p. 12
<i>Let There Be Light</i>	p. 12
<i>The Lottery</i>	p. 9
<i>Word is Out</i>	p. 9

Broadcasting

<i>Beulah Land</i>	p. 13
<i>City Lights</i>	p. 14
<i>Comfort My People</i>	p. 14
<i>Stan Freberg's Federal Budget Revue</i>	p. 13
<i>Witness For Hire</i>	p. 16

Play

<i>The Romans in Britain</i>	p. 14
--	-------

Cartoon

<i>Doonesbury</i>	p. 11
-----------------------------	-------

Speaker

<i>Abdul Hassan</i>	p. 12
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Views of contributors to the **Newsletter on Intellectual Freedom** are not necessarily those of the editors, the Intellectual Freedom Committee, or the American Library Association.

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— AAParagraphs

when Thor's hammer strikes . . .

“. . . That the power to tax involves the power to destroy; that the power to destroy may defeat and render useless the power to create . . . are propositions not to be denied . . .”

Those oft-quoted words of Chief Justice John Marshall in his 1819 opinion in the landmark federal privacy case (*McCulloch v. Maryland*) have taken on a new, bitter and quite literal meaning for many book publishers as a result of a 1979 Supreme Court decision and ensuing rulings of the Internal Revenue Service.

This column normally discusses the activities of the AAP Freedom to Read Committee and publishers' First Amendment concerns. Although the question to be treated this issue, taxation, has not been a direct concern of our Committee, it will be quickly seen—and specifically stated—to have substantial First Amendment implications. But, in a welcome demonstration of the truth of the maxim that it's an ill wind that blows no good, the outpouring of widespread concern that this particular problem has elicited—not for publishers themselves certainly, but for their books—has revealed a heart-warming and encouraging aspect of an otherwise dismal situation.

At the root of the problem is a 1979 Supreme Court decision which, at first blush, seemed to have little to do with books or publishing: in *Thor Power Tool Co. v. Commissioner*, the Court, upholding past regulations long in force, held that a producer could not depreciate, or write-down, for tax purposes, excess inventories of products held for sale at regular prices. Publishers at first paid little attention until two subsequent IRS rulings applied this decision to inventories of unsold books and made it retroactive to the 1979 tax year. “This ruling deals with a method of accounting, not with kinds of inventory,” an IRS spokesman said. “It doesn't matter whether they're widgets, gadgets, cars or books.” *The New York Times* added editorially: “. . . the IRS informed publishers that, for tax purposes, unsold novels were no different from unsold drills.”

Not all publishers were immediately affected because some had long since complied with IRS-mandated depreciation practices. But for those who through inadvertence, lack of IRS audits, or tacit agreements with local IRS agents had for years written down unsold book inventories while holding them against the possibility of future sales, there seemed to be but two alternatives: sell the books to “remainder” houses (at perhaps a 90 per cent loss) or destroy—the word

“burn” gained new currency—they. For some publishers years of consistent accounting practice would be declared invalid and a cumulative penalty charged against a single tax year (even though the IRS offered a 10-year payment stretchout). It could be, in the words of AAP President Townsend Hoopes, “catastrophic,” both to the publishers and the reading public.

“This is an unseemly prospect for a country, such as ours, which cherishes freedom of expression and the free flow of information and which has embodied these precepts in the First Amendment to the Constitution,” Hoopes told a Senate tax subcommittee.

When the situation came to light, there was a quick reaction to the prospect of widespread “book burning”—and many books have already been destroyed—from Congress and the press. On Capitol Hill, several lawmakers of both parties volunteered to help: short-term assistance took the form of bills to stay the application of the *Thor* rulings, while more basic assistance involved promises to introduce legislation to exempt books entirely from the *Thor* rulings. Senators Moynihan (D) and the departing Javits (R), who represent New York, the center of publishing, typified the bipartisan response from the Senate that included also Democrats Kennedy and Randolph, Republican Goldwater and Independent Harry Byrd. In the House, Republicans Barber Conable from upstate New York, William Frenzel of Minnesota and Jack Edwards of Alabama offered the first anti-retroactivity bill, but the AAP Washington office received numerous calls offering help from congressmen on both sides of the partisan aisle. The 96th Congress adjourned without dealing with this problem, but the bipartisan nature of the offers to help left AAP encouraged that even the very different 97th Congress would not turn its back.

The press published major articles (page one of the *New York Times* for October 5, to cite only the most prominent), editorials and columns treating the problem from many angles. *Times* humor columnist Russell Baker chose to jar the reader: “The American genius for turning a silk purse into a sow's ear is illustrated once again in the recent federal tax ruling that encourages publishers to turn their books into toilet paper . . .” Publisher Daniel Fischel, in another *Times* op-ed piece, added a touch of irony: “Paradoxically, the IRS won't benefit, at least in the long run. In the past many of the books that had been written down were ultimately sold and therefore produced a taxable profit. But a book that has been destroyed can't generate a tax payment.”

Nor did the only outcry come from the press. Librarians quickly realized that their ability to acquire backlist, rare or hard-to-get books which they had not purchased immediately upon publication would be

impaired, and they were heard from in the halls of Congress. Booksellers too, while uncertain of the precise impact of *Thor*, recognized the potential for economic disaster: *Publishers Weekly* quoted a Berkeley, California, independent bookstore owner: "Backlist has always been the independent store's strength. The *Thor* ruling is just giving another incentive for chains to dominate the marketplace. This could mean driving out the independent from the business entirely. . ."

And the general public was heard from: in calls to AAP in New York and Washington and to individual publishers, in letters to newspaper editors and to their congressmen, individuals proposed a variety of rescue plans, some bizarre, some self-seeking, but all triggered by concern at the prospect of widespread destruction of books.

In short, this appears to be one problem which, if everybody is not talking about it, has become a concern of many. And—once its full dimensions, now being studied, are known—it is a problem which, hopefully, someone will do something about.

This column, contributed by the Freedom to Read Committee of the Association of American Publishers, was written by Richard P. Kleeman, the committee's staff director.

decision in Island Trees case

On October 2, an important victory was won in *Pico v. Board of Education, Island Trees (N.Y.)*, which arose from one of the most notorious incidents of school library censorship in recent years (see *Newsletter*, November 1979, p. 129; January 1980, p. 1). On that day, the United States Court of Appeals for the Second Circuit reversed an unfavorable lower court decision and held that the student plaintiffs had stated a sustainable claim for violation of First Amendment rights.

The victory was by no means total, however. Not only did the three-judge panel divide 2 to 1, but the majority itself could not agree to enter final judgment in the students' favor, merely remanding the case for trial at which the plaintiffs will be required to prove their case. Shortly after the decision, the Island Trees School Board filed a motion for a rehearing *en banc*, that is, before all members of the Second Circuit Court.

Moreover, in the related, if less compelling, case of *Bicknell v. Vergennes (Vermont) Union High School Board*, decided the same day, the court again split 2 to 1, this time affirming dismissal of student censorship claims.

In the Island Trees decision, all three judges wrote lengthy separate opinions and none entirely agreed with the others on either the facts or the law of the case. In his concurring opinion, Judge John O. Newman frankly acknowledged the court's division, remarking that Judge Charles P. Sifton (a District Court judge sitting on the panel "by designation") would have decided for the plaintiffs; that dissenting Judge Walter R. Mansfield would have ruled for the school board; and that he cast the deciding vote to remand for trial.

The Island Trees incident, it will be recalled, began in September 1975 when two officers and another member of the school board attended a conference sponsored by a state-wide conservative parent group, Parents of New York-United (PONY-U). There, they obtained a list of "objectionable" books and in early November, the two officers searched the Island Trees High School library card catalogue, discovering several titles on the list.

These books were removed and the board appointed a review committee consisting of four staff members (not including a librarian) to make recommendations to the board. In July 1976 the board, in partial agreement with the committee report, resolved that one book be returned to the shelves without restriction, that another be returned with student access conditioned on parental approval, and that the nine remaining titles, including widely acclaimed works like Kurt Vonnegut's *Slaughterhouse-Five* and Bernard Malamud's *The Fixer*, "be removed from elementary and secondary libraries and from use in the curriculum."

In announcing the court's decision, Judge Sifton labored at great length to establish a procedural mode of analysis for defining a "prima facie" case of constitutional violation in school book banning incidents. He found the board's criteria for removing the books far too general, lacking precision in their definition, and that they were applied without recognition of First Amendment considerations.

In this case, Sifton found, "we are presented with more than the inferences to be drawn from the act of removing controversial texts from library shelves, and more than the clearly understood routine and regular task of selecting titles for a school library. What we have instead is an unusual and irregular intervention in the school libraries' operations by persons not routinely concerned with their contents. Moreover, this intervention has occurred under circumstances, including the explanations for their actions given by the participants, which so far from clarifying the scope and intentions behind the official

(Continued on page 6)

Library censorship: two case studies

(Continued from page 1)

Oak Lawn, Illinois

By Robert P. Doyle, Assistant to the Director, Office for Intellectual Freedom. Before joining the OIF staff in September 1980, Mr. Doyle was for five years a reference librarian at the Oak Lawn Public Library.

On my second day at the Office for Intellectual Freedom, I received a phone call from my former employer, requesting information about a book. A complaint had been filed against *Show Me!*, an explicit and controversial sex education manual for children. Hearing the title, I recalled immediately that when the book was acquired, there had been considerable discussion among the Oak Lawn Library staff about its proper location—the adult collection, the children's collection, the parents' shelf or a restricted shelf. It had been placed on a parents' shelf in the children's department and languished there for five years, during which period it was checked out just nine times.

Although the Office for Intellectual Freedom did not become directly involved, we closely monitored developments in the Oak Lawn controversy. Oak Lawn is a southwestern suburb of Chicago, located 40 minutes from the Loop. The village is a white, middle-class working community whose industrious residents have struggled hard to escape the problems they perceive in Chicago and to build a pleasant and tranquil community based on a strong belief in family, home and church.

However, Oak Lawn's tranquility and its apparent isolation from nearby urban problems have always had a certain mythical quality. Its citizens sometimes believe that their values are under attack. Yet, like many others in our society, they have difficulty fingering the source of their fears—and, also like many others, they find the library a convenient target. It is a local institution and a repository not only of all that is moral and good, but also of much that is perceived as immoral, even harmful.

Show Me!, is an explicit photographic sex education manual, with a minimal text. It opens with pictures of two children examining their anatomical differences and expressing wonder and bafflement about sex. The succeeding photographs show the developing sexuality of older children, through to adulthood and, finally, parenthood. In the process, the book illustrates scenes of oral sex and masturbation. Many communities across

(Continued on page 23)

Washington County, Virginia

By Henry Reichman, Assistant Director, Office for Intellectual Freedom.

It began with an anonymous letter to the sheriff complaining that pornography was being sold in Washington County. Soon three merchants, operators of the Book Nook, the Bi-Rite Supermarket and Jim's Minute Mart, stood convicted of selling obscene materials, including *Hustler* and *Dude* magazines and two paperback novels. But that was only the start.

During the trial of these three men their attorney introduced into evidence two books from the public library, *Bloodline* by Sidney Sheldon and *The Lonely Lady* by Harold Robbins, both nationally best-selling potboilers. The words in these volumes, he said, were no worse than the pictures in the magazines his clients were on trial for selling. Yet the books can be checked out of the library, perhaps even by teenagers!

That was more than enough for the Rev. Tom Williams of Emmanuel Baptist Church. Williams went to the Washington County Public Library in Abingdon to check out the titles in question. Sure enough, he found them objectionable. Storming back into the library, he demanded that Library Director Kathy Russell, a life-long native of Abingdon, get rid of the books. In fact, he was soon demanding that she get rid of all books by these authors and, while at it, he added some other specific titles, including *Goodbye, Columbus* by Philip Roth, to his list.

Williams acknowledged the task of reviewing all the library's holdings to uncover objectionable sections would be an enormous one. But he offered a simple solution: "All you got to do is go to the card index and find out how many books you've got by these authors. A man that writes pornography can't write anything else because his mind's blinded. He has a corrupt mind."

According to Williams, free expression is not the issue: "We're not dealing with the rights of individuals to read and have this type of literature in his or her home. The community, the people of Washington County, has no obligation to purchase, dispense, retain or in any way provide such material for any individual or groups in Washington County, Virginia."

Library Director Russell responded according to standard procedure. She gave Rev. Williams a com-

(Continued on page 25)

(*Island Trees, Continued from page 4*)

action, create instead grave questions concerning both subjects. In circumstances of such irregularity and ambiguity, a *prima facie* case is made out and intervention of a federal court is warranted because of the very infrequency with which it may be assumed such intervention will be necessary and because of the real threat that the school officials' irregular and ambiguous handling of the issue will, even despite the best intentions, create misunderstanding as to the scope of their activities which will serve to suppress freedom of expression."

Judge Newman's separate opinion focuses more on substantive standards and, accordingly, more directly affirms First Amendment rights. He argues: "The use of governmental power to condemn a book touches the central nervous system of the First Amendment . . .

"The removal of a book from a school library will often be the sort of clearly-defined, school-wide action that carries with it the potential for impermissible suppression of ideas. It is possible, of course, for removal to be a casual, insignificant decision, as when the school librarian replaces an obsolete book, or discards a rarely-used one to make shelf space available for other volumes. But the deliberate decision, taken by leading school officials, that a book is to be removed from the school library because of its ideas can hardly be placed in the same category. Actions such as these can too easily lead to suppression. They signal to the students and the teachers an official message that the ideas presented in those books are unacceptable, are wrong, and should not be discussed or considered. The chilling effect of this message on those who would express the idea is all too apparent.

"The symbolic effect of a school's action in removing a book solely because of its ideas will often be more significant than the resulting limitation upon access to it. The fact that the book barred from the school library may be available elsewhere is not decisive. What is significant is that the school has used its public power to perform an act clearly indicating that the views represented by the forbidden book are unacceptable. The impact of burning a book does not depend on whether every copy is on the fire. Removing a book from a school library is a less offensive act, but it can also pose a substantial threat of suppression.

"The risk that removing a book from a library will communicate suppression of an idea is markedly increased when the decision to remove is politically motivated. While the mere act of singling out a

certain type of speech for disapproval will often be sufficient to render the state's action impermissible, this is not necessarily true in the context of schools. The latitude properly accorded to teaching must tolerate some expressions of disapproval, not only of inappropriate conduct but even of disfavored ideas. But when the disapproval is political in nature—exclusion of particular views is motivated by the authorities' opinion about the proper way to organize and run society in general—then it verges into impermissible suppression."

In a disappointing dissent, Judge Mansfield systematically catalogued the "indecent matter, vulgarities, profanities, explicit sexual descriptions or allusions, sexual perversion, or disparaging remarks about Blacks, Jews, or Christ" contained in the books to support the board's action as "a rational exercise of its statutory duty to prescribe appropriate materials for the education of children in the district."

In *Bicknell*, in which the school librarian and students at the Vergennes Union High School sued the school board for removing *The Wanderers* from the library and placing restrictions on *Carrie* and *Dog Day Afternoon*, Judges Newman and Mansfield joined to affirm the lower court decision, with Judge Sifton in dissent. For the majority, Judge Newman argued, "The attention of the Board was first directed to the two books by complaint about their vulgar and indecent language. There is no suggestion that the books were complained about or removed because of their ideas, nor that the Board members acted because of political motivation." In his dissent, Judge Sifton contended that the plaintiffs "should be given an opportunity through discovery and a trial to prove that ideas were being suppressed rather than merely vulgar or obscene language."

Virginia Beach referendum results

The dispute over the presence of *Our Own*, a gay newspaper, in the Virginia Beach, Virginia public libraries continues unabated following the November 4 vote on an advisory referendum which read, "Shall publications whose primary purpose is to depict or advocate, by picture or word, homosexual acts be displayed, distributed, or received into the public libraries of Virginia Beach, Virginia?" 13,694 people voted "yes" on the issue, 48,217 voted "no", and approximately 17,000 of those who went to the polls abstained on this item, which was the course of action urged by the Friends of the Library and the Virginia Library Association.

As previously reported (see *Newsletter*, July 1980, p. 75; September 1980, p. 97), *Our Own* was originally distributed for free in multiple copies by the library,

but after calls for the paper's removal the library board voted to cease free distribution and add the paper to the library collection for the first time.

While the referendum's wording was ambiguous, the Citizens for the Family, which was instrumental in placing the question on the ballot, and several local politicians have interpreted its results as a mandate for the total removal of the gay paper and they have called on the city council to do this. The Rev. Rodney Bell of Citizens for the Family urged the council to "act on the will of their constituents the fastest way (it) possibly can." Others, including councilman F. Reid Ervin, pointed out that "We'd have a hard time finding anything in the library, including *Our Own*, that advocates homosexuality or depicts homosexual acts." Councilwoman Meyera E. Oberndorf added, "It doesn't say *Our Own*. They're talking about pornography and we don't have pornography in the library."

Council action, however, has been postponed until a suit filed on behalf of *Our Own* by the ACLU, seeking to enjoin the library from terminating free distribution of the paper, is resolved. The library has contended that such distribution is not a purpose of the library, and that if *Our Own* obtains this privilege, many other free publications distributed by political, religious and social groups would merit similar treatment, thereby crippling the library's ability to carry out its assigned functions. Reported in: *Norfolk Virginian-Pilot*, November 5, 6; *Norfolk Ledger-Star*, November 11; *Richmond Times-Dispatch*, November 9.

Jeanne Layton reinstatement upheld in court

Davis County, Utah, Library Director Jeanne Layton has won a major victory in her ongoing struggle to retain her job (see *Newsletter*, Jan. 1980, p. 12; March 1980, p. 29; July 1980, p. 73; Sept. 1980, p. 95). On October 17, a state district court judge ruled that "the action of the merit council in determining the director of libraries is under the merit system and the decision restoring the director to her former position is in accordance with the law."

The Davis County Library Board had argued that Layton was not covered by the county merit system and thus could be dismissed by the board for her actions, including retention of the novel *Americana* in the library collection. The merit commission had ruled last October that Ms. Layton is covered by the merit system and ordered her reinstatement in January, saying the library board had failed to show the dismissal was for cause as required by the merit system rules. The library board contested this decision in court. On November 24, board chairman Evan Whitesides said the

tell us about it!

From Gilbert, Arizona to Fairlawn, Ohio, from Hayward, California to Waltham, Massachusetts, the *Newsletter on Intellectual Freedom* reports incidents of censorship or attempted censorship, restrictions on free expression and threats to the rights protected by the First Amendment to the U.S. Constitution. But we can't do it alone. In our office, we read dozens of periodicals, looking for information. We subscribe to a newspaper clipping service which, at least in theory, scours hundreds of newspapers, large and small. But some of our best stories, the most intriguing items we run in *Censorship Dateline*, in *Is It Legal?* or even as lead articles, come from you, our readers.

With the threat of censorship looming larger each day, we're straining hard to keep up with all the fast-breaking developments. If you value the information in the *Newsletter* and you want to see it remain the most comprehensive source of information on censorship issues available, won't you take a few minutes every once in a while to help us out? When you read about a censorship incident, or encounter an article you think might interest us, why not clip it and send it to us? There's a good chance we haven't seen it, and that's true whether you live in urban New York or rural New Mexico. Please don't assume something's "not important enough," or that it's "just a local matter." We need to know about it—and so do our readers.

Remember, we try to cover *everything* relevant to the defense of intellectual freedom. That means challenges to library materials, textbook controversies, restrictions on the press, the suppression of political or religious dissidents, conflicts over student rights and disputes over obscenity. If you encounter something interesting, send it our way. And, while you're at it, give us some more feedback; tell us what you want to see more of—and what less of—in our pages. Mail to: Editors, *Newsletter on Intellectual Freedom*, American Library Association, 50 E. Huron St., Chicago, Illinois 60611.

board agreed with a recommendation by the county attorney that appealing the court decision would not be fruitful. The only legal action pending, therefore, is the federal suit filed by Ms. Layton.

Meanwhile, the library community nationwide has continued to rally to Ms. Layton's defense. On December 1, the Freedom to Read Foundation reported that

since its announcement at the ALA Annual Conference in New York that it would match each \$1.00 donated to the Layton defense with \$2.00, \$14,130.33 has been forwarded to Ms. Layton for her legal expenses.

the shoe on the other foot?

The Moral Majority, the most prominent of the fundamentalist "New Right" groups advocating strict regulation of allegedly "immoral" and "unChristian" school textbooks, periodicals, films and library materials, has itself become a target of the censor. The charge is propagating "immoral" and "un-Christian" ideas about sex.

The dispute arose when Betty Jane Hiegel, a Tacoma, Washington resident, demanded that a marriage manual for Christians, *The Act of Marriage*, written by Moral

Majority board members Tim and Beverly LaHaye, be removed from the shelves of Dightman's Bible Book Center in Tacoma. The Bible Book Center is operated by Don Dightman, a Moral Majority leader who recently helped spearhead a drive to close a Tacoma adult theater which showed the film *Deep Throat*. Hiegel objected to a passage in the marriage manual which describes how men and women perform oral sex upon each other. She also disagreed with sections which assert that oral sex cannot be forbidden on biblical grounds.

"If the X-rated movie *Deep Throat*, an oral sex movie, is wrong, so is oral sex an abomination to the Lord," said Hiegel. "I am concerned when a so-called Christian author, pastor, leader in the pro-life, pro-family Moral Majority and self-made counselor is able to be accepted in the elite Christian churches and circles
(Continued on page 22)



This music is too hot! Crowd at the Wichita Christian Center, Wichita, Kansas, burns rock record album jackets, magazines and books. Story on page 27. Photo courtesy Wichita Eagle and Beacon.

censorship dateline



libraries

Gilbert, Arizona

After 2-1/2 hours of discussion and comment from more than 200 parents and teachers, the Gilbert School Board voted by a 3-2 margin to remove three books by children's author Judy Blume from elementary school libraries, and ordered that parental consent be required for students to check out the titles from the junior high school library. The books in question are *Deenie*, *Are You There God, It's Me, Margaret*, and *Then Again, Maybe I Won't*.

The controversy arose after three parents complained about the books and about a film version of Shirley Jackson's famous short story, *The Lottery*. The film had been banned several years earlier by the board, but English teacher Gary Morton was unaware of this when he screened it for his ninth-grade class. The previous ban was reaffirmed.

The Board also approved a draft of a new plan to insure greater parent participation in the reconsideration of challenged materials. Insisting that it is "not our intention at all" to have any books banned from the library, school officials defended the adoption of restricted access rules. "We want parents to be involved in the education of their children, and this concern is a logical offshoot," they explained. Reported in: *Arizona Daily Star*, November 7; *Arizona Republic*, November 4, 18; *Phoenix Gazette*, November 18.

Hayward, California

On November 5 by a 4-2 vote the Hayward Library Commission reaffirmed its approval of a display of homosexual books, photographs and artwork. The Commission had agreed by a 5-2 vote last March to provide space for a display by the Berkeley-based Pacific Center for Human Growth which has sponsored

similar displays in other libraries in Alameda County. However, within three days after the display appeared near the main library circulation desk, opposition arose. Opponents said they did not want the books in the display removed from the library, but argued that the display itself promoted homosexuality. According to Library Director William Webster, this was the first controversy to arise at the library since 1962 when he stocked ten copies of Henry Miller's *Tropic of Cancer*, which remained on the shelves despite protests. Reported in: *Oakland Tribune*, November 5, 6.

Dunbar, West Virginia

"I believe there are certain things that are just sin and that's all they are. I'd never go along with them showing that in Dunbar, and I'm checking into how it got here . . . It's a county library, but if I'd had anything to do with it, I'd never have okayed showing that movie."

This was the response of Dunbar Mayor Frank Leone to a free screening of the film *Word is Out*, in which homosexuals discuss their lives and the decision to come "out of the closet," to an audience of eight at the Dunbar Public Library, September 29. Leone did not see the film, the showing of which also prompted a few protest calls to the library. Branch librarian Steve Crowley said the title was selected from a collection of 2,300 films at the state's film library. "It's a contemporary issue. There is a large gay population in the Kanawha Valley and we're obligated to meet their needs," Crowley added.

Kanawha County was the site of the violent "text-book war" of 1974 in which some county residents used force to try to overturn state textbook selection guidelines and mandate the adoption of books with a more fundamentalist outlook. Reported in: *Charleston, West Virginia Mail*, October 2.

schools

Boulder, Colorado

Following community complaints and the presentation of a petition bearing 750 signatures, the Boulder Valley Board of Education has banned the textbook *Life and Health* from district high school classrooms. Parents had complained that the book, used in health and sex education classes attended only by students with parental permission, presented subjects such as homosexuality, abortion and extramarital sex too favorably and that it wasn't supportive of traditional lifestyles. Reported in: *Denver Post*, October 27.

Ledyard, Connecticut

When Ledyard sixth-graders begin studying Eskimos this month, they will do so without the benefit of six

pages of one of their texts and one page of another. These pages have been carefully sliced out of social studies texts on the grounds that they contain information not suitable for 11-year old children. The texts had been used without complaint in the Ledyard schools for twelve years.

The pages in question in the books *A Journey to the Arctic* and *Songs and Stories of the Netsilik Eskimos* describe harsh winters in the 1920s when food was scarce, old people who couldn't keep up with the migrating Eskimo tribe were left to die, newborn girls neglected and allowed to die, and wives were shared. The books are part of the series, *Man, A Course of Study*.

The pages were clipped as part of a two-year review of the social studies curriculum by a committee of nine teachers and administrators. Apparently, the Ledyard Board of Education was unaware of the deletions. "It sends chills through you. I would hate to endorse going in and hacking something out of a book," commented one board member. Reported in: *Hartford Courant*, November 6.

Waltham, Massachusetts

High school honors biology students in Waltham will find two pages missing from the textbook *Concepts in Biology*, published by W. C. Brown Publishing Company, due to an October 22 school committee decision. Assistant Superintendent of Schools Alan Aymes earlier recommended removing the pages before passing the book on to students, since they "were not relevant to the course" and "were so explicit that I had trouble coming to terms with them." Reported in: *Boston Herald-American*, October 24.

Santa Fe, New Mexico

Fifteen textbooks on health and science were criticized for promoting promiscuity and homosexuality, threatening family life, and undermining Christian teachings at a public hearing held October 27 by a textbook selection subcommittee of the state Board of Education and attended by more than 100 persons. Most of the criticism was directed at health textbooks which include sections on sexuality.

Especially noteworthy was the criticism raised by Mr. Fred Dahms of Albuquerque against the book *Modern Human Sexuality*. "Our children are under a direct and well organized attack by those of the godless humanistic religion, whose goal is to control the minds of our children," Mr. Dahms said. "The issue for the publisher . . . is to show us in documented rebuttal that the authors and writers of the specific sections to which I am protesting have no humanistic, anti-family or communistic affiliations, and/or beliefs."

A spokesman for Houghton Mifflin, the book's publisher, accused Dahms of reverting to the practices of the late Sen. Joseph McCarthy by proposing that writers pass "a litmus test" showing they are free of so-called communist taint. The subcommittee will report its recommendations to the full Board after completing its investigations of some 1,700 texts currently under review. Reported in: *Albuquerque Journal*, October 28.

Buffalo, New York

The Prentice-Hall textbook *Health*, written by Dr. John LaPlace, has been banned from senior high school classrooms in the Diocese of Buffalo. A protest in one school prompted school superintendent Monsignor John M. Ryan to review the book. He found a number of moral judgements and language describing masturbation which he felt were "contrary to Catholic teaching." The passages in question are all contained in a separate chapter entitled "Sexual Behavior."

A committee of teachers in the Diocese regularly reviews texts for placement on an approved list. While Monsignor Ryan had not previously reviewed the committee's selections, he said he intends to do so in the future. *Health* had been used in six Diocesan high schools for the past five years; no previous complaints about the book had come to the Monsignor's attention. Reported in: *Buffalo News*, November 8.

magazines and newspapers

Washington, D.C.

The publication of a disturbing and grisly account of drug addiction among ghetto youth in the *Washington Post* on September 28 sparked police officials to threaten the newspaper with legal action, demanding the disclosure of confidential sources by the reporter. Although the case did not ultimately go to court, it did spotlight the thorny questions surrounding protection of confidential sources by the press.

The article told the story of an 8-year old boy who is a heroin addict. In the closing sentences, reporter Janet Cooke described a scene in which the live-in boyfriend of the child's mother injected a needle into the boy's scrawny arm. The boyfriend had introduced little Jimmy (a pseudonym) to heroin when the child was just five.

After the piece ran in the *Post*, a clamor arose to reveal the boy's true identity. "We need to know where that kid is," said a lawyer for the D.C. police department. Cooke, however, had pledged not to reveal the child's real name in order to get the story and thus expose a problem far broader than the individual incident. *Post* attorney John B. Kuhns stated that

"Under the First Amendment the press has the right and the duty to seek out and report information of vital concern to the public. This story could never have been written if the reporter had not agreed to maintain the confidentiality of her news sources."

Eventually the threats were dropped, but, it would seem, mainly to facilitate the hasty cover-up of an ugly and disturbing incident. At least one member of the City Council criticized the article as "negative journalism at its worst . . . this further demeans the black family, the black children." And D.C. Mayor Marion Barry reportedly telephoned the police chief and informed him that "he wanted this case closed."

As one Tennessee columnist aptly commented, "That, perhaps, is the whole point. Official efforts are aimed at getting 'this case closed,' rather than finding, and opening, other cases like it . . . If finding all the Jimmys is the object, knocking on the door of the *Washington Post* newsroom armed with search warrants isn't the answer." Reported in: *Access Reports*, October 7; *Knoxville Journal*, October 13.

Daytona Beach, Florida

The *Daytona Beach Journal*, which endorsed President Carter, refused to run a series of controversial Doonesbury cartoon strips by Garry Trudeau which featured a mythical TV program with a narrator exploring "the mysterious world of Ronald Reagan's brain" in a "topsy-turvy funhouse of a trip." The series was distributed to newspapers during the presidential campaign in October.

In omitting the strip the *Journal* said, "There is nothing funny about cartoonist Trudeau's televised 'in-depth look' in the anatomy of Reagan's brain. We are therefore omitting the strip until after the election as a vicious personal attack on the Republican nominee, no matter how much we disagree with him and fear his election."

The *Indianapolis Star*, which did endorse Reagan, also initially refused to run the strip, but lifted the ban after receiving 850 protest calls within a few hours. The *Star* ran the strips on the paper's op-ed page. Other newspapers which ran the strips on the news or editorial pages were the *San Bernardino, Calif.*, *Sun Telegram*, the *Columbus, Ind.*, *Republic*, the *Albany, N.Y.*, *Knickerbocker News* and the *Salt Lake City Deseret News*. The *New York Times*, which does not carry comics, printed the strip in its "Campaign Report" column. Reported in: *Washington Star*, October 29.

Chicago, Illinois

Distributors of the *Revolutionary Worker* newspaper, published by the Revolutionary Communist Party, USA (RCP), have experienced repeated arrests and citations

in the last year for selling the paper on the public plaza adjoining the Kluczynski Federal Building. On October 29, the ACLU and the Northwestern Legal Clinic filed a class action suit in U.S. District Court on behalf of the distributors against officials of the General Services Administration (GSA) and the Federal Protective Service, charging that preventing distribution violated First Amendment rights.

Specifically, the plaintiffs contend that GSA regulations, purportedly intended to regulate vending and solicitation on federal property, are unconstitutional when applied to the sale of newspapers which express political views.

The RCP has charged that hundreds of its supporters have been arrested nationwide for activities associated with distribution of the *Revolutionary Worker*. Reported in: *The Brief*, (Illinois Civil Liberties Union) October/November 1980.

Cincinnati, Ohio

Following an August 5th vice squad raid of nine liquor stores and the confiscation of magazines including *Chic*, *High Society* and *Stag* (see *Newsletter*, November 1980, p. 137), an area magazine distributor has asked its clients to remove a number of adult magazines from their shelves. A memo sent to store owners gave no reason for the distributor's recall of the magazines. However, stores involved in the raid which have licenses to sell beer and wine face possible suspension of their licenses by the Ohio Liquor Control Commission. Reported in: *Cincinnati Post*, September 30.

student press

Tucson, Arizona

A family-planning advertisement scheduled to run in the November issue of the *Palo Verde Post*, the Palo Verde High School newspaper, was pulled by school district officials in response to "parent complaints." The ad was from Catalina Family Planning, a non-profit clinic providing abortions, vasectomies, birth control counseling and devices, and other services.

In response to the school administrators' action, student editors drafted a letter threatening to "strongly protest any attempt at prior censorship of student newspapers by the Tucson Unified School District, whether it be story content or advertising." Executive Director Rob Eggert of the Student Press Law Center in Washington, which has pledged to provide the newspaper with legal aid, said the paper is entitled to print the ad because it is legal for minors to have abortions, seek birth control counseling and buy birth control devices. Reported in: *Washington Post*, November 19.

San Luis Obispo, California

The publication of an unsigned endorsement of Jimmy Carter in a California Polytechnic State University student newspaper prompted school officials to destroy approximately 7,000 copies of the paper. The school's journalism department argued that the paper violated a state administrative code prohibiting use of state funds for political purposes. The paper receives some of its financial support from the university. Reported in: *New York Times*, November 9.

Edmond, Oklahoma

In late September, Dennie Hall, a faculty member at Central State University, resigned his position as adviser to the student newspaper, *The Vista*, in response to what he termed censorship pressures exerted on him and the newspaper staff by members of the administration. The most serious charge was Hall's claim that Vice-President for Administration Alvin Alcorn had threatened to sue Hall and two reporters "if anything adverse to him appeared in *The Vista*." Alcorn denies making the threat. In addition, Hall claims a recent restructuring of the school's publications board affords greater administrative control over the newspaper. The Board of Regents for Oklahoma Colleges and Universities agreed to hear the matter in a special meeting called for November. Reported in: *Oklahoma City Oklahoman*, September 30 and *Tulsa Tribune*, October 17.

universities

Flushing, New York

An invitation extended to PLO UN representative Abdul Hassan to speak at the Queens College campus during Black Solidarity Week prompted a public appeal by College President Saul B. Cohen to the event's planning committee to withdraw the invitation. "The issue is not freedom of speech," he declared. "Rather the issue is not to distort the objectives of Black Solidarity Week by sowing hatred and conflict within our Queens College community." Meanwhile, leaders of several Jewish organizations also sought withdrawal of the invitation and organized a protest rally against the speaker.

In response to President Cohen's appeal, the leadership of the Black Solidarity Week Committee declared that "the fundamental issue is neither one of 'freedom of speech' nor the 'sowing of hatred and conflict within our Queens College community' . . . Rather, the issue is the legitimate right of students on this campus to organize activities and to decide for themselves who will participate in them."

When the PLO speaker did appear, on Friday November 7, there were several bomb scares, a protest

demonstration and a few fist fights, but the program was completed. Reported in: *Queens College Phoenix*, November 3 and 10.

Long Island, New York

Following a protest by a group of dormitory residents at New York State University's Stony Brook campus, school officials vetoed plans of other residents of the coed housing unit to show the X-rated film *Debbie Does Dallas* to raise money for a bar and other improvements in their wing's hallway. Said student Thomas Kantor, "We're not going to force anyone to see the movie." But Elizabeth Wadsworth, vice president for student affairs, banned the screening in view of a significant number of students' objections that the film was "offensive and sexist." Reported in: *New York News*, November 4 and 7, *Newsday*, November 6.

film

Hollywood, California

After thirty-five years of suppression by the U.S. government, noted director John Huston's World War II documentary, *Let There Be Light*, has finally emerged, if only partially, into the light. The hour-long film, an account of the psychiatric recuperation of shell-shocked soldiers in an army hospital, was shelved by the War Department immediately after its completion in 1945 as "unsuitable" for public viewing. Military Police once seized a print that Huston himself was going to show privately to friends.

Although some bootleg prints had been circulating recently, the first public showing of the film took place November 8 when the Los Angeles County Museum of Art screened it as part of a retrospective tribute to the 74-year old director. The showing was unauthorized and the film is still restricted.

According to *Variety*, which reviewed the screening, *Let There Be Light* is "a masterpiece, one of the greatest films ever made on the subject of war's impact on the human spirit. And even beyond that, it is a profoundly moving meditation on the fragility of the mind and its ultimate powers of resilience."

In 1946 James Agee wrote of the film's banning, "I don't know what is necessary to reverse this disgraceful decision, but if dynamite is required, then dynamite is indicated . . . The glaringly obvious reason (for the banning) has not been mentioned: that any sane human being who saw the film would join the armed services, if at all, with a straight face and a painfully maturing mind." Huston himself attributed the ban "to the fact that they wanted to maintain

the 'warrior' myth, which said that our American soldiers went to war and came back all the stronger for the experience, standing tall and proud for having served their country well."

In the wake of the screening, Motion Picture Association of America president Jack Valenti, who coincidentally had obtained a copy of the film from the Army for a private screening November 7, announced that he would try to persuade the Pentagon to drop the restrictions. Reported in: *Variety*, November 12, 19.

Fairlawn, Ohio

Caligula, cleared of obscenity charges by a Boston Municipal Court Judge in June (see *Newsletter*, November 1980, p. 134), was the subject of a less successful tussle in Ohio. On November 14, Penthouse International, the film's producer, withdrew the picture from its only theatre booking in Fairlawn on the eve of a scheduled court hearing on a motion that the hardcore Roman epic be permanently enjoined from exhibition as a "public nuisance."

The complaint against *Caligula* was filed in the name of city attorney Robert Maxson, but it was widely acknowledged that the case was in fact prepared by Bruce Taylor, staff attorney for Citizens for Decency Through Law.

While Taylor claimed that "*Penthouse* knew it was going to be hammered and didn't want the precedent of losing one of these cases," *Penthouse* counsel Roy Grutman insisted the move was made solely for tactical reasons. He claimed the producers did not receive adequate notice that the scheduled hearing would involve more than setting a date for the judge to screen the film. "We didn't want the judge to see the picture outside of the proper legal context," he said.

According to Grutman, the incident in Fairlawn may be the start of a trend. "Now that we're entering new areas traditionally identified with conservatism, we face the prospect of more of this," he said. "Apparently, these extremists have interpreted a change in administration to mean a clarion call for a mandate to shackle the public's mind again." Reported in: *Variety*, November 19.

broadcasting

According to syndicated TV critic Gary Deeb, the Public Broadcasting Service "virtually dismembered what would have been an outstanding hour of political satire by the legendary Stan Freberg. Instead, the program has been slashed in half and relieved of its most savage blows against the government jerks who are damaging our lives."

The show, "Stan Freberg's Federal Budget Revue," was broadcast in abbreviated form in many cities on the

eve of the election. Originally it had included two sketches, spoofing the welfare system and the federal budget, which PBS Vice President for Programming Chloe Aaron removed after all production was completed. Since this shortened the show from a full hour to just 50 minutes, Freberg was also required to remove an additional twenty minutes of material to conform to "standard" program length.

"Censorship is nothing new to me, but this was definitely the worst experience I've ever had," Freberg declared. "But I must say I've dealt with people at the commercial networks who were much easier to get along with (on controversial material) than these people at PBS. And I can't help but think that PBS is funded by the Corporation for Public Broadcasting . . . and they get their money from the same sources that I'm satirizing." Reported in: *Madison State Journal*, November 5.

San Francisco, California

By a 10-1 vote, the National News Council, which monitors accuracy in the media, agreed with a complaint filed by a gay journalist against the CBS program "Gay Power, Gay Politics," aired last spring. According to the council, the program "tended to reinforce stereotypes, exaggerated political concessions to gays and made those concessions appear as threats to public morals and decency." CBS agreed to broadcast the council's findings and to acknowledge its report, although CBS Vice President Robert Chandler asserted that this "doesn't mean we agree with the council's conclusions." Reported in: *Boston Globe*, October 20.

Jackson, Mississippi

The controversial television movie *Beulah Land*, which has been widely criticized for perpetuating the stereotype of the "happy slave," was not aired in the Jackson area. WLBT-TV, which serves Jackson and neighboring Natchez, where much of the film was made, offered contradictory explanations for its refusal to air the production, the only such ban on *Beulah Land* in the country.

According to assistant general manager and program director Hewitt Griffin, the cancellation was prompted by fears that the showing could aggravate an already tense situation in the area. An August 29 police shooting of a Black woman had sparked widespread protest and both the Ku Klux Klan and the NAACP were scheduled to hold protest marches on the Saturday immediately following the scheduled airing of *Beulah Land*. "We don't like censorship at all," said Griffin, "but in our atmosphere—with the KKK marching Saturday and other marches Saturday and the Dorothy Brown shooting—it's just an awfully bad time for us."

However, William Dilday, WLBT general manager, said later that the station would have refrained from

broadcasting the program, racial tension or not, because of the stereotyped and negative image of Blacks it portrayed. And Griffin, who had screened a videotape of the film for representatives of the Jackson Black community, labeled the production "a prime-time soap opera so peopled with every stereotype you can think of that it was offensive to anyone who had any taste at all."

WLBT's present management assumed control of the station after a lengthy legal battle stemming from the FCC's revocation of the station's license due to racially unrepresentative and biased programming. Reported in: *Jackson Clarion-Ledger*, October 3.

New York, New York

An attempt by a Christian Broadcasting Network official to censor the broadcasts of a Catholic priest on five CBN-owned radio stations in New York has created a nationwide controversy within the Catholic community. CBN Northeast general manager John R. Tomczyk criticized the content of Rev. Linus Hennessy's program, *Comfort My People*, after the priest explained, on his July 28 broadcast, the Catholic custom of praying to the saints. Advising Rev. Hennessy against teaching practices not explicitly in the scripture, Tomczyk threatened to drop the program if Hennessy persisted. Hennessy withdrew the show to three non-CBN stations, and told Tomczyk, "I will continue to extend the hand of Christ's fellowship to you, but I cannot submit to your censorship."

In the meantime, CBN President Pat Robertson personally apologized to Rev. Hennessy and reportedly reprimanded manager Tomczyk. Said one CBN spokesman, "We have never had any standards that would permit a manager to censor or censure . . . the content of a radio broadcast." Reported in: *Norfolk, Virginia Ledger Star*, October 7.

Philadelphia, Pennsylvania

On October 24, approximately 25 people picketed outside Philadelphia station KYW-TV to protest the cancellation of *City Lights*, a program on minority issues. The Committee to Retain City Lights urged passersby to boycott station advertisers in protest. The station claimed the program was cancelled "because no one was watching it." Reported in: *Philadelphia Bulletin*, October 25.

foreign

Sydney, Australia

In the first press injunction issued here since World War II, the Australian High Court, acting on a govern-

ment request, prohibited two newspapers from printing excerpts from a forthcoming book, *Documents on Australian Defense and Foreign Policy, 1968-75*, by George Munster and Richard Walsh. Among other things, the book details the ANZUS treaty, a military pact involving Australia and New Zealand with the U.S., and examines Australia's involvement in the Vietnam War.

As a result of the injunction, the *Sydney Morning Herald* and the *Melbourne Age* appeared on November 8 with blank pages. *Melbourne Age* editor Michael Davie will pursue the matter in court and claims that while publication might embarrass certain persons, it would not damage the national security.

The court order also banned publication of certain government defense and foreign policy documents. It is unclear, however, whether further action will be taken by the government against publication of the book as a whole. Reported in: *Washington Post*, November 9.

London, England

The National Theater production of Howard Brenton's *The Romans in Britain*, a play about English colonialism, recently came under fire here because the play's contents include full-frontal male nudity and a simulated homosexual rape. Panned by the critics as poor art, the play was also threatened with prosecution for obscenity, and an influential politician threatened to cut off the company's public subsidy. Under a 1968 law, a performance is deemed obscene when, taken as a whole, its effect would tend to "deprave and corrupt" viewers. No play has yet been banned under the law. Reported in: *Variety*, October 22.

Paris, France

Citing a Penal Code provision which makes it illegal to "cast discredit on a court action so as to bring into question the authority or independence of the judiciary," Justice Minister Alain Peyrefitte filed charges on November 9 against the editor and a staff writer of *Le Monde*, France's most influential newspaper.

One of the articles cited in the charges reported that members of a jury had convicted a woman on the understanding that her sentence would run concurrently with a previous one, but that the judge instead ordered consecutive sentences. The other four articles dealt with politically sensitive matters, including the deportation of foreign extremists, the severity of sentences for student demonstrators and the powers of the Court of State Security. Article 226 of the Penal Code provides for a jail term of up to six months and a fine of up to \$7,000.

(Continued on page 27)

from the bench



U.S. Supreme Court

On November 17, the Supreme Court struck down a 1978 Kentucky statute which mandated posting of the Ten Commandments in public school classrooms. In a 5-4 decision, the Court found the Kentucky law to have a "plainly religious purpose," thus violating the separation of church and state. Posting the Commandments, the majority argued, "will induce the school children to read, meditate upon, perhaps venerate and obey the Commandments. However desirable this might be as a matter of private devotion, it is not a permissible state objective under the Constitution." The majority, Justices William J. Brennan, Jr., Thurgood Marshall, Lewis F. Powell, Jr., John Paul Stevens, and Byron R. White, based the decision primarily on the Court's 1963 ruling against the required reading of Bible verses or the Lord's Prayer in public schools.

In dissent Justice William H. Rehnquist argued that the Constitution "does not require that the public sector be insulated from all things which may have a religious significance or origin." Reported in: *Washington Star*, November 17.

In a related matter, the Court passed up its first opportunity to rule on the constitutionality of school programs observing Christian and Jewish holidays. A group of Sioux Falls, South Dakota parents had urged the justices to rule that the First Amendment forbids even programs which mark the holidays only by explaining the historical and contemporary values they celebrate and their origin.

The appeal contended that this type of program is just as much a violation of the Constitution as Bible-reading or saying prayers. While conceding that the Court has permitted public schools to teach about religion, the plaintiffs had argued that there was a "critical difference" between that and actually marking

religious celebrations with scheduled events in the schools. It would have taken the votes of four justices to assure review of the case, but only two, Brennan and Marshall, voted to hear it. Reported in: *Washington Star*, November 11.

On November 3, the justices agreed to hear an appeal by CBS of a lower court decision affirming an FCC ruling that the three television networks violated their legal obligation to provide "reasonable access" to airtime for political candidates by refusing to sell thirty minutes of prime time to the Carter campaign in December 1979. The networks had contended that it was too early in the presidential race to sell such a large amount of time for political advertising. According to the networks, the Appeals Court decision gives the federal agency the right to intrude into editorial decision-making. Reported in: *New York Times*, November 4.

Without comment, the Court rejected an emergency plea by Rep. Michael O. Myers, convicted in the first Abscam bribery case, to prevent the videotapes used in his trial from being aired on television. The Second Circuit Court of Appeals had ruled on October 1 that the networks may air the tapes, made secretly by the FBI, and Myers had sought a delay in the airing.

Myers and the other Abscam defendants complained that permitting broadcast of the videotapes would prejudice potential jurors and preclude fair trials. But Appeals Court Judge Jon O. Newman disagreed "that the likelihood of such enhanced awareness of the tapes poses the kind of risk to fair trials for Abscam defendants that justifies curtailing the public's right to access to courtroom evidence." The high court's decision marked the first time in history that the judiciary has permitted the broadcast of tape recordings used as evidence in a federal case. Reported in: *New York Times*, October 2; *Washington Star*, October 14.

The Court also vacated a decision by the Massachusetts Supreme Court requiring a judge to exclude the public and news media from the courtroom during the testimony of a rape victim. Without ruling on the merits, the Justices asked the lower court to reconsider the case in light of the intervening *Richmond Newspapers* decision (see *Newsletter*, September 1980, p. 102), in which the Supreme Court ruled the news media and public have an all but absolute right to attend criminal trials. Reported in: *New York Times*, October 15.

In other actions, the Supreme Court:

Refused to hear an appeal by a man who sought and was denied access to the file maintained on him by the U.S. Secret Service. The man, twice convicted of threatening to kill the President, sued the agency under the Freedom of Information Act. In dissent, Justices

White and Brennan voted to hear the case on the ground that the lower courts had erroneously created a "blanket exemption" from the Act for any open Secret Service file. Reported in: *New York Times*, October 15.

Refused to reverse an order by a Pennsylvania judge forbidding all protest demonstrations outside a shopping mall in downtown Philadelphia. Protesters contended that their attempt to persuade the public against shopping at the mall was constitutionally protected since the boycott was a political one. Reported in: *Washington Star*, November 17.

Left intact a ruling by the Pennsylvania Supreme Court that pre-trial hearings on criminal cases may not be closed to the public and press if there is some other procedure available to protect the right of the accused to a fair trial. In denying without comment the appeal of a former state senator convicted of sexually assaulting a teen-ager, the Justices left unclear their stance on the 1979 Gannett ruling, in which the Court decided that public and press may be barred from pre-trial hearings. Reported in: *Washington Star*, November 17.

Refused to hear a challenge to Indiana's public indecency law stemming from the arrest of four nude dancers in a Fort Wayne bar. The decision lets stand the state statute which forbids any person from appearing nude in a public place. Opponents contend that the statute is ambiguous and violates First Amendment rights of freedom of speech. Supporters claim it is a proper exercise of the state to regulate public nudity. Justices Marshall and Brennan dissented. Reported in: *Fort Wayne News-Sentinel*, October 8.

church and state

Washington, D.C.

The U.S. Court of Appeals for the District of Columbia has ruled that two Smithsonian Institution exhibits on evolution violated neither the separation of church and state nor the religious freedom of those who believe in a literal interpretation of Genesis. In upholding a U.S. District Court decision, the Appeals Court ruled there was no religious involvement in the exhibit except that coming from those who brought suit and "have themselves entangled religion in the exhibits."

The suit was brought by Dale Crowley, a fundamentalist minister, and two organizations, the National Foundation for Fairness in Education and National Bible Knowledge, Inc., proponents of "scientific creationism" who believe that "human and other forms of life were brought into existence in completed form,

all at one time, by a Creator." The plaintiffs argued that since belief in evolution is "based on faith", rather than on direct observation, government financial support for the exhibit on evolution advanced a religion, which the plaintiffs call "secular humanism." Reported in: *Washington Star*, November 15.

universities

Princeton, New Jersey

On November 25, the New Jersey Supreme Court ruled that Princeton University violated the free speech guarantees of the State Constitution when it had a representative of the U.S. Labor Party arrested for trespassing as he attempted to distribute political literature on campus in April 1978.

In overturning the Superior Court conviction of Chris Schmid, the court majority declared that "the attempt to disseminate political material was not incompatible with either Princeton University's professed educational goals or the university's overall use of its property for educational purposes."

Mr. Schmid's appeal was upheld even though the record showed he knew he was violating university rules requiring off-campus organizations to obtain permission to demonstrate or distribute materials. Schmid and other Labor Party representatives had been previously denied such permission. Although applicable only in New Jersey, the decision calls into question by implication similar rules at many major universities across the country. Reported in: *New York Times*, November 26.

broadcasting

Boston, Massachusetts

Less than ninety minutes before air time, Massachusetts Court of Appeals Judge John M. Greaning vacated a lower court ruling prohibiting broadcast of a five part television series, *Witness for Hire*, on the grounds that the ban, aimed at protecting the rights of a man scheduled to go on trial for murder, violated the First Amendment protection of the free press.

The series was about the U.S. Justice Department's Witness Protection Program and alleged that the program was in fact a means of buying witnesses and could lead to abuses. The prosecution argued that the state's case in the trial of Myles Connor, charged with the 1975 slayings of two women, depended on a paid witness and that the case itself might be discussed in the series.

While the decision may have come in time for the program to be aired on schedule, it was too late to

short-circuit heated debate over the conflict between a free press and the right to a fair trial. In a bitter article in a Boston newspaper, a retired Massachusetts Chief Justice commented, "Everyone's rights to fairness, decency and impartial justice were trampled upon by Channel 5, but its constitutional right to free speech was preserved. Hooray! . . . The First Amendment was enacted to preserve and protect the rights of all of us; it was never intended to be used as a vehicle to destroy the rights of others."

Judge Greaning, however, pointed out that "Jurors have a marvelous capacity to overlook and forget about these things." He also noted that other remedies, including a change of venue, the granting of additional juror challenges, and a trial delay were available.

A similar incident occurred in Houston June 16 when a county medical examiner requested a temporary restraining order against the showing of *Choosing Suicide*, a documentary on a woman's decision to kill herself. U.S. District Judge John Singleton denied that request, stating, "I'm not in the business of imposing prior restraint on First Amendment rights." Reported in: *Boston Herald-American*, September 30 and October 6.

New York, New York

On October 10, U.S. District Judge Charles E. Stewart denied a request by the National Save-A-Life League to block CBS from broadcasting a discussion of suicide on its *60 Minutes* program. The group's president, Robert J. Amoury, feared the program might encourage emotionally unstable viewers to commit suicide. The participants on the program, according to Amoury, advocated the suicide of those suffering terminal illnesses and discussed methods of committing the act. Reported in: *Washington Star*, October 11.

newspapers

Hallandale, Florida

On October 31, Federal District Judge Alcee L. Hastings issued a temporary restraining order prohibiting the city of Hallandale from levying a ten dollar annual tax on newspaper vending machines. While Judge Hastings found that the tax levying ordinance "may well constitute an impermissible prior restraint on First Amendment rights," he also held that "it is within the permissible bounds of the city to regulate" the placement and securing of such racks.

Attorneys for several newspapers argued that charging money to exercise a First Amendment right is illegal. Attorneys Sanford L. Bohrer and Richard J. Ovelmen cited court decisions in support of this view, as well as decisions which rule unconstitutional any

government regulation of newspaper vending machines in which no money is deposited. Reported in: *Fort Lauderdale News*, November 1.

Dallas, Texas

Reversing his own previous restraining order against publication of an article by the *Wall Street Journal* on the financial dealings of a Dallas oil and cement company, Texas state Judge Joe Fish ruled on May 12 that OKC Corporation had not "overcome the heavy burden of prior restraint." The ruling gave the paper leave to publish the article, "Texas Cover-up, Why Did OKC Chief Conceal His Oil Sales to Friendly Brokers?", on its originally scheduled date of May 13.

OKC had sought the restraining order on grounds that the *Journal* had wrongfully obtained an internal report on the company conducted by an independent Dallas law firm and that publishing the firm's report would violate the lawyer-client privilege. Had the prior restraint order been upheld, the *Journal* would have been prevented from publishing its story nationally. Reported in: *Editor and Publisher*, May 17.

confidentiality

Washington, D.C.

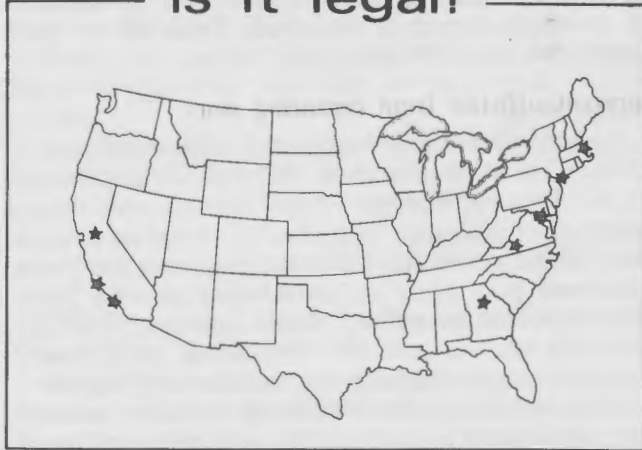
The U.S. Court of Appeals for the District of Columbia ruled on September 25 that the Department of State has been unlawfully suppressing the *Biographic Register* of federal employees involved in foreign policy. The volume had been distributed to press and others until Secretary of State Kissinger ordered it kept secret, using as a rationale the Privacy Act of 1974. The court pointed out that most of the names included in the *Register* are publicly listed elsewhere. Reported in: *Privacy Journal*, October 1980.

Bucks County, Pennsylvania

A counseling agency for rape victims agreed on November 19 to surrender information to a Bucks County judge, rather than face a contempt citation. Judge Isaac S. Garb will review the information, subpoenaed by the lawyer of an alleged rapist, to determine whether it can be admitted as evidence in the man's trial. Bucks County director of Women Organized Against Rape, Carol Coren, argued that relinquishing the records would violate the confidentiality of rape victims and might dissuade them from turning to the group in the future. Ms. Coren said the documents in question contained no statements by the victim but only a "composite of observations made at the initial contact" with her. Reported in: *Philadelphia Inquirer*, November 20.

(Continued on page 26)

is it legal?



libraries

Concord, California

After a school board decision in June severely restricting circulation of *Ms.* magazine within the Mt. Diablo Unified School District (see *Newsletter*, Sept. 1980, p. 97), the American Civil Liberties Union, representing six students, parents and teachers as well as *Ms.*, sued the school district for violation of students' rights to receive information, of teachers' rights to provide it, and of free press rights. The suit, filed September 30 in Contra Costa County Superior Court, continues a dispute which began with the removal of *Ms.* from the library of Ygnacio Valley High School last spring. The board subsequently decided to require parental and teacher permission for a student to use the publication.

In response to the ACLU action, the school board on October 30 further amended the guidelines for use of *Ms.* According to the latest version of the guidelines, students over 18 years old are exempted from all restrictions and teachers are permitted to use excerpts and articles from the magazine without parental permission. ACLU attorney Robert Weiss, however, criticized the new guidelines as "blatantly unconstitutional and a violation of a student's right to read and learn." He accused the board of "backpeddling in an effort to protect an action they now realize to be unconstitutional." Reported in: *San Francisco Chronicle*, October 1; *San Francisco Recorder*, October 1; *Contra Costa Times*, November 17.

church and state

Roanoke, Virginia

Virginia Attorney General J. Marshall Coleman ruled in September that the efforts of a group to distribute

free Bibles to junior high school and high school students through school libraries does not violate the separation of church and state. The group, Concerned Citizens, Inc., was formed after school officials asked the Gideon Society last fall to cease distribution of Bibles in the Roanoke County schools because two members of the Roanoke Jewish Community Council had complained about the practice.

About 250 Bibles donated by the citizens group were placed in school libraries in March, but the group refused to donate more Bibles unless they were made available to students to keep. The school board then sought an opinion from Coleman who said, "Governmental action may not advance religion, but neither may it inhibit religion. The table of books would constitute a public forum for the expression of free speech." Reported in: *Baltimore News-American*, October 18.

"soapbox preachers"

Atlanta, Georgia

Five street preachers arrested on disorderly conduct charges have alleged abridgment of their constitutional rights to freedom of speech and religion. The sidewalk preachers, participants in a citywide "Peachtree Preaching" program, were arrested on October 31 after sermonizing before hundreds of costumed revelers outside a Halloween party, sponsored by a radio station at Underground Atlanta.

The trouble began when Craig Bryan began preaching from atop a soapbox as his four companions distributed gospel literature. A complaint was made to police, who told Bryan to come down from the soapbox. Bryan agreed, but continued preaching. A few minutes later the young men were told to move to the other side of the street and upstairs. Since they were not blocking the entrance, the preachers refused, and when they resumed their religious activities, they were arrested.

Legal expenses for the five are being paid by members of the Forest Hills Baptist Church with which they are affiliated. "If they had broken a city code, we would be submissive to the law, but when in the world has the preaching of the gospel been disorderly conduct in America?" asked Dr. William Pennell, pastor of the church. Reported in: *Atlanta Journal*, November 4.

students' rights

Brentwood, Long Island

In early October, when high school principal Stanley Yankowski noticed that an increasing number of students did not stand for the daily recitation of the Pledge of Allegiance, he issued a memo to homeroom teachers instructing them to list and report those

students who remained seated. A teacher, disturbed by the potentially intimidating practice, complained to the New York Civil Liberties Union, which immediately took the issue to school superintendent, Guy Di Pietro. The superintendent put a temporary halt to the compilation of names, but asked the school district's legal counsel to research the matter and render a final opinion. Reported in: *New York Times*, October 11.

teachers' rights

New Bedford, Massachusetts

A music teacher fired by the New Bedford School Department for refusing to teach and sing patriotic and religious songs has filed suit against the School Committee and three school officials seeking reinstatement with back pay and \$400,000 in damages.

According to her complaint, Debra L. Fournier told her supervisor in November 1979 that "she was not going to select any religious songs during the Christmas holiday" because this would violate her beliefs as a Jehovah's Witness. After two days of hearings, Mrs. Fournier was fired by a 6-0 vote of the School Committee for refusing to teach patriotic songs and failing to teach a complete music program. Mrs. Fournier had been teaching music in the New Bedford schools since 1977. She became a Jehovah's Witness just before the 1979-80 school year.

The suit alleges the School Department "failed to make reasonable efforts to accommodate Mrs. Fournier's religious beliefs," thus violating her constitutional rights to freedom of religion and freedom of speech, to due process and equal protection and her academic freedom to teach. Reported in: *Providence Journal*, November 4.

prisoners' rights

Lompoc, California

A suit charging the abridgement of free press rights of an inmate at the Federal Corrections Institute in Lompoc was filed in Los Angeles federal court on October 23. The inmate, Stephen Dutcher, was discharged as editor of the prison newspaper, *Doing Time*, last May, following disagreements with prison officials over material in the newspaper.

According to Dutcher, prison officials suppressed a quotation from *Hamlet*, an article entitled "Death Stalks the Toilet," which symbolized an inmate's view of prison life, a social commentary entitled "Satan's Fate," two cartoons, and a story "describing the heroic efforts of two inmates to save the life of a prison official and the interference with these efforts by the prison officials."

The suit, filed for Dutcher by the Legal Defense Center of Santa Barbara and the ACLU Foundation of Southern California, asks the court to reinstate him and prevent officials from censoring stories "unless they conflict with the legitimate government interests of safety, order and rehabilitation." Reported in: *Los Angeles Times*, October 24.

soldiers' rights

Los Angeles, California

A Marine Corps reserve sergeant was discharged, a Navy corpsman reprimanded, and a Navy chief petty officer transferred following their nude appearance in the October issue of *Playgirl*. The issue featured a spread on "Men of the Military," in which six other servicemen also posed nude. "I figured what I did on my time was my business," said Sgt. Robert Jordan, who was informed that an honorable discharge was justified by "substandard personal behavior on your part . . . [which] reflected discredit upon the Marine Corps . . . by performing both in uniform and nude . . ."

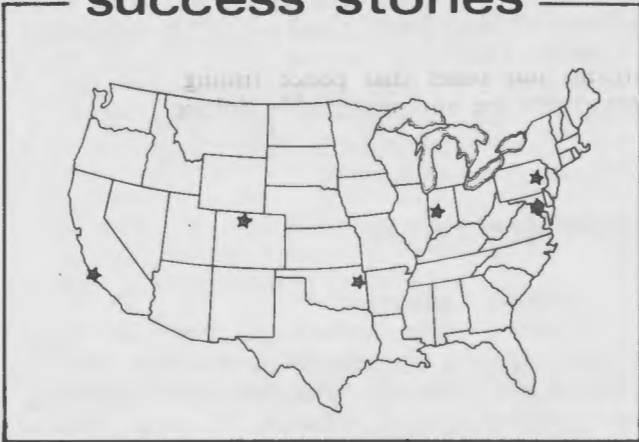
"I can't believe it is going on—that people can't do what they want with their own bodies," was the reaction of Diane Grosskopf, *Playgirl* vice president and executive editor. Reported in: *Los Angeles Times*, October 3.

union rights

Baltimore, Maryland

Eighty unionized workers at Maryland General Hospital were suspended from work November 21 for refusing to remove from their uniforms union buttons opposing management contract proposals. According to a hospital spokesperson, no pins, badges or buttons may be worn without prior approval. One suspended nursing aide, however, pointed out that she had worn a button of similar size, reading "Prayer Changes Things" and "Smile, God Loves You," for two years without approval, and had never been alerted to the policy. The union is appealing to the National Labor Relations Board on the grounds that the hospital "has not only flagrantly violated the National Labor Relations Act, but also the U.S. Constitution's guarantee of free speech." Reported in: *Baltimore Sun*, November 23.

success stories



libraries

Loveland, Colorado

On October 6, the Thompson School District Board of Education voted unanimously to allow unrestricted access to nine Judy Blume titles owned by its school libraries. The decision countered a review committee's recommendation to restrict student access to three of the Blume titles: *Are You There, God? It's Me, Margaret*, *Then Again, Maybe I Won't*, and *Deenie*.

All of the school's Judy Blume books came under scrutiny when a mother complained about them. After the district-appointed committee, composed of parents, a teacher, a librarian, and an elementary school principal, recommended parental permission for access to three of the books, several schools in the district removed the titles pending the school board's final decision.

But community sentiment clearly was in favor of unrestricted access. Dave Leech, director of elementary education for the district, reported that, of thirty telephone calls he received from parents on the subject, ninety percent opposed restricted access to any of the books. In addition, a sixth grader collected ninety-five signatures from students at her school opposing restrictions. Director Leech himself stated that while "there isn't anything morally wrong with the books . . . they deal with subjects that children do not need to dwell upon." The district had received complaints that the books contain racial slurs, profanity, and bad grammar.

The Board's new policy on the Blume books allows parents who object to a given title to restrict their child's access with a written note. Said Leech, "They [the School Board] felt the burden should be put on the shoulders of the parents who don't want their children reading the books rather than on the majority of parents." If parents have objections to other books,

they must file a formal complaint with the school district. Reported in: *Loveland Daily*, October 7; *Rocky Mountain News*, September 20 and October 8.

Valparaiso, Indiana

A decision has been reached on the challenge to *An Illustrated Social History of Prostitution* (see *Newsletter*, November 1980, p. 127), but the controversy is not over. On October 15, the Valparaiso Library Board accepted a nine-member Selection Re-evaluation Committee's unanimous recommendation to retain the book. In its report, the Committee declared that regulation of children's reading matter is the duty of parents alone and that books should not be removed from the adult section of the library simply to prevent them from falling into the hands of young children.

The primary figure behind efforts to ban the book, John Maresko, said of the October 15 County Library Board decision, "In a way I'm glad. It's good to clear the air so people will stop talking about that one book. The entire book selection policy at the library is the real issue." Mr. Maresko, who earlier checked out the book and temporarily refused to return it because of its "pure raw" pornographic content, intends to launch a public education campaign against a library selection procedure which, he alleges, excludes public participation.

In related matters, a patron of the neighboring Westchester Library System recently demanded that *The Strange Case of Dr. Jekyll and Mr Hyde* be removed from the library because it contains the phrase "Good God." Also, in an apparent parody of Maresko's actions, a woman has requested that the Valparaiso Public Library remove the Bible from its shelves, due to its violent and sexual content. Reported in: *Gary Post-Tribune*, October 16.

magazines

Tahlequah, Oklahoma

After an absence of several weeks, *Playboy* is back on the shelves of some Tahlequah city stores following a November 3 city council decision to rewrite the town's pornography ordinance. The decision came in the wake of a determination by City Attorney Jack Bliss that the twenty-year old ordinance, which banned all publications showing male or female nudity, was unenforceable and unconstitutional.

The council action brought to a close, at least temporarily, a month-long controversy which began when religious fundamentalists submitted a petition, with over 2,000 signatures, demanding that the police enforce the old statute. The magazine's removal, however, also aroused strong feelings on the other

side of the issue and the small college town quickly divided into opposing camps, attracting considerable attention statewide. The censorship efforts were led by the Concerned Christian Citizens, an anti-pornography group headed by the Rev. Jared Schopper. On the anti-censorship side, students at Northeastern State University and other Tahlequah citizens organized the Concerned Citizens for Constitutional Government to oppose the long-forgotten and unused ordinance. This latter group submitted petitions with over 1,000 signatures opposing the obscenity law as unduly broad and unconstitutional and calling for its revision and the return of *Playboy* and similar publications to affected stores.

The council meeting was attended by over 200 people, but Mayor Tony Stockton cut short discussion, saying the meeting was not a forum for a "debate on morality." As the council resumed its business, Rev. Schopper called a hasty press conference where he vowed to continue the battle against *Playboy*, which he deemed "the Goliath of sexual Philistia [which] strides brazenly into our peaceful city to taunt God-fearing citizens." A long-standing critic of speakers brought to Northeastern State University, Schopper contended *Playboy* had "seduced" the school "to act as shield-bearer in taunting our community and city government. The motto on that shield deceitfully reads First Amendment rights." Reported in: *Tulsa World*, October 16, 17, 20; *Muskogee Phoenix and Times-Democrat*, October 10, 16, 17; *Oklahoma City Oklahoman*, October 22, November 4, 5; *Tulsa Tribune*, October 18, November 3, 4.

press rights

Washington, D.C.

On October 14, President Carter signed into law the Privacy Protection Act of 1980, which prohibits unannounced searches of newsrooms by Federal, state and local law enforcement authorities, except in certain narrowly defined circumstances. Under the new act, documentary materials belonging to reporters, authors, film makers, photographers, academics and free-lance writers may not be seized by police unless those who hold them are themselves suspected of a crime or unless the seizure is necessary to prevent death or injury to another person.

The law nullifies the effect of the 1978 Supreme Court ruling in *Zurcher v. Stanford Daily*, which condoned the search of a college newspaper office and the seizure by police of photographs. The legislation also directs the Attorney General to develop within six months guidelines limiting the use of search warrants against non-suspect third parties.

Katharine Graham, chairman of the Washington Post Company and president of the American Newspaper Publishers Association, commented, "This legislation affirms our belief that police fishing trips through newsrooms are an unacceptable violation of the First Amendment. The legislation makes it very clear that when the police feel it necessary to intrude on the news-gathering process they should seek subpoenas—and not invade newsrooms armed only with search warrants." Reported in: *Access Reports*, October 7; *Washington Post*, October 2; *New York Times*, October 15.

West Chester, Pennsylvania

The West Chester State College student newspaper, *The Quad*, has successfully resisted a student government challenge of its decision not to accept ads from military recruiters. According to editor-in-chief Kathleen Boyer, the paper's editorial board examined military ads "and decided that most of them, if not all of them, are blatantly misleading and/or exploitative."

When the student government, which helps fund the paper, learned of the ban, it passed a resolution directing the editors to cease "discriminatory practices in its advertising procedures." Although some student government leaders advocated closing the paper, *The Quad's* decision "to consider ads one by one against our policy of not taking misleading ads" was eventually accepted. *The Quad* has rejected only one ad, which promoted the Reserve Officer Training Corps. Reported in: *Collegiate Hedlines*, November 3.

student rights

Long Beach, California

Charles Tooma is back at Woodrow Wilson High School, exercising his legal right to wear a T-shirt reading "Reagan for President . . . of Jackasses." But to assert his right to express this view during the campaign last October, the 16-year old sustained a suspension from school, an arrest, and a day in jail.

The controversy began when school administrators sent Tooma home with orders not to wear the shirt to school, since it could be disruptive. When he returned the next day still wearing the shirt, he was accosted and chased by security officers, who took him to the Long Beach Police Department where he was fingerprinted, photographed and booked on a charge of loitering about a school. He was held alone in a cell until rescued by his mother eight hours later.

When attorney Art Gottlieb interceded on Tooma's behalf, and informed school administrators he would take the case to court, Wilson High Principal Ed Eveland phoned the student and once more requested

him to return without the shirt. However, after the young man again refused to back down, the school administration did.

"I didn't break any rules," Tooma said later. "The shirt isn't vulgar or derogatory. I was just getting involved and expressing my opinion." Reported in: *Los Angeles Times*, October 16.

etc.

Washington, D.C.

The Internal Revenue Service on October 8th reversed itself and indicated that certain types of tax-exempt organizations may continue to publish "report cards" on the legislative votes cast by senators and representatives, without imperiling their tax exemptions. The IRS decision ends a more than two year conflict between that agency and the Office for Church in Society (OCS), an arm of the United Church of Christ, whose tax-exempt status was threatened by the IRS' strict interpretation of its ban on "participation or intervention in a political campaign."

Although legally only one organization won clearance to issue a nonpartisan political scorecard, other organizations fall into the same tax category, including the League of Women Voters and Planned Parenthood, all of which may benefit from the IRS reversal. OCS sought the aid of the American Civil Liberties Union, which, after exhausting administrative remedies, filed suit in court on a First Amendment basis. The IRS response followed nine days after the suit was filed. ACLU attorney David E. Landau hailed the action as "a major victory for free speech." Reported in: *Washington Post*, October 9.

(*Moral Majority . . . from page 8*)

and promote such literature as *The Act of Marriage*." Hiegel has won the support of at least two area ministers.

Michael Farris, executive director of Moral Majority in Washington, defended the book. "Sex isn't dirty; there is a proper role for sex. The message of the book is sex is supposed to happen between married people," he said. "LaHaye is a very well respected pastor and author; he is as conservatively moral as they come." Reported in: *Tacoma News-Tribune*, October 25.

continued FBI harrassment of leftists revealed

The widespread notion that termination of the FBI's notorious COINTELPRO operation in 1971 brought to an end the infiltration and disruption of dissident groups was shown recently to have little solid basis in fact. At least this is the case with the Trotskyist Socialist Workers Party (SWP). A special report authored by New York Appeals Court Judge Charles D. Breitell, based on FBI informant files, indicates that the ending of COINTELPRO did nothing to moderate the techniques used by the FBI to disrupt the SWP. If anything, the report concludes, these techniques became more violent after 1971.

Publication of the Breitell Report represents a compromise in the SWP's \$40 million damage suit against several government agencies. The dispute arose in 1977 when former Attorney General Griffin Bell refused to comply with a court order from District Judge Thomas P. Greisa to turn over informant files to SWP attorneys. Bell was cited for contempt, but the order was vacated on appeal and Judge Greisa was instructed to find another means of solving the issue. Breitell was then appointed to review the files in question and to prepare a report which could substitute for plaintiffs' direct access to the evidence.

The report reveals that, in early 1973, when the National Caucus of Labor Committees (NCLC) began its "Operation Mop-Up," a series of violent assaults on leftist groups, the FBI sent NCLC a letter falsely attributed to the SWP and listing names, addresses and phone numbers of SWP members. On several occasions that year, the NCLC assaulted SWP members, in one case leaving several members in the hospital. The FBI was also responsible for several less serious attacks between 1972 and 1976 during which time the Bureau also utilized wiretaps, break-ins and mail covers, obtained the hospital records of SWP members and their relatives, and had SWP members fired from their jobs.

The government has consistently claimed that revealing informants' records could jeopardize their safety and violate a pledge of confidentiality the FBI claims it makes to all informants. However, the Breitell Report reveals that such pledges are generally not made. In fact, it is FBI policy to stress to informants that someday they will have to testify in court and reveal their identities. Breitell concluded that the sensitivity of the FBI-informant relationship appears to be based mainly on the danger of embarrassing the FBI. While "at least one" informant in the SWP case was promised that the FBI would not disclose the relationship, twelve

of fourteen were told that *they* should not disclose the relationship and five signed statements agreeing not to do so.

Copies of the Breitel Report are available for \$1 from the Political Rights Action Defense Fund, Box 649 Cooper Station, New York, New York 10003. Reported in: *First Principles*, October 1980.

new world information order?

The 21st general conference of the United Nations Educational, Scientific, and Cultural Organization (UNESCO), meeting in Belgrade, Yugoslavia, unanimously adopted a resolution on October 26 establishing some basic principles of a new world information order that Western governments fear may restrict press freedom and curb the free flow of news and ideas. Due to opposing views on freedom of the press, the order is inherently ambiguous, and will be interpreted in different ways by major Western countries, the Soviet bloc, and some Third World nations.

Said William Haley, American negotiator, the resolution "affirms a number of principles of freedom . . . but also contains some points—and many more than we like—which are exceedingly troublesome." One example is a section of the resolution which suggests a governing role for UNESCO with regard to journalistic conduct. Many Western nations fear this regulation will tend to legitimize government countries, the Soviet bloc, and some Third World countries and the Soviet bloc to harrass Western correspondents, keep out or censor Western publications and jam broadcasts.

For their part, Third World delegates pointed out that a "free" flow of ideas as advocated by the Western representatives unduly favors the powerful and monopolistic Western media which tend to distort reporting on their countries, and it will also tend to stifle less economically or politically influential, but, perhaps, more accurate, or, at least, varied, voices. Reported in: *New York Times*, October 26.

when no other word will do

A radio advertisement sponsored by Citizens Party presidential candidate Barry Commoner caused a small furor in mid-October due to the prominent use in the ad of the word "bullshit." The term was used to describe the campaigns of Carter, Reagan, and Anderson. The CBS Radio Network and many local stations reported receiving thousands of phone complaints about the ad. But the Federal Communications Commission, which also received complaints, made clear that the law specifically prohibits broadcasters from censoring ads by political candidates. Reported in: *Washington Star*, October 15.

(Oak Lawn . . . from page 5)

the country have found *Show Me!* shocking and distasteful. Since its publication, there have been numerous attacks against it. To date, four courts have ruled the book has serious value and, therefore, is not obscene.

The Oak Lawn controversy erupted in September when the Oak Lawn Community Awareness Group, led by local resident Nancy Czerwiec, organized a drive to have the book removed, terming it "vulgar, obscene . . . and a threat to the community." The Awareness Group rented a room in a local Holiday Inn to display the book and to obtain signatures on a petition calling for its removal. The group also contacted the local media whose coverage alerted residents to this "pornography." Gradually, more and more residents became aware of the situation, and the Oak Lawn Community Awareness Group's power base increased.

When the library board held its regular October meeting, the room was filled with TV cameras and reporters. Ms. Czerwiec used the occasion well. "It is not educational," she declared, referring to *Show Me!*. She went on to explain the book's impact: "In the final analysis, I see the destruction of marriage and I see a country being destroyed." Her comments won a standing ovation from a receptive audience of her supporters. To many residents, the book had come to symbolize the erosion of traditional American values, and they were fervently convinced that its retention would lead to the "moral decay of Oak Lawn youth."

To further complicate the situation, the library board was embroiled in a referendum battle to determine if it would gain autonomy from Village Board rule. Many residents at the meeting threatened to work and vote against the referendum. As one woman said, "I will walk and walk and walk around this village and distribute papers and defeat your referendum." The timing of these developments was more than coincidental. The opponents of *Show Me!* checked out the book from the library in February and then waited until September to express their complaints.

At the close of the October meeting, Board President Larry Collings informed the crowd that a review committee would be assigned to examine the book in question and all portions of the library collection dealing with sex education. The committee's findings would then go to the head librarian, who would prepare a report for the November board meeting.

The stage was set; interest was at a peak. For the first time, admission to a library board meeting was by ticket only. I was informed that a ticket was reserved for me but was advised "to get here early if you want

a seat. The room is going to be packed."

When I arrived, more than 250 people had jammed the room, with some residents waving placards saying "Library Board Must Go" and "*Show Me!* is sick, sick, sick." Estimates vary but well over 100 additional citizens were denied admission due to the fire code. Police officials told me that quarrels developed among those who could not gain entrance. Some of the overflow crowd had to be escorted out of the building along with three hecklers who were removed during the meeting after repeated warnings.

The emotional session began with a dramatic appeal by Nancy Czerwec for the book's removal. Holding eight-month-old Christopher Kuberski in her arms, Czerwec declared, "If *Show Me!* is not removed from the library, I am convinced Christopher will not grow up to be a good American man. If we do not remove the book, I am certain we will have more men like John Wayne Gacy" (a reference to the allegedly homosexual mass murderer convicted recently in Chicago).

Czerwec then displayed a large American flag and, declaring it sacred, pledged a continuing battle to prevent the destruction of "American values. We are in an internal war of true freedom versus license . . . License destroys the greater good and will also destroy our nation." As at the October meeting, Czerwec's presentation was enthusiastically received.

The demands, language, and tactics of Nancy Czerwec—display of the American flag, holding a small child during her presentation—have been employed in countless other communities in which censorship has been threatened. But it seemed almost bizarre to find them repeated in the very community in which I had worked.

There were other equally impassioned pleas. Two residents braved popular opinion and spoke in defense of the book. Their comments were met with boos and hisses and verbal taunts of "Where is she from?" and "Throw her out!" The last speaker again echoed Czerwec's call for the book's removal.

After this period of public discussion, James Michael O'Brien, head librarian, presented the staff's review. O'Brien reported that of 132 sex education books in the Oak Lawn Library catalog, 75 had been returned to the shelves, 18 had been discarded as outdated, 21 were discovered to be missing, and 18 were long overdue. The library had ordered an additional 87 titles to improve and broaden its collection.

With regard to *Show Me!*, O'Brien recommended that the book be retained in the library collection but shelved in the office of the children's librarian, to be circulated only upon the request of parents or adults.

By a vote of 5-2, the board voted to accept the librarian's recommendations and retain the book. Board member Harriet Murphy stated, "The responsibility of the library is to serve all the community, not to promote—and above all, not to censor—any particular political, moral, philosophical, or religious conviction or opinion."

Most library board members expressed similar sentiments. Several stated that while they would not want their children to view the book, they were unequivocally opposed to censoring duly-selected library material.

The two board members who voted against keeping the book in the library were George Morrissey, an attorney, and Arlene Knowski, a high school English teacher.

Morrissey's vote was particularly disappointing, since he had previously spoken in favor of keeping the title. Stating that the library board does not have the power to ban or censor the book because it would be available through interlibrary loan, Morrissey concluded that this was a question of selectivity. The library should select books which reflect community standards. "*Show Me!* does not fit Oak Lawn's community standards and therefore, it should not be retained." Unfortunately, Morrissey's comments ignore the fact that the library *has* been selecting books according to community standards as well as community needs and has been upholding its responsibility even when the materials might be considered unpopular or controversial.

Arlene Knowski said her decision was based on choosing the lesser of two evils. Removing the book "violates the integrity of the library," she argued, but she opposed keeping *Show Me!* because it represents exploitation of children.

Though public outcry did not ban *Show Me!* from the Oak Lawn Public Library, there were several other consequences. The referendum granting the library board autonomy from the Village Board was overwhelmingly defeated by a two-to-one vote. The Oak Lawn Community Awareness Group, led by Nancy Czerwec, has continued its media campaign with appearances on radio and television programs. Several residents have pledged to work to remove the board members who voted to retain the book, mentioning Nancy Czerwec as a possible replacement candidate for board election.

Finally, Illinois State Senator Jeremiah Joyce, acting in response to the controversy, introduced a bill on December 2, 1980 in the State General Assembly that would remove the "affirmative defense" for librarians in the Illinois obscenity law. Specifically, the bill would remove the exemption for librarians contained in that section of the law making it illegal to give "harmful

material" to a person under eighteen. The penalty for this misdemeanor would be up to one year in jail. Joyce stated, "You don't think a judge would put a librarian in jail, do you?"

Joyce's rhetorical question isn't as simplistic as it appears. Perhaps some Oak Lawn residents would be glad to see a librarian—or several—behind bars.

(Washington County . . . from page 5)

plaint form and requested that he complete it and return it to her. Williams refused. He chose instead to take his complaint to Bobby Sproles, Chairman of the County Board of Supervisors. Sproles had been elected to the Board in the wake of a successful attempt in 1975, which he led, to remove the "Responding" textbook series from the Washington County schools. He is well known as a staunch opponent of "pornography." Williams and Sproles were also instrumental in persuading the School Board to require, when teaching the theory of evolution, a statement that another position on creation can be found in Genesis. "But I think we ought to get something better than that," Williams has stated.

Sproles quickly agreed with Williams that the books did not belong in the library and he publicly threatened to cut off all county funding for the library unless they were removed. "I certainly think it would go against the morals of the majority of people in the county," Sproles declared. "There are a few egg-headed liberals around who want to push their views on other people."

Armed with this support, Rev. Williams returned to the library and again demanded the books' removal. Again Kathy Russell refused, and again she offered Williams an opportunity to file a formal complaint. Instead, he demanded that she make public the books' circulation records to determine if they had been loaned out to minors. Were that the case, he vowed, he would personally seek criminal charges against Russell for peddling smut to youth.

Of course, no court in the land would declare these best-sellers pornographic, though some literary critics might question their artistic quality. In addition, Virginia specifically exempts librarians from prosecution under its obscenity laws and is, furthermore, one of just five states exempting library circulation records from freedom of information provisions, thus protecting their confidentiality. Nevertheless, the battle was clearly joined.

Williams and Sproles began a campaign against the

books, the library, and Ms. Russell personally. They sought to publish the most "objectionable" passages from the works in a paid advertisement in a local paper. When this was refused, they distributed the excerpts on street corners.

In response, Kathy Russell issued a public statement which defended free expression in libraries, citing the *ALA Library Bill of Rights*; pointed out the illegal and improper nature of Williams' demand for disclosure of circulation records; and demanded that Williams make "a prompt and public apology to the library staff and to me, and retract these untrue and unfounded statements before they obtain further publication in the community."

Library Board Chairman Dr. E. B. Stanley is an old hand at tussling with Sproles and Williams; he was school superintendent during the crisis over the "Responding" series. Stanley now rose to Russell's defense. He called on the two critics to make their accusations public at the library board meeting scheduled for November 17. When it was learned that Williams and Sproles could not make it that evening, the meeting was postponed a day. The stage was thus set for an apparent showdown.

I travelled to Abingdon for the November 18 library board meeting at the invitation of Dr. Stanley and Kathy Russell, to observe and, if needed, to voice the support of ALA and the library community. I knew the facts of the case, but was still not sure what I would find in this small community in rural Virginia.

After all, I thought, Harold Robbins? As a friend of mine jokingly put it when I told him of my trip, "You're kidding, Robbins and Sheldon? That fluff. This reverend's giving pornography a bad name!" The issue of course, was hardly the literary quality of the books. But would the people in Abingdon understand this?

They certainly did. When I arrived, I learned that Williams and Sproles had stirred up a bit more than they'd hoped for. According to Dr. Stanley, "We've had a lot of issues in this county, but I've never seen one draw this much sentiment." Williams and Sproles had been forced to announce several days earlier that they would not attend the library board meeting, since, they contended, a decision had already been made. They advised their supporters to do the same. It now appeared the Board meeting might turn into a support rally for the library. Still, I was skeptical.

The skepticism soon vanished. In striking contrast to what has occurred in many more metropolitan locales, for example, in Oak Lawn, the populace of Abingdon and Washington County, or at least a broad and influential section thereof, took a bold, clear and firm stand against censorship.

The library board met first in executive session.

Thanks to Kathy Russell's diligent work, all members were well-informed about the principles of intellectual freedom in libraries. They had studied the Library Bill of Rights and its "interpretations" and were firm supporters of the First Amendment. Although the charge raised by Williams and Sproles that all was decided secretly in advance did not appear true, clearly the two did not enjoy much support.

The executive session was followed by a public meeting in which an overflow crowd of more than 200 people, all supporters of the library and free expression, packed the room. Individual after individual, civic group after civic group expressed opposition, many eloquently, to the censorship attempt. A petition signed by 1,900 of Abingdon's 5,000 residents in support of the library staff was presented. Resolutions of support came from Kiwanis, Civitan, Booklovers and Rotary clubs in Abingdon, the faculties of neighboring Emory and Henry College and Virginia Highlands Community College, the American Association of University Women's Abingdon branch, People, Inc., the Head Start Policy Council, League of County Voters, Abingdon Jaycees and the Washington County Ministerial Association. Lelia Saunders, President of the Virginia Library Association, Allen Bonney Brooks, chair of the VLA Intellectual Freedom Committee, and I were greeted with vigorous applause and exceptional warmth when we voiced our support.

A victory had been won. The meeting revealed that when the library stands firm against the censor, when community support is organized and when the issues are made clear, supporters step forward. But the battle is not over. In neighboring Wythe County, the library has quietly pulled the three titles questioned in Abingdon from the shelves and assigned them an "under the counter" status. And Williams and Sproles have not abandoned their efforts. Williams has declared his intention to bypass the Library Board and go directly to the County Board of Supervisors, where, however, he expects to lose by a 4-3 vote. Shortly after the library board meeting, in his weekly radio sermon, he announced plans to raise several thousand dollars and to invite prominent anti-pornography figures to speak in the county. He also revealed his intention of placing an advisory referendum on the November 1981 ballot which would read: "Are you in favor of the use of tax dollars for the purpose of providing, maintaining and issuing pornography in our public library?"

The Rev. Williams is by no means discouraged. "We've asked nothing unfair, but it is that same liberal element that is pushing this stuff down our throats," he declares. "I believe, referring again to the election, that this thing is turning around . . . I'm hoping that Mr. Reagan will begin to name some people

to positions who will be able to change some of those things."

(From the Bench . . . from page 17)

obscenity

Arkansas

Three sections of the Arkansas state obscenity statute were declared unconstitutional on October 17 by a federal judge who considered the language too broad. In his decision, Judge William R. Overton said that "the possibilities for sweeping and improper applications are as limitless as the human imagination."

The court ruled that the sections in question define obscene materials or performances to include nudity, which the Supreme Court has ruled is not enough to make material legally obscene; define "sexual conduct" so broadly as to include all touching of the genital areas whether alone or between members of the same or opposite sex, which could permit a jury to find a film showing a man and woman dancing obscene; define obscene materials or performances to include depiction of "sexual excitement" as defined elsewhere in the law to mean showing genitals in a state of sexual stimulation. Judge Overton noted that the law made no distinction between clothed and unclothed persons. Reported in: *Arkansas Gazette*, October 18.

(Censorship Dateline . . . from page 14)

Previously, in early October, the editor of the internationally known journal, *Afrique-Asie*, which is known to favor leftist, anti-colonialist attitudes in the former French colonies and has criticized African leaders favored by the French government, was summarily deported to the U.S. The editor, Simon Malley, a U.S. citizen who edited the Paris-based magazine for eleven years, was placed without warning on a U.S.-bound plane on the grounds that he had failed to observe the discretion expected of a foreign resident. Reported in: *New York Times*, November 10; *Chicago Sun-Times*, October 13.

etc.

Wichita, Kansas

"This is a beautiful sight," said one boy. "All those horrible records," said another. The children were watching a ritual burning of books and rock music records held at the Wichita Christian Center October 24. Earlier in the evening, they and their parents had been told that rock is the music of "immorality, rebel-

lion, drugs and perversion." "I went to concerts, and I have been to discos," said Mike Herron, music director of the Portland, Oregon Bible Temple and guest speaker at the event. "And people won't take their clothes off unless music is being played."

Rock records were not the only items committed to the flames. One man burned a copy of *Penthouse*, a stack of his girlfriend's records and her copy of *Far From the Madding Crowd* by Thomas Hardy. Another man tossed on a stack of old jazz albums. And 22-year old Diane Sondergaard announced she didn't have anything for this fire because she had burned her Carpenters, Bobby Goldsboro and Lettermen records at last year's burning.

The record burning followed by less than two weeks a similar incident in Pekin, Illinois (see *Newsletter*, Nov. 1980, p. 139). That event was organized by Jim and Steve Peters, ministers at Zion Life Center in St. Paul, Minnesota, whose two-day seminar, "What the Devil's Wrong With Rock Music?," has been held in forty cities. The wholesale breaking and burning of record albums is a regular feature of the seminars.

According to the brothers, "the lyrics, lifestyles and intentions of many rock musicians are perverted,

atheistic, homosexual, and push satanism, sex and anti-Biblical schools of thought. We agree with Jimi Hendrix. We think music is a spiritual thing and we want to ask people if they really know what they are listening to. Some of the things the songs deal with I don't think kids, or even adults, should listen to." Reported in: *Wichita Eagle*, October 25; *Peoria Journal Star*, October 2.

Youth Rights Contest

The *Voice of Youth Advocates* is offering a \$50 prize for the best submission on the theme of "what free speech means to you." Contestants who are 18 years old or younger may write an essay of no more than 1500 words, draw a cartoon, write a poem or express their opinion in any other creative way. Art work must be in black and white. Contributions should be submitted by June 30, 1981 to *Voice of Youth Advocates*, P.O. Box 6569, University, AL 35486. Flyers announcing the contest are available for posting in schools and libraries upon request.

intellectual freedom bibliography

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