


newsletter  
on  
**intellectual**  
**freedom**



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ISSN 0028-9485

March 1983 □ Volume XXXII □ No. 2

Terming the association a "sodomite organization dedicated to the overthrow of the U.S.," Daniel Emery, King Kleagle of the Realm of Indiana of the National Knights of the Ku Klux Klan, announced January 20 that the Klan is "opening full-scale war on the American Library Association." The declaration came as the Klan entered the second of several related battles over homosexual materials in public libraries in the southern Michigan-northern Indiana (Michiana) area.

The affected libraries are the Niles Community Library, in Niles, Michigan, and the Three Rivers Public Library, in Three Rivers, Michigan. In both communities, local religious activists were earlier rebuffed in efforts to remove materials about homosexuality from library shelves. In Niles, the original complainants dissociated themselves from Klan support, but in Three Rivers, a local minister invited Klan involvement. A related effort to remove a book dealing with homosexuality, in which the KKK was not directly involved, was defeated in Elkhart, Indiana, and removal campaigns were alleged also to have begun in Goshen, Mishawaka and South Bend.

The area-wide controversy began last May when the Rev. Edward Varner, his mother, the Rev. Vivian Varner, both of the Trinity Full Gospel Mission in Three Rivers, and the Christian Research and Factual Studies group, formed from members of the Varners' church, began a campaign against library materials which they claim promote "homosexuality and perversion." The Varners approached the Three Rivers library and demanded removal of three books, *The Lord Won't Mind*, by Gordon Merrick; *The Front Runner*, by Patricia Nell Warren; and *Our Bodies, Ourselves*, by the Boston Women's Health Collective. In June, the requests for removal were denied, and the library board reconfirmed the denials at a December 15 meeting, from which Rev. Varner had to be forcibly removed by police.

In June, Varner inquired of library board President Leonard Weiner if the library would grant use of its meeting rooms to a Nazi or KKK organization. Weiner replied that if the groups meet the provisions of the library's meeting room policy, he would have no objection. On January 11, then, Varner and Emery submitted a request for a Klan meeting at the library "to talk about the library's policy of promoting subversive acts." The Library Board denied the application because it had not been submitted two weeks prior to the requested meeting as required by

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**"war on ALA":  
KKK joins fight  
over gay  
library books**

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## the enemy is us?

*Jake and Honeybunch Go to Heaven*, a children's book by 1974 Caldecott Medal-winner Margot Zemach, has become the subject of considerable controversy as a result of acquisition decisions made by the public library systems of Chicago, Milwaukee and San Francisco. The San Francisco system refused to purchase any copies of the book, and the Milwaukee library bought a single copy for its historical collection. In Chicago, a group of librarians informed the publisher that they would recommend that purchase be restricted to the central library and two regional libraries which collect at a research level.

The three libraries charged that the book is racially offensive. Critics of the selection decisions, however, charge that the refusals to purchase for circulation purposes amount to censorship.

There was some confusion over the Chicago library's actions. In a letter to the book's publisher, Farrar, Straus & Giroux, Elizabeth Huntoon, coordinator of children's services, explained that last November fourteen children's librarians who reviewed the book thought its depiction of an all-black heaven "would offend many people and that it reinforced many stereotypes which are not offset by a wealth of children's literature portraying the black experience." In a letter to Ms. Zemach, the librarians added that the book "does not strive to present an entirely dignified view of an otherwise rich, black cultural heritage."

After these statements were quoted by a *New York Times* reporter, however, Ms. Huntoon explained that

the protesting librarians had been involved in a training exercise and were not members of the library's children's book selection committee. That committee also did not favor the book but, Ms. Huntoon explained, in the Chicago system, branch librarians may purchase books which fail to win recommendation. "Even I do not have authority to say what books will or will not be chosen for the 83 branches," said library commissioner Amanda Rudd. Still, according to a report in the *Chicago Sun-Times*, by early February only "three or four copies" of the book could be found in the system.

After Stephen Roxburgh, editor-in-chief of children's books at Farrar, Straus & Giroux, wrote asking why the San Francisco library decided to keep the book out of its collection, City Librarian John C. Frantz wrote to Roger W. Straus, the company president, accusing Mr. Roxburgh of intimidation. "If he really doesn't know why we are not going to buy *Jake and Honeybunch*," Frantz wrote, "he is in the wrong line of work and should be selling banjos to minstrel troupes." In a telephone interview with the *New York Times*, Frantz added that the book "perpetuates overt and covert racism" and that a staff member who reviewed it for purchase found it "offensive and degrading, wholly inappropriate for children whether they be black or white."

In Milwaukee, Jane Botham, coordinator of children's services, said librarians there have been judging books for racial and sexual stereotyping since the 1960s. The Zemach book, she charged, "presents a negative stereotype. Black librarians and white

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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.

*Newsletter on Intellectual Freedom* is published bimonthly (Jan., March, May, July, Sept., Nov.) by the American Library Association, 50 E. Huron St., Chicago, Illinois 60611. Subscriptions: \$10.00 per year. Change-of-address, undeliverable copies, and orders for subscriptions should be sent to the Subscriptions Department, American Library Association. Editorial mail should be addressed to the Office for Intellectual Freedom, 50 E. Huron St., Chicago, Illinois 60611. Second class postage paid at Chicago, Illinois and at additional mailing offices.

## Intellectual freedom strategy session

*For one-and-a-half days on the eve of ALA's 1983 Midwinter Meeting in San Antonio, Texas, some twenty-five representatives of all the varied parts of the association's intellectual freedom program gathered for a session devoted to coordination and implementation of a common and unified strategy for defending and extending intellectual freedom in libraries. A report on the session took up a major portion of Intellectual Freedom Committee Chair J. Dennis Day's Report to the ALA Council, delivered January 10. The following is a slightly edited version of Mr. Day's report.*

Your Intellectual Freedom Committee welcomes this opportunity to report to you on our activities since the summer Annual Conference. The primary focus of this report will be a brief review of the Intellectual Freedom Strategy Session which was held last Friday and Saturday. Attending were twenty-five individuals representing the more than five dozen entities which are part of the intellectual freedom support system.

Since the founding of the Intellectual Freedom Committee 43 years ago, the Office for Intellectual Freedom was developed, the Freedom to Read Foundation was formed, and the Intellectual Freedom Round Table was

created, along with the various division and chapter intellectual freedom committees. Each one of these entities was developed to meet a need. A series of perceived needs and the passage of time has created a committed but sometimes ineffective and confusing structure.

In the strategy session, we attempted to evaluate where the intellectual freedom support system has been going and to identify where it should move in the 1980's to meet the needs of the "front-line" librarian. As William D. North, President of the Freedom to Read Foundation, noted in his keynote presentation, the marketplace of ideas is being changed in the following ways:

- Centralization and institutionalization of the print and electronic media
- Consensus at the expense of dissent
- Security at the expense of freedom of expression
- The freedom of expression is demanding increased civility.

It is within this challenged marketplace that we as librarians—the gatekeepers—play the essential role of disseminators of information. The success or failure of our efforts in the 1980's will depend upon our ability to help the front-line librarian be successful in fulfilling

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## FTRF Report to Council

*The following is the text of the Freedom to Read Foundation's report to the ALA Council, delivered January 9, 1983, by board member Ella Gaines Yates, on behalf of Foundation President William D. North.*

The Board of the Foundation held its Midwinter Meeting on January 6, 1983. It was one of the Foundation's most important meetings in recent years in several critical respects.

First, it marked the climax and culmination of the long hard fight to defend librarian Jeanne Layton who had lost her position in defense of library integrity and intellectual freedom. As a result of a settlement and the support of the Foundation, Jeanne has been made whole for all of the legal expenses and costs she incurred in this battle (see page 33).

Second, the meeting marked the adoption of detailed, objective, and measurable standards and criteria for support of litigation which will expedite the Foundation's response to requests and will eliminate the source of problems which were identified in the Foundation's response to the Baileyville School case and to the Pico

litigation in the lower courts.

Third, the meeting marked the development of a program of response to the anticipated flood of "harmful to minors" and "variable obscenity" legislation which the Supreme Court's recent decision in the Ferber case is generating and is expected to generate. The Foundation committed itself to defend, to the Supreme Court, if necessary, the special right to exemption merited by the library by reason of its special status, responsibility and function in the marketplace of ideas.

The Foundation meeting also marked the kickoff of the campaign to obtain funds for the Freedom to Read Foundation Endowment. The only legal rights libraries and librarians have are those they can afford to assert or defend. It is our hope that the Endowment will assure that any librarian and library can afford to defend intellectual freedom whenever, wherever, and however it is threatened.

In this connection, a special resolution of thanks was adopted by the Foundation to honor the commitment and financial support of Carolyn Forsman whose efforts have generated thousands of dollars for the defense of Intellectual Freedom. Those efforts have been as selfless as they have been magnificent.

The Foundation reaffirmed its role in the legal defense of ALA and the library community. This is a commitment to you.

## Layton settles case for \$50,000

More than three years after Davis County, Utah librarian Jeanne Layton began her courageous battle to win back the job from which she had been fired for refusing to remove a controversial book from the library, a final victory has been won. On December 10, an out-of-court settlement of Ms. Layton's civil suit against the library board was announced. Ms. Layton was awarded \$50,000 in legal fees. In addition, the library board approved a letter to her concerning her current status. Signed by board chairman Evan Whitesides, it said:

"Since your reinstatement as Davis County Library Director, you have worked closely with the Library Board in operating the library and in carrying out the policies and directions of the Board. So long as you continue to cooperate closely with the Library Board in carrying out the policies set by it and running the library in an effective manner, maintaining good employee morale, you will not be discharged without cause."

Although the \$50,000 settlement will not erase all accumulated legal expenses, Ms. Layton will recover all of the nearly \$17,000 which she personally contributed. The remainder will go to pay still outstanding legal bills and to reimburse individual contributors. The Freedom to Read Foundation, which donated nearly \$35,000 to the Layton defense, will recover approximately \$18,000.

The *Newsletter* congratulates Jeanne Layton on a well-deserved victory. Her strength and courage have been an inspiration to librarians and supporters of intellectual freedom everywhere. Reported in: *Davis County Clipper*, December 15.

## and now Michigan!

Make Michigan the fourteenth name on the honor roll of states which have enacted statutes protecting the confidentiality of library circulation records. The Michigan Library Privacy Act was signed by the governor on December 30, 1982. The relevant provision reads:

"Unless ordered by a court after giving the affected library notice of the request and an opportunity to be heard thereon, a library or an employee or agent of a library shall not release or disclose a library record or portion of a library record to any person without the written consent of the person identified in that record."

The law also includes a provision which may prove helpful to Michigan libraries fighting censorship efforts. It reads: "Except as otherwise provided by statute or by a regulation adopted by the governing body of the

library, the selection of library materials for inclusion in a library's collection shall be determined only by an employee of the library."

Statutes protecting the confidentiality of library circulation records were previously enacted in California, Connecticut, Florida, Iowa, Maryland, Minnesota, Nevada, New York, Oregon, Rhode Island, Virginia, Washington, and Wisconsin. Unfortunately, however, a recent Iowa Supreme Court decision may well have effectively gutted the applicability of the statute in that state and, if its logic is followed elsewhere, endangered confidentiality nationwide (see page 43).

## survey finds "appalling" school library censorship in Minnesota

According to a survey of public school librarians released January 8 by the Minnesota Civil Liberties Union, from 1979 to 1981, in at least 46 cases, books and other materials were removed from school libraries in Minnesota after people complained about them.

Matthew Stark, executive director of the organization, said questionnaires on censorship were sent to 775 high school librarians in the state in October 1981. Of those, 244 responded, with 90 librarians reporting a total of 186 challenges to library materials. In January 1982, the MCLU sent similar questionnaires to 507 public elementary school librarians. Of those, 149 were returned, with 78 libraries reporting 160 censorship challenges.

The challenges totaled 346, but the librarians apparently elaborated on only 185 of those cases. Of these, 46 resulted in removal, in 102 cases the materials were retained, and in 18 instances restrictions were placed on the challenged works. The remainder of cases were still pending or resolved in other ways. The questionnaire was also sent to 324 public libraries, which reported 149 challenges, but only two cases of removal and two of restriction.

According to the report, materials were challenged for alleged immorality, profanity, obscenity, immaturity of users, nudity, violence, defiance of authority, and witchcraft, among other reasons. The report was written by Frances McDonald of Mankato State University, a member of the ALA Intellectual Freedom Committee.

"Even with the one-third that responded, we find the results to be absolutely appalling," Stark commented. "We're not bothered if people raise questions about the books their children are reading . . . It's the fact that the schools tend to be knuckling under to mere complaints."

Among the books challenged were *Forever and Are You There God? It's Me, Margaret*, by Judy Blume;

*Go Ask Alice*, by an anonymous teenage drug user; *A Hero Ain't Nothin' But a Sandwich*, by Alice Childress; *Before You Were Born*, by an anonymous author; *Kramer vs. Kramer*, by Avery Korman; and *In the Night Kitchen*, by Maurice Sendak. *Sports Illustrated* was removed in one school, and *Mad* magazine in another. Copies of the report are available from MCLU for \$5.00. Reported in: *St. Paul Pioneer Press*, January 8; *Minneapolis Star and Tribune*, January 8.

## committee to study Texas textbook selection

The Texas State Board of Education has appointed a special committee to review the process by which textbooks are selected for the state's public schools. The selection process has been embroiled in controversy since critics charged that only those individuals who oppose the adoption of a given text enjoy the right to speak out, while supporters of materials, other than publishers, must remain silent. The procedure has been challenged in a lawsuit by Dallas librarian Pamela Bonnell and in the press by the Texas chapter of People for the American Way. In November, state Sen. Ray Farabee (D-Wichita Falls) proposed legislation to change the adoption rules (see *Newsletter*, November 1982, p. 198; January 1983, p. 3).

Announcing formation of the committee on January 8, board chair Joe Kelly Butler said, "For a long time I have been convinced that the textbook selection process in the state of Texas—although it has served its purpose well—is not well understood by the general public and has become so surrounded by controversy that a strong need exists for it to be examined in depth." Butler will chair the committee, which will hold public hearings. Reported in: *San Antonio Express-News*, January 9.

## Cook County compromise

While Illinois librarians lost their fight to be specifically exempted from a Cook County (Chicago) statute banning child pornography (see *Newsletter*, January 1983, p. 4), they succeeded in changing the ordinance to protect their collections. Sex education and art books remain on the shelves and accessible. The law, originally adopted by the Cook County Board in September, was modeled after the New York child pornography legislation ruled constitutional by the U.S. Supreme Court last July. The ordinance permits prose-

cution even if the alleged pornography is not legally obscene.

The Illinois Library Association objected that the statute would threaten legitimate medical, anthropology, health and art books and placed the librarian "in the same category as an adult bookstore peddler." Library critics, however, like Margaret Miezio of suburban Schaumburg, a parent and member of Eagle Forum, a conservative group, charged that "the judgment of librarians is faulty, permissive and extremely bad." Ms. Miezio and others opposed any exemption for librarians from the provisions of the law.

At a special board committee meeting November 17, the statute was amended in an effort to satisfy both sides. The provision prohibiting "exhibition of post-pubertal human genitals or pubic areas" was changed to "lewd exhibition of post-pubertal human genitals or pubic areas." The ordinance was also changed to permit libraries to keep affected materials, if necessary, in closed collections. Reported in: *Arlington Heights Herald*, November 10, 18.

## world press freedom on the skids

Freedom of the press deteriorated worldwide in 1982 and almost every nation violated free speech "in one form or another," the International Press Institute reported December 14. "It should be painfully obvious that the press must fight back to retain what is left of its freedom," the institute concluded in an annual review of 67 countries. The institute is a media watchdog group based in London, whose members include nearly 2,000 editors and publishers in sixty countries.

Introducing the 24-page report, institute director Peter Galliner singled out Iran, Turkey, Argentina, and India as countries with already poor records that slid "further down the scale of freedom." The review charged that Iran's regime culminated efforts to "end all press freedom" with the execution of more than thirty journalists. Twenty others were among the "missing" and more than two hundred journalists were jailed in Tehran alone.

Iran is now left with badly written newspapers staffed by Islamic religious officials and theology students. Circulation has dropped so drastically that the largest daily, *Kayhan*, now sells just 15,000 copies, compared with a million four years ago.

The review also criticized the United States and Britain for curbs or attempted curbs on media freedom. The institute said President Reagan's administration continued efforts "to tighten restrictions on the flow of government information," especially through proposals to restrict the Freedom of Information Act (see page

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# obscenity and the law: past and present

## the sin of obscenity

By Thomas L. Tedford, Professor of Communication and Theatre, University of North Carolina at Greensboro. A version of this article was published in the Greensboro Daily News, April 3, 1982.

From time to time the news media report that some branch of the Citizens for Decency under Law, Morality in Media, Moral Majority, or similar organization has acted to bring pressure on state lawmakers to "strengthen" the state's obscenity laws. Why is this? Why do various church-related organizations, all of which depend upon the free speech guarantees of the Constitution to assure *their* freedom to communicate, spend so much time and effort attempting to deny that same freedom to others? The answer, I believe, can be found in history.

The key principle was identified by Louis Henkin, Professor of Law at Columbia University, in "Morals and the Constitution: The Sin of Obscenity," an essay published in the *Columbia Law Review* in March, 1963. Professor Henkin noted in this oft-quoted article that the "history of obscenity legislation points . . . to origins in aspirations to holiness and propriety. Laws against obscenity have appeared conjoined and cognate to laws against sacrilege and blasphemy, suggesting concern for the spiritual welfare of the person exposed to it . . . Obscenity, at bottom, is not a crime. Obscenity is a sin." Do the facts of history support Professor Henkin? Let us see.

Neither Athens nor Rome during their democratic periods had laws against the dissemination of erotic materials, although they did, under certain circumstances, punish speech which they considered seditious or defamatory. Likewise, neither the Europeans nor the British had laws against explicit sexual communications until relatively recent times.

On the other hand, the *foundations* for the suppression of religio-moral heresy in all of its variations—from blasphemy to obscenity—did have an early beginning. Both St. Augustine (354-430 A.D.) and St. Thomas Aquinas (1225-1274 A.D.) taught that salvation could be achieved through compulsion, and that the punishment of "heretics" was both the right and the sacred duty of the Church. The Inquisition, which lasted over six hundred years, grew out of this authoritarian attitude. As a direct result, thousands of "heretics" were tortured, and many were burned at the stake or otherwise murdered by Church authorities, all

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## "obscene nuisance" laws: their fate in 1982 and prospects for 1983

By Chris Finan, Coordinator, Media Coalition.

Seven states made a nuisance of themselves in 1982 by proposing to regulate obscenity as they do smoky factories and smelly rivers—by abatement as public nuisances. Three states amended their nuisance laws to include establishments which sell obscene materials or promote obscene performances. The bills in the other four failed to pass, but two were approved by at least one house of the legislature, and one actually received a majority vote in both houses and only failed for lack of a quorum in the Senate.

The year ahead will see still more debate about "obscene nuisance" bills. The Mississippi and New Jersey lawmakers are already at work. Indeed, the New Jersey bill may be the worst considered to date, since it clears the way to shutting down distributors who haven't one obscene book or film on hand.

In 1982, Indiana was the first state to enact an obscene nuisance law. Under the terms of the statute, anyone may pick out a single item from a bookseller's stock and take it to court to determine whether it meets the legal definition of obscenity according to the *Miller* criteria. If it is found obscene, the court may issue an injunction restraining sale. The plaintiff is then entitled to demand that the bookseller identify all materials intended for sale for the next two years, so that the legality of these may be weighed, and an injunction against illegal materials issued. Even if the plaintiff doesn't want to exercise this right, the court may require that all new materials be brought to it for review for a period of one year.

These are the steps to be taken when only a single item is found obscene. If, however, sale of obscene materials is proven to be a regular course of business, or if such materials have been sold publicly and repeatedly for more than a year, or if they constitute a principal part of the store's stock in trade, the judge may order abatement of this "nuisance" by closure for one year. During this period, the premises may not be used for any other purposes; the sheriff may lock the doors and board the windows. Taxes, of course, must still be paid.

The state of Washington's obscene nuisance law was approved in April. Like the Indiana law, its targets are

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(*Jake and Honeybunch* . . . from page 31)

librarians were offended by it."

Such explanations, however, did not mollify editors at Farrar, Straus & Giroux or Ms. Zemach, who is herself a San Francisco resident. "In this case, librarians are deliberately keeping a widely acclaimed book by a major author-artist off their shelves in the name of morality," Roxburgh complained.

*Jake and Honeybunch* chronicles the story of a black laborer and his mule who collide with a freight train and are transported to an all-black heaven, complete with "celestial fish fry and barbecue." Ms. Zemach says all the images used are taken from the heritage of black popular culture and folklore. Although the *Wilson Library Bulletin* said the story was "designed to make white audiences laugh at alleged Afro-American childishness and instability," other reviews were positive. The *San Francisco Chronicle* and *School Library Journal* both praised the book, and the *New York Times* listed it as one of 1982's notable children's books.

Michael di Capua, editor of trade books at Farrar, Straus & Giroux, said that "many responsible critics and librarians" share the publisher's view that the book

"is a positive celebration of, and a tribute to, black American folklore." In fact, the letter from the Chicago librarians did admit that one of them, a black woman who works in a predominantly black neighborhood, at first wanted to buy the book. She said that she took it to her minister, who "felt the book was positive and a good story."

In addition, a school librarian in Atlanta wrote in her review to the Fulton County school board: "The black educators in my school related easily to the story and enjoyed sharing it with their students. This would be a good addition to collections needing more black folklore."

Whether or not *Jake and Honeybunch* is guilty of racial stereotyping, according to ALA policy as enunciated in the *Library Bill of Rights* and elaborated in the policy on *Diversity in Collection Development*, this is not for librarians to judge. Libraries should strive to include in their collections the broadest diversity of materials, representing all points of view and tastes, including ones which may be personally offensive to the librarians. Reported in: *New York Times*, January 21; *Chicago Tribune*, January 27. *Chicago Sun-Times*, February 6.

## battle still raging in Island Trees

Reports that the celebrated case of school library censorship in Island Trees, New York, which last year reached the U.S. Supreme Court, had come to an end may have been premature (see *Newsletter*, November 1982, p. 197). On June 25, 1982, the Supreme Court, in a divided and limited decision, upheld an Appeals Court ruling and mandated further trial proceedings in the case of *Pico, et. al. v. Board of Education, Island Trees Union Free School District #26*. In August, the school board voted to return to school library shelves the nine books it had removed in 1976 because they were "anti-American, anti-Christian, anti-Semitic, and just plain filthy," rather than defend its censorship actions in a trial proceeding.

That seemed, at long last, to be the end of it. But five months later, the federal court file was still marked pending, as both sides struggled to reach a settlement on two remaining issues: parental notice when a student takes out one of the disputed books, and the place of the books, especially Bernard Malamud's *The Fixer*, in the classroom curriculum.

After the Board returned the books, each was stamped with red ink "parental notification required." Parents of those students who checked out any of the titles each received a notice, which read in part, "The Board of Education wishes to inform you that the

book(s) selected by your child may contain materials which you may find objectionable." The New York Civil Liberties Union, counsel for the plaintiffs in the case, objected to the letter as continuing to place a stigma on the titles. Moreover, the NYCLU pointed out, the notification was in violation of a 1982 state law which protects the confidentiality of library circulation records. In mid-December, following an inquiry from the state attorney general's office, the board temporarily dropped the notification requirement, and on January 26, by a 4-3 vote, agreed to return the books to the shelves with no restrictions.

The second issue, however, remained unresolved. It centers on control of curriculum, an issue which the Supreme Court specifically said was not at issue in the case. When the board voted to remove the books from the library in 1976, it also banned the titles from classroom use. At that time, the only book affected was *The Fixer*, which was used in senior English classes. The NYCLU wants that decision rescinded, but the board has refused.

Both sides, however, expect the issue to be resolved without a trial. After the board voted in late January to drop the parental notice provision, lawyers for both sides said they anticipated presenting a proposed settlement of the case to the court within a month. Until then, however, the case of *Pico v. Island Trees* remains very much alive. Reported in: *Newsday*, December 20; *New York Times*, January 31.



## — censorship dateline —



### libraries

#### Anniston, Alabama

Seven school library books targeted for removal as "obscene" by a vocal group of some fifty Baptist ministers and removed from at least two high school libraries in October (see *Newsletter*, January 1982, p. 7), were returned to the shelves November 16 by unanimous vote of the Calhoun County Board of Education—but on a restricted basis only. According to the recommendations of a ten-person committee of educators, ministers and parents, the books will remain in school libraries on reserve shelves accessible to students only with written parental permission.

The restricted titles are *The Grapes of Wrath* and *East of Eden*, by John Steinbeck; *No Place to Run*, by Barbara Beasley Murphy; *Catcher in the Rye*, by J. D. Salinger; *A Clockwork Orange*, by Anthony Burgess; *The Way of Love*, by Frances Hanckel and John Cunningham; and *Doris Day: Her Own Story*, the actress' autobiography. An eighth title targeted by the ministers for removal, Howard Fast's *The Immigrants*, was allowed to remain on the shelves without restrictions, although apparently due only to an oversight.

The committee also suggested new procedures for the acquisition and review of library materials, but a request by the ministers to go into the schools' libraries to screen books already on the shelves was rejected. Instead, a committee will be named at each school to select and screen library books purchased in the future. The committees will each consist of the school's principal, a school librarian, a teacher, and two parents, one appointed by the principal and the other by the school PTA. Committee members will serve two year terms. Previously, library books were chosen exclusively by the school's librarians.

"We have to do what's legally right," board president Tommy Nance said after the meeting. "But if I had had the final say, I'd have taken the books out of the library. I think there are some things that are offensive in them."

The removal campaign by the ministers and the actions of two principals who cooperated with them by removing materials without a hearing attracted considerable attention throughout Alabama. The Civil Liberties Union of Alabama sought to mobilize opposition to the removal effort in Calhoun County. CLUA leaders charged that the school board had violated its own procedures in appointing some of the complaining ministers themselves to the committee reviewing the books and library selection procedures. "If you let those religious fanatics read the books, they'll pull them all out," charged Harold Chorán, a local resident. Editorials in the *Atlanta Constitution* and *Anniston Star* criticized the ministers and school officials who removed the books, although the latter paper later endorsed the imposition of restrictions.

Professors at Jacksonville State University expressed special dismay at the effort to remove books by John Steinbeck, a Nobel Prize-winner. But Rev. Aaron Howell, a leader of the removal drive, was disdainful of charges that a ban on authors like Steinbeck was a ban on literary classics. "Sin is not classic," he said. "Sin is sin. Sin brings corruption. We've checked into Steinbeck. I read some of his novels and it's trash. It's vulgar. The devil wouldn't read it . . . Thanks for pointing out Steinbeck's novels. I didn't know they were so filthy." Reported in: *Anniston Star*, November 16.

#### Cotati, California

A report that an effort to remove Judy Blume's *Deenie* from school library shelves in the Cotati-Rohnert Park School District had been defeated (see *Newsletter*, January 1983, p. 21), was, apparently, premature. The Sonoma County Educators Council, representing 26 teacher unions, has charged that the resolution of the incident by the district trustees placed undue restrictions on the book, effectively banned it from elementary schools, and was a violation of academic freedom. The Council asked Walter Eagen, Sonoma County Superintendent of Schools, to use his authority or influence to overturn the decision. Eagen, however, said he supports the October ruling of the Cotati-Rohnert Park board.

According to the decision, the book, which parents Peter and Joan Podchernikoff had sought banned from all district school libraries and classrooms, remains available at the junior and senior high school levels and may be obtained by elementary school pupils with

parental permission. Shirley Drake, president of the Cotati-Rohnert Park teachers union took the issue before the Council after the school board ignored the union's argument against any restrictions on the book.

In an effort to avoid future controversy, the trustees adopted a new review policy. The new policy provides that parents can review newly purchased books at the elementary level the first two weeks of each month. It also provides that parents who object to a book can ask a special committee to review its merits. The committee will pass on a recommendation to the local school principal, who will make the final decision. Those who object to the principal's decision can appeal to the trustees. Reported in: *Santa Rosa Press Democrat*, December 9.

#### **Downey, California**

By a vote of 3-2, the Downey City Library Advisory Board voted November 16 to remove Judy Blume's *Forever* from the Downey City Library. Librarian Ruth Miller, however, said the book will remain on the shelf because the board is only an advisory group and any official action would have to come from the Downey City Council.

The controversy began when the Advisory Board received a complaint from the parent of a 12-year old girl who checked the book out. "In my view this is an instructional book for teenagers on how to have an affair," said Board member Marilyn Evans. "It gives no indication that it is wrong or even unwise behavior."

Miller said that if the City Council votes to remove the book, the library staff would fight the decision. Reported in: *Southeast News*, November 30.

#### **Morris, Manitoba**

A review committee of parents and teachers formed to help resolve a controversy over school library books last spring removed six books from a school library in the Manitoba, Canada, town of Morris. The books included J. D. Salinger's *Catcher in the Rye*; *The Grapes of Wrath*, by John Steinbeck; and *The Truth and Other Stories*, by Terrence Heath. The books were found to violate the committee's guidelines covering "excess vulgar language, sexual scenes, things concerning moral issues, excessive violence, [and] anything dealing with the occult," said Terry Terichow, president of the Morris Home and School Association.

Rex Williams, Superintendent of Schools for the Morris-McDonald School Division, opposed the removals. He noted, however, that his "support of the book review committee as an idea means that I do support the idea of parents having some input. If they feel as a committee that a book is undesirable,

then that book is removed." Reported in: *Manitoba Library Association Bulletin*, June 1982.

#### **Akron, Ohio**

Since September, three parents at separate Akron public schools have complained about library books brought home by their children. In two cases, one at a junior high school and one at an elementary school, committees were formed to review the books in question. School officials declined to name the schools, books or parents in those incidents.

In the third case, Mary Ruth Burdette became distressed when her 13-year-old son, a student at Innes Junior High School, brought home a book called *Astrology and Other Occult Games*, by Margaret and Eve Ronan, which he received in a Reading is Fundamental program. Officials have formed a special committee to review the way library books are selected for use in the program.

Akron school officials said they oppose removal of books from school libraries and that all three controversies should be solved without problems within current guidelines. B. Susan Brown, director of media services, said she knew of no books banned in the past. Ms. Brown said the Akron district gets about two book-related complaints each year that lead to formal proceedings.

Mrs. Burdette charged that the astrology book promoted Satan. "Right on the very first page, they said they hoped the book would prove to be fun," she complained. "This astrology stuff is not fun. It leads to trouble. I've seen so much stuff on TV about cults and they always have these astrology things that enter in with that, and witchcraft and all this other stuff." Reported in: *Akron Beacon Journal*, December 8.

#### **Rainy River, Ontario**

Award-winning Newfoundland author Kevin Major was forced to reschedule a reading during the Children's Book Festival, November 13 to 20, when the chair of Ontario's Rainy River Public Library Board, Terry Quibell, cancelled the program because he objected to some of the language in Major's young adult novel, *Hold Fast*.

Quibell said he wasn't familiar with Major's work when his board instructed the local librarian to invite the writer. "But when I read the book I found I objected to some of the language. I wouldn't let my children read it and I don't want the library associated with the reading in any way," he stated. Another board member, Frank Loreto, objected to the decision and arranged to have Major read at the town's high

school, although the event was no longer under the library's auspices.

The Rainy River Public Library contains copies of *Hold Fast* and a second Major book, *Far From Shore*. Quibell reported, however, that the titles are banned in the local elementary school. Reported in: *Quill and Quire*, December 1982.

#### Central Point, Oregon

Copies of the comic book *Crazy* were pulled off the shelves of two elementary school libraries in Central Point January 5 following complaints from parents that the book promotes hatred, violence and exploitation by trying to treat these subjects humorously. Three parents said comic strip panels in the December issue gave humorous treatment to family fights and child abuse. They also objected to a parody of word games involving a husband leaving his wife and a "Play Pen" section satirizing the *Playboy* centerfold. A committee called to evaluate the material recommended that the comic book be withdrawn, and removal was ordered by the school superintendent. One elementary librarian, who later voted to remove *Crazy*, said she had chosen to offer the magazine to make "a variety of material available. I don't make value judgments," she said. "If I judged everything in my library, it would be very limited." Reported in: *Salem Statesman-Journal*, January 6; *Portland Oregonian*, January 7.

#### Grants Pass, Oregon

Copies of *Masquerade*, by Susan Shreve, a young adult novel labeled "a piece of garbage" by the mother of a sixth-grade girl, were ordered out of two Grants Pass middle school libraries December 14 following a complaint by parent Phyllis Casey. The book will remain in the Grants Pass High School library. "I felt there was profanity. I felt there was violence. I felt there were sexual innuendoes that have no place in middle schools," said Casey.

But Nancy Hitchcock, librarian at one middle school, disagreed with the decision. "It's a realistic novel," she said. "It's not at all a provocative, titillating book. It's very serious. Parents should be censoring, or limiting or overseeing the reading of their own children—but not other children," she argued.

*Masquerade* concerns problems faced by four children and their mother after their father is convicted of and imprisoned for embezzlement. Reported in: *Salem Statesman-Journal*, December 16.

#### Fond du Lac, Wisconsin

In separate incidents, two library books have been referred to the Fond du Lac school system's Reconsideration Committee after the receipt of citizen

complaints. The first title so referred was *Alfred Hitchcock's Witches Brew*, an anthology of eleven stories about magic, witchcraft and the supernatural. The book was challenged in October by the parent of a child attending Chegwin Elementary School. A second complaint was filed in late November against *Are You There God? It's Me, Margaret*, by Judy Blume. The Reconsideration Committee was scheduled to hold public meetings and to make recommendations to Acting Superintendent of Schools Elwood Bilse. Reported in: *Fond du Lac Reporter*, November 30.

## schools

#### Montgomery, Alabama

Four members of the Alabama state textbook committee—Mary Love Eyster, Eric Gruggink, Martha Spiess and Sarah Fine—have filed a minority report calling for the rejection of approximately one hundred pieces of literature for use in Alabama public schools. Among the works criticized by the report are *The Diary of Anne Frank*, described as "a real downer;" Henrik Ibsen's *A Doll's House; Of Time and the River*, by Thomas Wolfe; *Tell Me How Long the Train's Been Gone*, a collection of essays by James Baldwin; and *I Know Why the Caged Bird Sings*, by black author Maya Angelou. The twenty-two members of the full committee reviewed about 600 books, recommending all but twenty of them.

Although the minority was not a large one, Arthur Heustess, coordinator of the state textbook program, said its report would carry as much clout with the State Board of Education as the committee's recommendations. Last year, Heustess reported, "The board split about 50-50 between the recommendations and the minority report. They knocked off some books that had been recommended but had been criticized in the minority report."

Several of the books criticized by the minority were charged with propagating feminist views, including the Ibsen play. The Baldwin and Angelou books were criticized for preaching "bitterness and hatred against whites." The board was scheduled to meet on February 10 to consider the committee's recommendations and the minority report. Reported in: *Tuscaloosa News*, January 9.

#### Folsom, California

"Vulgarisms" will keep 146 volumes of the *American Heritage Dictionary* in a Folsom High School storage room until most can be shipped back to the publisher, according to principal William Enos. English department chair Dan Ruff ordered the books to replace the school's existing set. In October, while stamping them

for use in classes, he noted some questionable entries. "He consulted me and we came up with thirteen words that we felt were inappropriate," Enos said. The words include "French kiss," "fag," and "queer."

"I've come to the conclusion that it's hard to get aroused by dictionary definitions," said Joel Moskowitz, president of the Folsom Cordova Unified School District's board of education. "I'm not going to tell the principal what to do and I'm not pro slang dictionaries, but in my view they're harmless. I think the administrator was concerned somebody was going to come into the school with a complaint. I keep seeing in my mind a cartoon picture of perverts in trenchcoats going into a downtown adult bookstore so they can take a peek at the dictionary," Moskowitz continued.

"But we're talking about vocabulary classes here," Enos said. "Profanity in a novel is presented as part of a selective piece of art and judged that way." Student reaction to the ban was mainly one of surprise. "Those are the kind of words you learned before you were a sophomore," said senior Sue Raney. "They handed out a whole list of them in Health and Safety class so we'd know what they were. They're disgusting, but they're also written in your used textbooks." Reported in: *Sacramento Union*, December 16.

#### **San Diego, California**

A San Diego man, who two years ago sued the state of California over the teaching of evolution in the public schools, has asked the San Diego Union School District to ban a biology textbook used in his 15-year-old son's class. Kelly Segraves, president of the Creation Science Research Center, said his son Kasey was offended by the book, *Biology*, by Helena Curtis. "The book is offensive to every Christian child," Segraves declared. "It's the worst book I've ever read on the subject of evolution." Segraves charged that the book treats the topic of evolution "in a dogmatic manner" and thus violates state law stipulating that the subject must be taught as "theory."

Segraves warned that unless the district stopped using the book in biology classes, he would sue. School officials are reviewing the complaint and the 132 references that Segraves charges violate the law, but say privately that it is unlikely the book will be removed. Some parents of students in the class have organized a group to defend the text. "We are not going to allow one man and his child to control the curriculum of the entire school district," said Wilma G. Severe, whose son is a classmate of Kasey Segrave's. Sandra Williams, who teaches the biology class at Serra High School, has excused from class Kasey and any other student who might be offended by discussions of

Darwinian theories. Reported in: *San Diego Union*, November 16.

#### **Dover, Delaware**

A Delaware school board notified a seventh-grade teacher in early January that he cannot resume teaching a ten-lesson unit on nuclear war because the course material is biased. William W. Hutchinson, Jr., a social studies teacher at Central Middle School in Dover, had taught three classes in early November when the Capital School Board ordered him to stop. Hutchinson filed a grievance with the board and offered to add supplemental reading to the unit, but his appeal was denied.

The unit, called "Choices: A Curriculum on Conflict and Nuclear War," was developed by the National Education Association in conjunction with the Union of Concerned Scientists and the Massachusetts Teachers Association. It has been tested in thirty-five states.

The courses was "heavily skewed in the idea of antiwar and ban-the-bomb approaches and the dangers of nuclear weapons," complained Dr. Edward W. Goate, Superintendent of the district. The school board objected that Hutchinson, who had been requested by NEA to try the unit in Delaware on a pilot basis, did not seek board permission to do so. Some board members expressed concern that the unit would be upsetting in a military community such as Dover, which has a large air force base. Hutchison, however, said he received no negative response from students or parents and noted that several students had begun a petition drive for retention of the unit. The teacher expressed "shock" and disappointment at the board's attitude. "It was a real blow to academic freedom," he said. Reported in: *Wilmington News*, December 24; *Dover State News*, December 24; *Baltimore Sun*, January 9.

#### **Tinley Park, Illinois**

A poetry anthology called obscene by the parents of an Andrew High School freshman in the Chicago suburb of Tinley Park has been banned from the English class in which it was used. James and Janet Jackson decided, however, not to file suit against their son's English teacher who assigned the book.

The book in question is *The Black Poets*, edited by Dudley Randall. Although the volume contains poetry by Langston Hughes, Claude McKay, Gwendolyn Brooks, Imammu Amiri Baraka, James Weldon Johnson, and Nikki Giovanni, English teacher Leanne Crabbe had assigned only two traditional spirituals which also appear. She said she had not noticed the poems which the Jacksons claim extol

murder, rape, theft, incest, sodomy and other acts.

Mr. Jackson said he was not very upset about the book until two teachers defended its use. School officials, however, ordered the books collected and Crabbe personally telephoned parents of students in the course to apologize for the controversial material. The Jacksons' son has been withdrawn from the class. Reported in: *Southtown Economist*, December 12, 20.

### Louisville, Kentucky

After hearing arguments that one book "will cause our children to become immoral and indecent," that another "advocates socialism and Communism" and that several "attempt to change the values and beliefs of students," a committee of educators and parents created by the Jefferson County school board recommended after a public hearing November 15 that six challenged textbooks and library volumes remain in district schools. The hearing was the first use of new, systemwide rules for dealing with complaints about learning resources adopted in response to a growing number of complaints about texts and library books. This was also the first time that the system had been challenged to remove materials countywide and not just from individual schools.

The challenged books included two home economics texts, *Person to Person* and *Married Life*; two history texts, *America, America* and *Men and Nations*; and two library books, *The Rolling Stone Illustrated History of Rock and Roll* and *My Darling, My Hamburger*, a novel.

Earl and Frances Frederick, a Jeffersontown couple who have battled against sex education and some school library books and textbooks, brought three separate complaints. The Fredericks charged that passages in *Married Life* "pushed women's lib, which is very degrading to women and will destroy the traditional family." They also argued that "while ignorance and misunderstanding very likely contribute to sexual problems, the overwhelming evidence proves that too much 'sex education' causes a multiplication of such problems."

With reference to *America, America*, the Fredericks said the book is "degrading to business" and "subtly pushes the socialistic, one-world government." A similar charge was lodged against *Men and Nations* by Donald Craig, who labelled that book "a soft sell of Communism." As for *Person to Person*, used as an elective home economics text, Dr. Frank Simon said the book confuses sex roles and is "very bad from cover to cover." Simon identified himself as a representative of Moral Majority of Kentucky. When informed that the class in which the book was used

is an elective which requires parental permission, Simon responded, "What if parents wanted their children to take a course in bank robbing?"

In each case, the committee voted to recommend to Superintendent Donald Ingwerson that the challenged material be retained. According to the new rules, it is up to the Superintendent to make the final decision. Reported in: *Louisville Times*, November 16.

### Amite, Louisiana

A decision that teachers should avoid teaching two poems appearing in a textbook used in sixth, seventh, and eighth grade classes in Tangipahoa Parish public schools will stand, despite charges that the ban is censorship. The poems, "Hist Whist," by e. e. cummings and "The Hag," by Robert Herrick, were described by local ministers as "chants to Satan."

The decision not to permit teaching of the poems was made in early December by Superintendent Sam Pigno and a board member, Enos "Jake" Bailey, after a meeting with two ministers. Rev. Glenn Fendlason of the First Assembly of God Church near Ponchatoula and Rev. Jerry Claunch of the Church of Faith in Hammond said the poems were objectionable because they contain a "continuing reference to the devil." Fendlason also objected to the word "Spirit" in Herrick's work. "The only spirit I know with a capital 'S' is God's Holy Spirit," he said.

Although some teachers and a Professor of English at Louisiana State University criticized the decision as censorship, Tangipahoa authorities disagreed. "We're not asking that a page be torn out of the book," Bailey said. "This is simply that the poems not be assigned for study." Reported in: *The Daily Iberian*, December 15.

### Anaconda, Missouri

A small, rural school district fighting to retain its state accreditation has become embroiled in a censorship controversy after the school board handed school principal Patrick Meloy a list of 34 restricted titles and gave him authority to censor or destroy any book he feels is pornographic. Mr. Meloy is the principal of a K-8 school in Anaconda, a town about an hour's drive from St. Louis.

The controversy arose when Ben Jackson, who is president of the conservative Franklin County Taxpayers Association, came to the Anaconda school board's October meeting with a complaint against *Head Man*, by Kin Platt, a novel about urban street gangs. The furor continued in January when the school board met to review Meloy's progress in reviewing the questionable books. The meeting was attended by a representative of the ACLU of Eastern

Missouri, who warned the board against censorship. Jackson responded to the ACLU representative by charging that the organization was conspiring with librarians, the Supreme Court and others to suppress the truth. The board decided to continue the review of books. Reported in: *St. Clair Chronicle*, December 15, January 12.

## student press

### San Diego, California

An advertisement from an anti-draft organization has been banned from the Grossmont High School student newspaper because school district officials think it encourages students to break the law. Rick Jahnkow, a spokesperson for the Committee Against Registration and the Draft (CARD), accused the Grossmont Union High School District of censorship, saying that student editors' constitutional rights

were violated. Jahnkow said the advertisement read in part, "Don't let the draft blow you away. Know your rights. Know your choices." He said CARD does not advocate law-breaking. Jahnkow added that the ad had been accepted for publication in student newspapers at twelve other high schools in San Diego county. Reported in: *San Diego Tribune*, December 25.

### Miami Beach, Florida

To Lisa Green, an editor of *Motif*, the student literature and art magazine at North Miami Beach High School, the gently curving lines of a tree trunk blossoming into the naked upper torso and head of a woman "just symbolizes beauty." The school principal, however, doesn't agree.

"I do feel that the drawing will be offensive to many members of the community," said Principal Bessie Gibson. So the drawing, which had already gone to the printer when the dispute arose, will not appear in the publication and the editors are charging censorship. "I don't think the principal has the right to impose censorship on a piece of art," said Neil Binder. "Just because we're going to school doesn't mean we're giving up our rights."

Countered Gibson: "There's not a case of censorship. There was a decision made in the best interest of

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## librarians support bookstore

The Social Responsibilities Round Table Interest Group (SRRTIG) of the Washington Library Association has voted unanimously to support a Seattle bookstore in its attempt to find rental space. The store, Revolution Books, is part of a chain of eleven stores nationwide and the retail outlet for Liberation Distributors, which makes available works by Marx, Engels, Lenin, and Mao, as well as other leftist materials. In a letter supporting the Seattle store, the Pacific Northwest Booksellers Association noted that "Revolution Books, one of our members, is being denied access to retail space in what smacks of the basest form of censorship."

A February 13, 1982 letter to the *Nation*, quoted by SRRTIG, suggests a national pattern of discrimination against Revolution Books: "There have been six evictions and eviction attempts in little more than a year. In December 1980, the Berkeley, California store was evicted by police; in May 1981, the Boston store was evicted; in New York City, the bookstore fought eviction attempts in December 1980 and July 1981; the Seattle store was evicted after a long court fight, in October 1981; and now, the New York Revolution Books again faces eviction . . . All the landlords initially chose to rent to the bookstores, but later, sometimes within weeks and without any clearly stated reasons, changed their minds. On the face of it, it looks like a case of political harassment." Reported in: *SRRT Newsletter*, October 1982.

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47). Britain's Conservative government was criticized for censoring war correspondents' dispatches from the Falklands and for "planting false stories in a bid to mislead the enemy." The Soviet press was described as continuing in a state "stranglehold."

Alan Pearce, the institute's managing editor, said that only about twenty countries have media free of formal state control. "But if you try to use one yardstick it becomes almost nonsense," he said. For example, the review reported that the government-run press of Zimbabwe "by simply serving the [black] majority," was an improvement on the "free" private media under minority rule, which only "served the interests of European settlers."

India's newspapers got special praise from the institute for jointly fighting an attempt by one state, Bihar, to outlaw publication of anything the authorities considered objectionable (see *Newsletter*, November 1982, p. 210). "The campaign . . . is an object lesson [to the press] of what can be achieved if it speaks with one voice and is firm in its resolve," the report said. Reported in: *Philadelphia Inquirer*, December 15.

## from the bench



### U.S. Supreme Court

A Massachusetts statute vesting in the governing bodies of schools and churches the power to prevent issuance of liquor licenses for premises within a 500-foot radius of the church or school by objecting to the license applications was unconstitutional, the Supreme Court ruled December 13. Writing for the majority, Chief Justice Warren Burger argued that the statute substituted the unilateral and absolute power of a church for the reasoned decision-making of a public legislative body acting on evidence and guided by standards on issues with significant economic and political implications. The statute thus improperly enmeshed churches in the process of government and created a danger of political fragmentation and divisiveness along religious lines. Justice William Rehnquist dissented from the decision in the case, known as *Larkin v. Grendel's Den, Inc.* Reported in: *West's Federal Case News*, December 31.

On January 16, Justice Byron R. White and Chief Justice Burger both denied appeals that would have blacked out a scheduled segment of that evening's edition of the popular CBS news program *Sixty Minutes* in the city of Dallas. The rulings ended two days of maneuvering which began when a U.S. District judge in New Orleans issued a restraining order that would have made the blackout nationwide.

The segment concerned charges of civil rights violations filed against seven New Orleans police officers who are scheduled to go on trial in Dallas in February. The controversy began on January 14, when U.S. District Judge Adrian Duplantier, after requesting and being denied an advance transcript of the *Sixty Minutes* segment, issued a restraining order prohibiting

national broadcast of it. CBS maintained the order was "clearly unconstitutional" and they appealed to the Fifth U.S. Circuit Court of Appeals, which stayed the ruling.

The next day Duplantier issued another order restricting the blackout to Dallas. The appeals court stayed that order, but attorneys for the policemen appealed first to Justice White and then Chief Justice Burger. Don Hewitt, executive producer of *Sixty Minutes*, called the two justices' refusal to lift the stay "a plus for everybody's rights." Reported in: *Washington Post*, January 17.

### libraries

#### Des Moines, Iowa

In a decision which may have an impact on confidentiality statutes in fourteen states (see p. 33), the Iowa Supreme Court January 19 affirmed a District Court decision which granted Iowa Division of Criminal Investigation agents the right to look at library circulation records. Authorities had been investigating a series of cattle mutilations and had no suspects, so they asked the Des Moines Public Library to turn over circulation records for books on witchcraft in hopes of getting a lead.

By a 5-0 vote, the Iowa Supreme Court said the authorities' need to investigate took precedence over an individual's right to privacy. In doing so, the court ruled that Iowa's library confidentiality statute was inapplicable, since, according to an earlier decision, the exemption from public disclosure provisions afforded library circulation records is "applicable only within the framework of every citizen's *general* right to examine public records." Moreover, the justices added, the confidentiality statute is inapplicable by its terms if the records are 'ordered by a court.' " The court also dismissed a claim by the plaintiffs, Steven Brown, a library user, and the Board of Trustees of the Des Moines Public Library, that the investigation would violate constitutional rights to privacy.

Reaction to the decision was swift and vocal. Rep. Lyle Krewson (R-Urbandale) called the ruling "an unconscionable attack upon the rights and liberties of the people of this state . . . I think this opinion sets a very serious precedent we need to look at very seriously. It's nobody's business what books you read or I read or our children read," he said. Rep. Kay Chapman (D-Cedar Rapids) called the decision "a violation of every citizen of Iowa's right to privacy." The legislators said they will examine the law to see what can be done to make it enforceable as originally intended. Reported in: *Cedar Rapids Gazette*, January 21.

## political expression

### Redwood City, California

An unusual custody fight between a Maoist activist, who is an atheist, and her deeply religious ex-husband, who works in a plant which produces parts for Trident missiles, has raised important First Amendment questions and attracted the interest of both civil liberties activists and militant feminists.

The case of *Fishman v. Fishman* began a year-and-a-half ago when twelve-year-old Riva Fishman was visiting her father, Ted, in California. Ted wrote his ex-wife, Tina, who had legal custody of the child, that she would be returning to her home in Chicago shortly. But, at the same time, Ted Fishman had approached a California judge to seek permanent custody of Riva due to the "emergency situation" which he claimed existed as a result of her mother's political activity in support of the Revolutionary Communist Party. Judge James L. Browning agreed and, although the Universal Child Custody Jurisdiction Act requires custody disputes to be tried where the child permanently lives, granted custody to Ted. Among other causes, he cited Tina Fishman's indictment as one of seventeen "Mao Tsetung Defendants," who were indicted after demonstrating against the visit of Chinese leader Teng Hsiao-ping in Washington. Those charges have since been dropped.

On December 6, new hearings began in a court in California before Judge Gerald Ragan, as Tina sought to reverse what she characterized as a "legal kidnapping." Ragan ruled that politics would not be a consideration in the final decision, but Tina and her lawyer complained that this served only to prevent them from exposing the political basis of the earlier ruling. "They want to base this whole thing on the last sixteen months, which makes this nothing more than a rubber stamp of the court-sanctioned legal kidnapping," the lawyer charged.

In court, Tina argued that Browning's decision sought to punish her for exercising her political rights, and, further, sought to discourage women in general from becoming involved in political activity, especially dissenting activity, for fear that they would be condemned as unfit mothers. "It was perfectly OK for Rosalynn Carter to go all over the world doing political activities," she noted in court. During the proceedings, Tina Fishman was supported by an array of political and feminist organizations and individuals.

On December 20, Judge Ragan ruled that Judge Browning's earlier decision was indeed illegal. Ragan, however, refused to return Riva to her mother immediately. Instead, he granted a ten-day visit to

Chicago, followed by a six-month stay in California. At that time, Riva is to return permanently to her mother.

While some of Tina's supporters greeted the decision as a victory, she and her attorney did not. They noted that, while Ragan found no existing emergency, no jurisdiction for the California court, and noted that Ted Fishman had been duplicitous in his relations with Tina, the judge himself violated all legal precedent by allowing Ted to keep his daughter for a six-month "transition." They fear that at the end of that period Ragan or another California judge will rule that residence has been objectively established in California and Tina will then be deprived of custody permanently.

In fact, Judge Ragan's ruling retained much of the same logic of the very decision it ostensibly overturned. Ted Fishman, he found, "provides a stable, safe, religious and orderly environment in an attractive, comfortable community. . . . Tina could provide challenge, development of a fiery imagination, social conscience and an inquisitive mind in a setting that would prepare Riva to be an active participant in the world. Unfortunately, Tina has been totally absorbed by a fanatical obsession with a political cause which has blinded her to the true needs of a 10-12 year old child. Tina has become a doctrinaire." No politics here.

To Tina Fishman, the six-month wait imposed by Judge Ragan was but a continuation of the "political kidnapping" of her daughter in flagrant violation of custody laws. Both Judge Browning and Judge Ragan, she charged, sought "to quiet the voice of women and through this type of dirty political blackmail prevent them from taking part in the great movements shaking the world today." Reported in: *Revolutionary Worker*, December 10, 17, 31.

### Eugene, Oregon

On December 28, the Oregon Court of Appeals upheld the convictions of Revolutionary Communists John Kaiser and Nancy Whitley. The two had been convicted of Class A felony arson for burning a yellow ribbon at a speech by Victor Tomseth, one of the Iran hostages, in Eugene in early 1981 (see *Newsletter*, January 1983, p. 15). In a terse three-line opinion, the court found "no errors" in the lower court rulings. The defendants had argued that a felony arson conviction for burning a ribbon in a political protest in which, by the state's own admission, no personal or property damage occurred, was an attempt to silence dissent. The defendants had also questioned the notion that the burning yellow ribbon constituted "property of some value," as required under Oregon law for a charge of felony arson.



Several days after the decision was announced, on January 3, while visiting his family in Nevada, defendant John Kaiser, 26, died tragically of encephalitis, an inflammation of the brain. Reported in: *Revolutionary Worker*, January 7.

#### **Providence, Rhode Island**

The Rhode Island Lottery Commission and its director violated the American Civil Liberties Union's constitutional rights to freedom of speech and association by denying the ACLU a license to conduct a charitable raffle, U.S. District Judge Raymond J. Pettine ruled December 16. Judge Pettine found overwhelming evidence that the Commission singled out the organization for disparate treatment and that permission was clearly denied as a result of its members' political views. Damages were awarded in the amount of profit the ACLU would have realized had it been permitted to conduct the raffle in 1978. Reported in: *West's Federal Case News*, January 14.

## **evolution and creation**

#### **New Orleans, Louisiana**

Citing the state constitution, U.S. District Court Judge Adrian Duplantier November 22 struck down Louisiana's law requiring "balanced treatment" for "creation science" and "evolution science" in the state's public schools. The case has been called "the decisive legal battle over creation science in the public schools" by the Institute for Creation Research. The state immediately appealed the case to the U.S. Court of Appeals for the Fifth Circuit.

The Louisiana law, passed in 1981, was challenged in *Aguillard v. David C. Treen* on the grounds that it violated the First and Fourteenth Amendments. Judge Duplantier, however, sidestepped federal constitutional questions by basing his summary judgment on the 1974 Louisiana constitution. He ruled that the constitution granted the state board of education, and not the legislature, sole authority to require the teaching of a particular course of study.

Louisiana was the only state with such a law. A federal judge in Arkansas ruled in January that a similar law in that state was an unconstitutional violation of the First Amendment's prohibition on state advancement of religion. Reported in: *Education Week*, December 8.

## **academic freedom**

#### **Berkeley, California**

A federal judge has rejected a claim by a former University of California writer that her scripts for the

school's radio program, *Science Editor*, were censored by her superiors. U.S. District Judge Robert F. Peckham found that the scripts and other work the writer, Sylvia Paull, did for the university had been subject only to legitimate editing. He refused to order her reinstated to the job from which she was fired on grounds of insubordination and unprofessional conduct (see *Newsletter*, January 1983, p. 19).

Peckham concluded that the university-sponsored program was not the kind of "public forum" entitled to the kind of free press protection accorded student newspapers and other media presenting diverse, often unpopular views. He said both the program and the *UC Clip Sheet*, for which Paull also wrote, appeared to serve primarily a "public relations" rather than "public information" function. "Under the circumstances," he concluded, "the university retains a wide measure of control over the content of its communicative product." Reported in: *Oakland Tribune*, January 6; *Los Angeles Times*, January 7.

#### **Chester, Pennsylvania**

Lincoln University in southern Chester County has agreed to pay fourteen of its faculty members about \$30,000 to settle a lawsuit that accused the university's president of denying the faculty members free speech and academic freedom. The out-of-court settlement came in the form of a consent decree filed with the U.S. District Court in Philadelphia, four years after the professors filed suit against Herman R. Branson, president of the predominantly black, state-related school.

The suit accused Branson and the university of harassment and stifling academic freedom by threatening to fire professors involved in peaceful demonstrations and the expression of political opinion. The suit arose out of faculty criticism of Branson dating from 1970. In 1977, the faculty voted "no confidence" in the president by a vote of 46 to 10.

The consent decree, signed by attorneys for the plaintiffs and the university stipulates that "faculty members of Lincoln University shall have the right to freedom of expression as guaranteed by the First Amendment of the Constitution of the United States." One of the faculty members called the decree and settlement a victory for the fourteen plaintiffs. Reported in: *Philadelphia Inquirer*, December 2.

## **student press**

#### **Minneapolis, Minnesota**

The First Amendment rights of the University of Minnesota student newspaper, *The Minnesota Daily*, were not violated when its share of student fees stopped

being mandatory, U.S. District Court Judge Robert Renner ruled December 28. Three former *Daily* editors and the current editor sued the school regents, charging that the change had been made to punish the newspaper for a controversial 1979 humor issue, which poked fun at religion and offended many readers (see *Newsletter*, January 1983, p. 101).

Renner ruled that, though the edition's scatological content is indeed protected under the First Amendment, the funding mechanism was not changed as a censorship tool. Rather, he described the role of the humor issue as that of a "catalyst for a wide-ranging inquiry into the proper balance between competing First Amendment rights." The refundable fee system, Renner found, was instituted to preserve "the delicate balance between plaintiffs' First Amendment rights and the rights of the dissenters who help finance the *Daily*."

In a prepared statement, University President C. Peter Magrath welcomed the decision: "I am pleased with the outcome because the regents and I are strongly committed to the First Amendment. Freedom of speech and expression are bedrock in the university, and Judge Renner's opinion confirms that these vital principles have in no way been impaired."

Others, however, were less sanguine. Political science professor John Turner, one of fifteen faculty members who filed a brief on behalf of the *Daily*, said: "To some faculty members it appears that the president and the regents took arbitrary action against the *Daily* without considering the entire fee structure, bowing to outside pressures in violation of First Amendment rights. I keep hoping that if a professor or an academic department are subjected to outside criticism for unpopular statements or research findings the university authorities will provide more protection than they did for the newspaper of the university community." Reported in: *Minneapolis Star and Tribune*, December 30; *City Pages*, January 12.

## open trials

### Atlanta, Georgia

Television and radio stations do not have a constitutional right to broadcast criminal trials, the 11th U.S. Circuit Court of Appeals ruled January 4. The decision was the first by a federal court at the appeals level to rule directly on broadcasters' claims to a right under the First Amendment to cover trials with cameras and sound equipment. The U.S. Supreme Court ruled more than two years ago that the press and the public in general have a right to attend criminal trials,

but it has not said whether that right includes broadcast access.

TV and radio broadcasts of trials, the Court declared, would add a "minimal degree" and maybe not at all to the public's interest in having trials open. Any interest in that coverage, the court added, would be overshadowed by the need to "preserve order and decorum," to insure fairness, and to protect jurors, witnesses, lawyers and judges from adverse affects of TV coverage.

The ruling blocked efforts to televise the first trial of a sitting federal judge on criminal charges. U.S. District Judge Alcee L. Hastings was scheduled to go on trial in Miami on bribery charges. He joined several broadcasters in their bid to broadcast the proceedings, claiming that only TV coverage would enable him to "rehabilitate" himself with the public and thus assure his ability to continue as a federal judge. Reported in: *Baltimore Sun*, January 6.

## obscenity

### Annapolis, Maryland

The Maryland Attorney General's Office has asked the U.S. Supreme Court to decide whether the word fuck is protected by the First Amendment. In October, the Maryland Court of Appeals overturned the disorderly conduct conviction of a man who used the epithet after a local police chief stopped his vehicle. The Maryland court ruled that the word was neither obscene nor profane because, in the context used, it had no erotic content and did not refer to something divine or holy (see *Newsletter*, January 1983, p. 16).

In his petition to the Supreme Court, state Attorney General Stephen H. Sachs said: "The Court of Appeals of Maryland . . . incorrectly held that the utterance was protected speech and that there was no probable cause for arrest." Reported in: *Baltimore Sun*, December 21.

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(Is it legal? . . . from page 50)

to activities of "bona fide" churches or religions.

The petition drive began after the Gresham City Council overturned the city's ban on occult practices last August in the face of a suit filed by a woman known as Sue the Astrologer, who contended the ban violated her constitutional rights. The suit was withdrawn after the ban was lifted. Reported in: *Portland Oregonian*, December 21.

## is it legal?



### freedom of information

#### Washington, D.C.

The Reagan Administration, which has unsuccessfully urged Congress to narrow the Freedom of Information Act, has moved to cut the number of requests under the act that are granted free of charge. Under new government guidelines issued by the Justice Department January 11, agencies are instructed to charge fees before granting FOIA requests unless the requesters can establish that "there is a genuine public interest in the subject matter of the documents" and can satisfy four other criteria.

In a three-page memo issued to all government departments and agencies, Assistant Attorney General Jonathan C. Rose declared that "federal agencies are obligated to safeguard the public treasury" in administering the FOIA. The new guidelines explicitly supplant Carter Administration standards which called for "a generous fee-waiver practice" and made indigency a proper, and sometimes automatic, basis for waiving fees, especially if the indigent shows a "personal need" for the records in question.

"An interest which is personal to the requester is insufficient," the memo stated, "nor is it in the public interest to grant a waiver solely on the basis of a requester's indigency." The memo recommends denial of fee waivers when the information is already in the public domain, and suggests that those requesting information be required routinely to describe "their qualifications, the nature of their research and the purposes for which they intend to use the materials." By contrast, the old guidelines said that "such facts may and sometimes should be considered."

The new guidelines were presaged last fall when a note from the Office of Management and Budget to

White House counselor Edwin Meese III said a review would "produce a policy that strictly and narrowly interprets" the fee waiver section of the FOIA. Reported in: *New York Times*, January 12; *Washington Post*, January 12.

### schools

#### Onida, South Dakota

A former high school principal who is appealing the decision of the Sully Buttes School Board not to renew her contract, was charged with trying to embarrass the board in 1981 by inviting the author of a banned book to visit classrooms and discuss the book with students. The charge arose during a trial over the firing of former high school principal Coleta Jones.

The board had voted in late 1980 to remove the award-winning book *Run, Shelley, Run*, by Gertrude Samuels, from its library (see *Newsletter*, May 1981, p. 65). Samuels visited the community and the school shortly thereafter to talk about the decision and seek its reversal. She was unsuccessful. In testimony, board chair Brian Meyer said Jones let Samuels interrogate students without authorization. In an open letter to State Superintendent of Instruction James Hanson, however, Samuels charged that it was Meyer and school superintendent Donald Rykhus, and not Jones, who granted her permission to visit the school and talk with students.

Although Samuels' visit became an issue in the trial, the legal dispute focused more on Jones' overall performance and her relations with her superiors. The court decision went against Ms. Jones and an appeal is planned. Reported in: *Sioux Falls Argus Leader*, December 1.

### religion in schools

#### Carbondale, Illinois

Some interesting First Amendment issues were raised when seventeen-year-old senior Dawn Buff was barred from distributing a Christian publication, *Issues and Answers*, at Carbondale Community High School. Officials agreed the First Amendment protected Buff's right to distribute a publication on school property. But it's another matter, they contended, whether that right outweighed a public school's responsibility to maintain a separation between church and state.

Buff said she was called into Principal Dale Smith's office after she was seen passing out the free publication before school in December. Buff said she was told she could not distribute the magazine unless the contents were first cleared with the principal. Further-

more, Buff charged, Smith said she could not distribute leaflets announcing meetings of the non-school-sponsored Bible as Literature Club.

The club failed to win school sponsorship last September when school board members voted 4-2 against it after board attorney Charles Hines cautioned that approval would violate the church and state provisions of the U.S. Constitution. An Illinois State Board of Education ruling on that contention is pending.

Smith said his only interest in reviewing the publication was to be certain it did not contain material that might incite a dangerous incident at the school. After reading the issue in question, he remarked that it would have received his approval.

According to Illinois State Board of Education attorney Charles Givens, "People have the right to distribute information, but the board has a right to control it so it doesn't interrupt the operation of school." But, he added, "I would have a hard time saying they couldn't distribute it in the cafeteria or as school lets out."

Illinois Board of Education spokesman Eugene Finley, however, pointed to another aspect of the problem. He contended that the federal and state constitutions would prohibit distribution of religious materials in school regardless of whether the school or a student was distributing it. He noted that another Illinois district was recently barred from permitting the private distribution of Gideon Bibles. Reported in: *Carbondale Southern Illinoisan*, December 10.

#### **Trenton, New Jersey**

On December 6, New Jersey Governor Thomas Kean vetoed a bill that would have required a daily minute of silence in all public schools. In his veto message, Kean said it "is unlikely the bill could pass constitutional muster" and was, in any event, unnecessary. Kean noted that one proponent of the bill had said it would bring "prayer back into the schools through the front door." The governor added that "teachers already have the discretion to silence their classes for one minute, five minutes or twenty minutes . . . I prefer to leave it to the discretion of individual teachers to decide if their students need quiet time for contemplation and introspection." Reported in: *Newark Star-Ledger*, December 7.

#### **Commack, New York**

The Commack Board of Education overruled the District Superintendent December 9 and will allow the display of menorahs, the symbol of the Jewish holiday Hanukkah, in district schools. A ban on the displays had been ordered by Dr. Joseph DelRosso, the Superintendent, on the advice of the schools' attorney after

a parent complained in a letter that the menorah is a religious symbol. Reported in: *New York Times*, December 11.

#### **Warrenton, Virginia**

Thousands of Virginia public school students are still attending Bible classes, filled with Christian prayers and hymns. Although enrollment is technically voluntary—parents must give written permission for their children to attend—the existence of such classes on public school property during school hours has rekindled a constitutional debate in the Bible belt region of the state.

"These classes amount to free room and board and essentially a captive population for religious indoctrination," says Judy Goldberg, a lobbyist for the Virginia chapter of the ACLU, which has been spearheading a campaign against the programs. "They give the stamp of state approval for particular religious beliefs."

Since the ACLU and the state Anti-Defamation League began raising the issue this year, they have identified 28 school districts in which Bible classes and other practices, including prayer and religious assemblies, occur with varying degrees of regularity. In one high school, the ACLU discovered, prayers were being recited over the intercoms and religious signs—"He is risen"—hung in the hallways. In a Richmond suburb, teachers distributed Gideon Bibles to pupils and conducted religious assemblies where evangelical Christians proselytized.

In Fauquier County, during the early 1970s, concerns raised about such classes in school buildings led the Weekday Religious Education Council to purchase a school bus, dubbed the "Bible Bus," which now makes weekly rounds of six elementary schools. Students are led single-file onto the bus for 40-minute classes.

This year, 90.8 percent of the county's fourth-grade pupils attend the "Bible Bus" classes. Those that don't often feel pressured to conform. For example, Warrenton parent Lana Hankinson, a Catholic, chose not to send her two sons because she "felt the class had a Baptist slant." When she first withheld permission for her older son to attend, his teacher sent her notes saying "it would be good for him." And she recalled that her younger son would come home after school complaining that he felt left out.

Ms. Hankinson is probably not alone. "There's no dispute that these practices are unconstitutional," says Norman Olshansky, regional director of the state Anti-Defamation League. "But people have been afraid, and understandably so, to raise the issue and question them. I can't tell you how many times we've gotten calls from parents who are concerned about this but don't want their names used and were afraid of any publicity. It's sort of like questioning apple pie and

motherhood." Reported in: *Washington Post*, December 13.

## truth in advertising

### Washington, D.C.

Two Reagan Administration appointees at the Federal Trade Commission have proposed reforms that may sharply limit the agency's ability to stop the use of bogus "science" in consumer advertising. The effort apparently stems from a concern that the agency has gone too far in its enforcement of a requirement that advertisements have a reasonable basis in truth.

FTC Chair James Miller III has proposed that Congress approve a new, narrow definition of consumer deception, designed explicitly to hamper the agency's intervention in what he calls "marginal cases." Miller says the following advertisements fall under this description: those that engage in extreme exaggeration, those that describe an independent—and potentially unproved—analysis, and those that distort the attributes of inexpensive products.

Timothy Muris, director of the commission's Bureau of Consumer Protection, similarly believes that the FTC has demanded too much evidence in support of advertising claims. In a recent memo, Muris said that "the Commission has flirted with the notion that many advertising claims cannot be made unless they can be substantiated beyond a reasonable doubt with sophisticated scientific data. This approach, although sometimes warranted, is inappropriate for most ad claims."

Miller, an economist, is also concerned about the cost of ad substantiation. "The FTC needs to study

whether the costs imposed on society of preparing substantiation reports for claims that are true exceed the benefits derived in the form of reduced fraud and deception," he told his Senate confirmation hearing last year. Miller has said that advertising exaggerations are often useful, because they "help consumers to remember the product's name."

Miller and Muris both consider themselves champions of the business community's right to free speech. Yet, although Miller's proposal has been endorsed by the U.S. Chamber of Commerce, it has not excited the advertising community. When Miller described it at a meeting with three major trade groups, he encountered direct opposition. According to a report in *Advertising Age*, several ad industry representatives expressed concern that any attempt to weaken the existing requirements for substantiation would create public distrust. Reported in: *Science*, December 24.

## political expression

### Hackensack, New Jersey

Eric Gerstmann, an 18-year-old college freshman, ran for Bergen County freeholder last November mainly to gain political experience. He didn't expect the experience to include being accused of a crime and becoming a test case in defense of First Amendment rights.

On October 31, however, Eric, along with his mother and stepfather, was arrested for distributing campaign literature at the Bergen Mall hours after mall security guards asked him to leave. Gerstmann said the guards only bothered him after they discovered that the literature was critical of the county administration.

## pornographer of the month

On October 29, the National Federation of Decency named American Brands, Inc. as its first Pornographer of the Month. The federation said the award would go each month to companies which advertise in or distribute allegedly pornographic magazines such as *Playboy* or *Penthouse*. Announcement of the "award" was part of the organization's Pornography Awareness Week.

"We want the consuming public to know that American Brands endorses the pornographic dehumanization of women and is willing to spend literally thousands of dollars to help promote it. American Brands is obviously proud to be associated with a magazine which pays females \$5,000 to display their genitals to others, including young children and teenagers . . . American Brands agrees that spending corporate funds via advertising in magazines which

mock, belittle and demean the Christian faith is good business," said Donald E. Wildmon, a United Methodist minister who is executive director of the federation.

Last year, Wildmon's group abandoned plans for a national boycott of sponsors of allegedly objectionable television programs. Although the naming of American Brands did not include an explicit call to boycott the company's products, these products were listed and the list distributed to the federation's 16,000 member churches and to the media. In two letters to American Brands Chairman Edward W. Wittemore, Wildmon earlier informed the company of the plan to institute the award and to publicize extensively "the names, addresses, and products of companies who desire to support such publications with their advertising dollars. I sincerely hope that American Brands will review this situation and remove their support of these pornographic magazines," Wildmon wrote.

The case has drawn statewide attention from lawyers, law schools and from the ACLU, which has provided Gerstmann with an attorney. The lawyer, Frank Askin, was himself involved in a similar battle in May with the Livingston Mall in Essex County. "The cases are similar," noted Askin. "They have a constitutional right to distribute literature at the mall under the New Jersey constitution."

"I never realized this would happen, but I'm glad I'm a test case," said Gerstmann, who finished last in the election. "I feel I have a responsibility to myself and to the Constitution." Gerstmann faces a maximum penalty of thirty days in jail and a \$500 fine for criminal trespass. Reported in: *Hackensack Record*, December 23.

## sexual entertainment

### Wilmington, Delaware

A Delaware law which states that once a motion picture theatre is licensed to show X-rated films, no one under 18 will be allowed on the premises regardless of what film is being shown, may finally be tested in court. Barry Solan, manager of the independently owned State Theatre in Newark, vowed to test the restriction by having someone under 18 in his theatre during a screening of *Chariots of Fire* once he receives a license. Solan informed police of his intentions.

The 1977 Adult Entertainment Establishment Law requires the licensing of any "commercial establishment which offers sexually oriented material or specific sexual activities in any form whether printed, filmed, recorded or live." The \$100 license is routinely granted. Currently, the AEE commission licenses ten bookstores, three peepshows, three topless bars, and two "conversation parlors," but, until the State Theatre, no movie theatres.

"The question is," says Solan, "whether showing one X-rated film a year makes you an adult entertainment establishment." Authorities apparently think so, since, though the State Theatre regularly screens a wide variety of American and foreign film classics, Solan was threatened with arrest twice in December for showing X-rated films before receiving the license. The films were *Debbie Does Dallas* and *Insatiable* in one incident, and *Taxi zum Klo* in the second. Susan Wheeler, chair of the AEE commission, stated that theatres must choose between adult films and the under-18 audience, although a state deputy attorney general said he did not believe this to have been the legislature's intent. The law has already been found constitutional because it requires registration only, but observers noted that if stringently applied it could

require the registration of many institutions not usually considered adult establishments, including hotel newsstands which sell *Playboy*. Reported in: *Variety*, December 15.

### Miami, Florida

"It will bring scorn and ridicule on the state and city," said Melvin B. Karl, an attorney for the Florida chapter of the Screen Actors Guild.

"Don't worry about scorn and ridicule," responded Miami Mayor Maurice Ferre. "What about decency?"

The exchange came as the Miami Commission unanimously approved a ban proposed by Ferre on cable television pornography. The ordinance, given final approval January 13, requires the city manager to enforce the law through courtroom-style proceedings. Under its provisions, there could be no appeal from the city manager's ruling.

"The city manager could sit as judge and prosecutor," said Paul Steinberg, chair of the Florida Motion Picture, Television and Music Council. The procedure would be hard to defend as constitutional in court. Ferre proposed the censorship law after seeing nudity on a New York cable program last year (see *Newsletter*, November 1982, p. 214; January 1983, p. 25).

"We lay these cables and I think the city has the absolute right, to regulate programming, the mayor said. "Just like we have the right to set up traffic signals and we have the right to say you cannot build a twenty-story building wherever you want to." Reported in: *Miami Herald*, January 14.

## occult practices

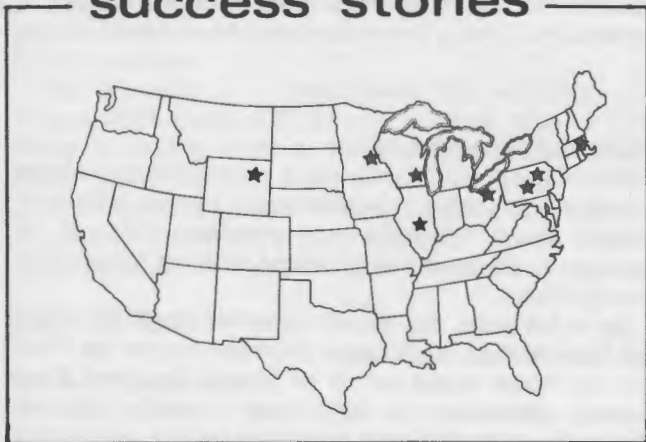
### Gresham, Oregon

Supporters of a ban on occult art practices in Gresham will seek to place a measure on the June 28 ballot. The group had hoped to meet a January 4 deadline to place the measure on the May 17 election ballot, but most of the signatures the group collected were not attached to the ballot title, and therefore invalid. The sponsors must now file 523 valid signatures by February 17.

Dr. Paul Guilleux, a family physician who is the chief sponsor of the drive, said the movement involves "about eight churches and about five or six individuals outside the churches." The measure would prohibit "the business or advertising by any means of occult or psychic practices" and further states that no person shall engage in or carry on any business related to telling fortunes, finding or restoring lost or stolen property through fortune telling, etc. It does not apply

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## success stories



### libraries

#### Peoria, Illinois

Censorship, it would seem, doesn't play in Peoria. On January 3, the Peoria School Board rejected a parent's request to remove two books from school libraries. The request to ban *Soup* and *Soup and Me* by Robert Newton Peck had been appealed to the board after a staff committee reviewed the books and voted to keep them. The board affirmed the committee decision in both cases without discussion.

The unidentified complainant alleged the books are anti-Semitic, use foul language and detail "earthy" situations. The books are written for third- and fourth-graders and relate the exploits of two boys growing up in Vermont in the 1930s. Reported in: *Peoria Journal Star*, January 4.

#### Brooklyn Park, Minnesota

A motion by Osseo District 279 school board member Chuck Waldron for the school board to initiate reconsideration procedures against *Go Ask Alice*, an anonymous teenager's account of drug use, was defeated in mid-January after lengthy discussion. Waldron, who was supported by board member Brian Danielson, told the board the issue had been brought to him as a school board member and not a private citizen. "I've shared it with you," he told the board, "so you have ownership in it. I'm not passing judgment on this. I have been told there are worse problems in our libraries."

The four board members who opposed Waldron's motion did so because they disagreed that board members were the appropriate people to initiate action. "There are two issues involved here," said board member Clair Coughlin. "One is the procedural part.

I disagree with the board initiating the form. The initiative is coming from the wrong place. The board is the final arbitrator." Regarding the book's content, Coughlin found the language "personally offensive," but could not say it "doesn't have any educational value."

Board member Ron Christensen said he feared the motion would "set a precedent." He expressed irritation that the unnamed complainant had refused to sign the form initiating the review process established by the board. "I don't know why I as a board member should be placed in this situation because the person who should sign the form won't. I'm sure there's some merit in that book or it wouldn't have gotten on the shelves in the first place," he said. Reported in: *Brooklyn Park Post*, January 27.

#### Waukesha, Wisconsin

The Waukesha School District Consideration Committee voted unanimously January 4 to dismiss a complaint against Stephen King's novel, *The Stand*. It was the third complaint against a King novel to be rejected by the committee in a year. Previously, efforts to remove King's *Firestarter* and *Salem's Lot* were also rebuffed.

The complaint against *The Stand* was made by Charles S. Gerhart, who wanted the book removed from the Horning Middle School library. Gerhart said he found the book's "gutter language" objectionable and did not find the book appropriate for children under the age of sixteen. Gerhart had stood alone, however, among twenty-two speakers at a public hearing on the complaint December 16. At that meeting, a student, Paul Stilwell, said: "Almost everyone I know uses violent language, and I always hear about sex at school and violence on television. I'm reading a lot more because of Stephen King's books. That's how I started reading, and I hope others may." Reported in: *Milwaukee Journal*, December 17, January 5.

#### Gillette, Wyoming

The Campbell County School District Reconsideration Committee voted unanimously December 15 to keep the fantasy game *Dungeons and Dragons* in school district libraries and classrooms. A month before, on November 22, the committee voted 6-1 to also retain the book *Up in Seth's Room*, by Norma Fox Mazer, in junior and senior high school libraries.

The book decision reversed an earlier recommendation to remove the novel, which treats sympathetically a teenage girl's efforts to resist the sexual advances of her older boyfriend. That recommendation, made in late September, had been appealed to the school board by three district media specialists on the grounds that the previous reconsideration committee had been

illegitimately constituted. The board decided to disband that committee and appointed a new body to consider *Seth* again and to respond to a complaint lodged against *Dungeons and Dragons*.

The game was challenged by an elementary school principal, George Mathes, who had no personal objection to it, but wanted an official decision due to threats of controversy. Speaking for *Dungeons and Dragons* were Dan Siebersma, Director of the George Amos Memorial Library in Gillette and chair of the Wyoming Library Association's Intellectual Freedom Committee, and Richard Rogers, a Campbell County High School senior and avid game player. Speaking against the game were two ministers and a parent. The three charged that the game is religious in nature, violent and encourages children to escape into negative fantasies. "The Bible can't be read in school, prayer is banned, but students can play a game that legitimizes the occult," complained George Cuff, minister for the Bethlehem Community Church. Reported in: *Gillette News-Record*, November 23, December 16.

## **schools**

### **Akron, Ohio**

In a city which has produced more than its share of controversial rock 'n' roll performers, including Devo and the Pretenders' Chrissie Hynde, rock music will continue to inspire students in the Cuyahoga Falls High School expository writing class. The ruling by the school board was a defeat for Ed Gionest, who had sought a ban on the music in the schools for fear it would lead students to Satan, sex and drugs. Gionest complained that his stepdaughter, Cindy Box, was being forced to listen to anti-Christian music in class.

Nearly 150 students in attendance at the school board meeting greeted the decision with cheers. Nat Elder, a 17-year-old senior, said use of rock music in the expository writing class helped motivate him to raise his grade from C to A, but did not lead him to use drugs or engage in deviant sexual behavior. "I don't think that music will hurt anybody," he concluded.

School board member Robert C. Nicol announced the board's ruling, saying that the school system sought to "foster a recognition of individual freedom and social responsibility, to inspire meaningful awareness of a respect for the Constitution and the Bill of Rights and to instill appreciation of the values of individual personality. These values can best be developed in an atmosphere free of censorship and artificial restraints upon free inquiry and learning, and in which academic

freedom for the teacher and student is encouraged." Reported in: *Akron Beacon Journal*, November 17.

### **Allentown, Pennsylvania**

Two first-grade books were nearly banned from Allentown city schools November 18 by the Allentown School Board. Some board members objected to passages in the books which asked children to question family values.

By a 5-4 vote, the board approved *Self*—in which the introduction encourages children to grow up "not like my Mom wants me to be"—and *You and Your Family*. Referring to *Self*, board member Helene Hospodar said, "There's something wrong somewhere if this is on the first page of the book." The offensive passage is part of a poem which encourages children to grow up as themselves and not as others want them to.

Board member Ronald W. Skinner said he was upset by a series of questions in *You and Your Family*. For instance, the text asks: "In every family, someone takes care of small children. Who does this in your family?" "Every family has rules. Who makes rules in your family?"

Said Skinner, "If the expectation is to go around and get the details on everyone's family," he did not approve. Reported in: *Allentown Call*, November 19.

### **Harrisburg, Pennsylvania**

The parents of a Cumberland Valley High School student have failed to get a book containing "vulnerable, sick words from the mouths of demon-possessed people" removed from the eleventh-grade curriculum. Bitterly complaining that the public schools had "no right to give the devil equal time with God," Eurifay Shawver threatened to set *The Crucible*, by Arthur Miller, aflame in the school parking lot to keep its "ungodly" message from the minds of her son and his classmates.

"There's absolutely nothing worthy in it and I'd have taken it out and burned it or erased it and rewritten it in my own words in two chapters if the school board hadn't said I would have to pay for it," Mrs. Shawver told an interviewer. "It should be wiped out of the schools or the school board should use them to fuel the fire of hell," she concluded. "The guy who wrote that book should not be able to be a writer."

The Shawvers' attempt to ban *The Crucible* was discussed by a committee of parents, teachers, the school principal and the district's superintendent. After two weeks the committee recommended that the book



be retained, and the school board concurred. The only public attention was a letter from the Shawvers to a local newspaper.

*The Crucible* is a play about the arbitrary and vicious witch-hunts of 17th century Salem, which Miller wrote in 1952 in response to the 20th century "witch-hunts" of the late Sen. Joseph McCarthy. Mrs. Shawver said she had never heard of McCarthyism, although she "probably read something about it back then." Reported in: *Harrisburg News*, December 13.

## journalism

### Boston, Massachusetts

Three freelance journalists who sued the federal government for seizing eleven books they brought home from Iran announced December 9 that they have won a \$16,000 out-of-court settlement. William W. Worthy, of New York, Randy Goodman, of Boston, and Teresa A. Taylor, of Cambridge, filed the suit after FBI agents confiscated their books and luggage at Boston's Logan Airport when they returned from a two-month assignment in Iran on December 3, 1981.

Worthy called the settlement "a great victory for the public's right to know." The journalists were assisted by the ACLU, whose national staff counsel, Charles S. Sims, contended that the government's decision to settle the case was tantamount to an admission of guilt. Government representatives, however, said the agreement was not "an admission . . . of any liability or wrongdoing whatsoever." As part of the agreement, the government also agreed to destroy all files about the case.

While the civil case was pending, the Justice Department brought a criminal complaint against the journalists charging them with theft of government documents. But in late spring, those charges were dropped and the seized material returned.

The controversial volumes reportedly contained detailed descriptions of U.S. and Israeli intelligence operations obtained from the U.S. embassy in Tehran. "Nobody in the government could get the books," Taylor said, even though they were widely available in Iran and Europe. The freelancers bought two sets for \$7 each at the University of Tehran bookstore. Unbeknownst to the government, the second set was shipped to New York's Kennedy Airport and turned over by the journalists to the *Washington Post*, which published articles based on the information. Reported in: *Boston Globe*, December 10.

## art

### Boston, Massachusetts

"We want nice, safe art," decided Alice Christopher,

coordinator of the Boston City Hall Gallery. So almost as soon as Christopher Huestis' painting "Order Reigns in South Africa," and David Fichter's "Daughters of Sandino" were hung in the gallery December 1, Christopher ordered them taken down. Huestis' work, Christopher argued, might be misinterpreted by blacks and rouse resentment, although the artist's intention was to make a bitter statement against apartheid. Fichter's work is an obviously sympathetic portrayal of the Sandinista revolution in Nicaragua.

"It's censorship," Fichter protested. Others apparently agreed. On December 3, Christopher's boss, Deputy Mayor Kathy Kane, took a look at the paintings and overruled her gallery coordinator. The paintings were rehung and exhibited until December 20. Reported in: *Boston Herald-American*, December 3.

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(Censorship dateline . . . from page 42)

the school and the community." She informed the students that they could take their complaint to the Dade County Board. Reported in: *Miami News*, January 11.

### Ocala, Florida

The principal of Vanguard High School in Ocala has suspended publication of an issue of the student newspaper, following controversy over, among other items, an advertisement for birth control and pregnancy counseling. The issue of the *Knight Times* scheduled for December 17 was halted pending a written opinion by the Marion County School Board attorney on a principal's right to preview and choose articles for the paper, principal Henry Lambert said.

"Dr. Lambert told me that this issue of *Knight Times* was not going to be printed now or at any time and that I was not going to be the journalism adviser for the second semester," said Nancy Brown, a Vanguard English teacher. Prior to the postponement, Lambert read most of the articles and removed two letters to the editor. Also questioned were an editorial, news story and column on the issue of censorship.

But the main issue was the advertisement. At a meeting of school principals in early November, Superintendent Leon Rogers ordered an advertisement for the All Women's Health Center in Ocala be kept out. When the newspaper staff accepted the ad, Lambert acted. Reported in: *Naples Daily News*, December 16.

## periodicals

### Washington, D.C.

Washington police raided the office of *Stars*, an erotic gay magazine, and the home of the magazine's

publisher November 1, in what they described as an investigation of child pornography. Magazines, photographs and business records were confiscated, but no arrests were made and no charges filed. *Stars* publisher and editor Glenn Turner said that minors had never been photographed for the magazine. Turner said the magazine "goes farther than most" to insure that models are of age. The *Stars* masthead includes the statement, "All models are at least 18 years of age." Reported in: *Equal Time*, December 15.

## films

### Norfolk, Virginia

The award-winning film *Taxi zum Klo* was confiscated by Norfolk police October 5 on the ground that it may violate the city's obscenity law. Over five hundred people, including vice squad officers, attended a showing of the film on October 5 at the Naro Expanded Cinema. After the showing, the police seized the film, calling it obscene, with a "shameful, morbid interest in homosexual love affairs" that contains "no serious medical, artistic or literary material and [goes] beyond the limits and candor of social acceptability." The seizure and the city attorney's delay in deciding whether to prosecute have already had a chilling effect. Naro manager Tench Phillips cancelled the showing of another film "because there are no parameters about what can be shown and what can't . . . so we're steering clear of anything of a sexual nature." Reported in: *GLC Voice*, November 15.

## art

### Washington, D.C.

A painting featuring a Ku Klux Klan member was dropped for consideration in a periodic exhibit at the National Academy of Sciences in January after several employees objected to the subject matter. The painting, titled "Clouds and Shadows," was one of 27 submitted by Jere Allen, a University of Mississippi art professor, for display in the Academy building. According to Frederica Wechsler, art curator of the Academy, she received two calls protesting the possible display of the picture. Wechsler called the painting "an editorial statement; the subject is obviously not a very nice fellow." But, apparently, the callers did not "see the painting the same way I did, and since the purpose of the exhibits is to make this a more beautiful and pleasant place to work, I had to question what service we would provide by hanging it. If we were a gallery, I might feel differently. The artist has a right to his expression." Reported in: *Washington Post*, January 19.

### South Kingstown, Rhode Island

Officials at the University of Rhode Island decided to dim the lighting on an exhibit of female nude drawings in a corridor in the school's Fine Arts Center because they felt the art work might offend people attending a Christmas play there. In response, the enraged artist, Professor William Klenk, took down the sketches and sent a strong protest to the president of the university. "I wanted you to know," Klenk wrote, "that this university is not entirely free of the bigotry that diminishes and abridges free inquiry and expression."

The decision not to light the exhibit during the play, which was held December 8-12, was made by art department chair Ronald J. Onorato and Barry A. Marks, dean of the College of Arts and Sciences. "We felt this was one way of not calling attention to the drawings and still leave them on display," said Onorato. "On the one hand," commented Marks, "it avoided out-and-out censorship and a violation of academic freedom, while not offending the sensibilities of the public."

Ironically, it was Marks who supported Klenk two years earlier when campus postal employees refused to send out announcements for a similar show because they featured a drawing of a nude. "It's a relatively small incident," Klenk said. "I mean it's not that this was a major show or anything. But it chips away at the foundations of the university and everything it stands for." Reported in: *Providence Bulletin*, December 21.

## rock records

### Fort Walton Beach, Florida

"All's we're trying to do is get those people who are lost to come and find the Lord," said Tom Lunger, youth director of the Abundant Life Church in Fort Walton Beach. Lunger was explaining why, on November 17, the church had brought together about fifty teenagers to smash their rock'n' roll records and ceremonially burn the album jackets.

The burning at Abundant Life was the second such incident in Fort Walton Beach. Two weeks earlier another church called The Chapel held a similar ceremony during which several hundred records and tapes were destroyed. "When they begin to say Satan is king, the devil is king and Jesus is bad, then it's time we took a stand. The world needs to know about what's going on in the music business," The Rev. Ken Murie told his congregation.

Back at Abundant Life, church elder David Rudolph told reporters that he and his fellow church members are not "kooks." "We're all brainwashed," he said.

"I've just chosen who's washing my brain." Reported in: *Pensacola Tribune*, December 6.

#### Minneapolis, Minnesota

The youth group of the Jesus People Church of Minneapolis tossed an estimated 4,500 "secular rock 'n' roll" records onto a heap January 17 to be carted away by a garbage truck. The group is called Hesed, Hebrew for "God's promised love," said Linda Walker, the church's youth ministry secretary. "We don't have any problems with the style of rock and roll music," she said. "It's the artists' life styles and the message they are bringing to young people." Reported in: *Minneapolis Star and Tribune*, January 18.

## foreign

#### Tel Aviv, Israel

Just two weeks after a ban on performances of the music of Richard Strauss had been lifted, Israel's Broadcasting Authority reversed the decision of its music committee and, by a 3-1 vote, reimposed restrictions on the allegedly anti-Semitic composer's music. The earlier decision to permit playing of Strauss compositions on Israeli radio came November 10, after conductor Igor Markevich convinced the music committee that although Strauss had stayed in Germany during the Nazi period, unlike Wagner, whose music is also banned in Israel, he was not an anti-Semite (see *Newsletter*, January 1983, p. 24).

Arguments about the acceptability of the two composers have been continuing for years in Israel. In the early 1950s, a protestor physically assaulted violinist Jascha Heifetz when he attempted to play a Strauss sonata. And only this year, an outcry of protest greeted the Israeli Philharmonic's decision to play a Wagner composition as an encore. No public reaction against the reimposition of the ban on Strauss was registered, although many radio stations had been playing his works extensively during the brief period it was legal to do so. Reported in: *Variety*, December 1.

#### Mexico City, Mexico

One of the first measures taken by newly inaugurated Mexican President Miguel de la Madrid after taking office December 1, was to cancel a new censorship law imposed by outgoing President Jose Lopez Portillo during the final days of his administration. The law, which provoked a sharp outcry from Mexican intellectuals and the press, had prohibited everything from

hardcore pornography to stories which allegedly disparage Mexicans or use poor Spanish grammar. Critics called the rescinded measure "fascistic" and "contrary to traditional Mexican freedoms."

Yet within weeks, de la Madrid had proposed an equally objectionable law of his own, which would amend the constitution to permit persons whose moral standards, reputations, or personal appearance have allegedly been maligned to sue for damages. Intellectuals, entertainment figures, and journalists labelled the proposal a "danger to press and personal freedoms," arguing that journalists or political figures who so much as hurt the feelings of someone could be hauled into court and heavily fined. Some three hundred enraged journalists, many with their mouths sealed by band-aids, showed up outside the Senate chambers where the bill was under debate to protest. Reported in: *Boston Globe*, November 28; *Variety*, December 15, 29.

#### Manila, Philippines

Soldiers acting on orders from President Ferdinand E. Marcos raided the offices of an opposition newspaper December 7, arrested its editor and prevented it from publishing. Marcos issued detention orders against thirteen other staff members of the tabloid *We Forum*, according to Amante Bigornia, assistant presidential press secretary.

The paper's editor, Jose G. Burgos, was charged with subversion "for involvement in the conspiracy to overthrow the government through black propaganda, agitation, and advocacy of violence," Bigornia said. "This is the price for searching for the truth," editor Burgos replied, just before soldiers took him away.

Marcos ended eight years of martial law in January 1981, but retained broad powers to censor the press, decree laws without parliamentary consent and jail anyone suspected of plotting against him. His critics say he has restored civilian government in name only. Marcos' supporters often pointed to the continued publication of *We Forum* as evidence that press freedom had been restored in the Philippines after the rescinding of martial law. Reported in: *Philadelphia Inquirer*, December 8.

#### Johannesburg, South Africa

South African censors have decreed that it is a criminal offense to import or distribute copies of *Master Harold . . . and the Boys*, a play by South African dramatist Athol Fugard that is nearing the end of its first year on Broadway. The order from the Directorate of Publications came on its weekly list of bannings. It applies only to printed copies of the play, but lawyers familiar with the censorship law said it was very

doubtful the play could be staged in South Africa before the order was reversed.

Although the South African racial context is essential to *Master Harold*, the play deals less explicitly with sensitive political scenes than other recent plays by Fugard which have been performed in South Africa. For this reason, there was speculation that an appeal against the ban might, in the end, prove successful. The same announcement that listed the banning of *Master Harold* lifted bans on Vladimir Nabokov's *Lolita* and Harold Robbins' *The Spellbinder*. Reported in: *New York Times*, December 5.

#### Stockholm, Sweden

Arguing that the film portrays adults as enemies of children, and that it is pervaded by a "threatening and frightening atmosphere," the Swedish Board of Film Censorship has limited audiences for *E.T.*, *the Extra-Terrestrial* to those above age eleven. Supported by some child psychologists, chief censor Gunnell Arrback said those under eleven might be traumatized by the film. Similar limitations were also placed on the film in Finland, where the age limit is eight, and Norway, where it is twelve. Some Swedish youth have picketed the film showings to protest the ban. Reported in: *Philadelphia Inquirer*, January 21.

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#### (War on ALA . . . from page 29)

library rules, and postponed further discussion until February 8.

On January 18, however, an overflow crowd heard the Three Rivers City Commission approve by a 6-0 vote a resolution limiting use of all public buildings, including the library, to "governmental or quasi-governmental groups in the conduct of officially designated business." The resolution called on city staff to prepare new guidelines on the use of "available rooms and spaces . . . by community groups, clubs and organizations" within ninety days. Emery branded the resolution unconstitutional.

According to Emery, the Klan joined with the Varners to stop "corruption of the young white children here in Three Rivers and all over the United States." Along with Emery, Varner was identified on the meeting room application as a Klan officer, but the minister described himself as only a "friend of the Klan." "We as a church organization do not believe in everything the Ku Klux Klan does," he said, "[but] to the best of my knowledge the KKK is the only group that will speak out on what the American Library Association is trying to do to our young people."

In December, a representative of Varner's group

filed another request for reconsideration with the Elkhart Public Library. The local woman, Patricia Gosser, a member of Christian Research and Factual Studies, said that *Understanding Gay Relatives and Friends*, by Clinton R. Jones, was an attempt to get "people to accept the homosexual life style, like there is nothing wrong with it." On January 19, however, the library's board of trustees rejected her request for the book's removal.

"We are going to keep fighting them any way we can," Mrs. Gosser replied. "The ALA is pushing these books. The only books they allow are all favorable to the homosexual lifestyle. They are all pro-homosexual," she said. "These books aren't going to just adults. Any child can get books detailing homosexual and sodomite acts. That's what we are worried about." Rev. Varner said others of his supporters were undertaking similar efforts in South Bend, Mishawaka, and Goshen.

Meanwhile, the controversy also spread to neighboring Niles, where it received considerable publicity due to the involvement of a member of the U.S. Congress (see *Newsletter*, January 1983, p. 8). In September, Varner mailed a list of homosexual materials compiled by ALA's Gay Task Force to the Rev. David McQuade of Life Action Ministries, who was, at that time, a paid promotion organizer for the reelection of Rep. Mark Siljander (R-Three Rivers). On October 6, Siljander, who was elected to the congressional seat vacated by David Stockman with the support of "pro-family" groups, wrote the Niles library on congressional letterhead to request removal of four titles. They were: *The Homosexual*, by Alan Ebert; *The Gay Report*, by Harla Jay and Allen Young; *View From Another Closet*, by Janet Bode; and *The Lord is My Shepherd and He Knows I'm Gay*, by Troy Perry.

At an October 21 public hearing, Rev. McQuade and members of Life Action Ministry argued for removal of the four books, but their appeals were turned down by a unanimous vote of the library board. On November 18, approximately 120 supporters of Life Action Ministry attended a second board meeting to present a proposal calling for all materials in the library to be rated either "G" or "R". The board refused to consider the rating plan, and Life Action Ministry began a petition drive for its adoption and for removal of the contested titles. Rep. Siljander also continued to speak out against the books.

On December 30, outgoing Michigan Governor William Milliken signed into law a statute protecting confidentiality of library circulation records which had been amended to prohibit the removal of library materials by anyone other than a library employee (see

p. 33). State Sen. Jack Faxon (D-Detroit), author of the amendment, said it was aimed specifically at situations like the one in Niles. According to Niles librarian Anne Frese, mail received by the library on the issue was running two-to-one in favor of the board. Although McQuade said he did not think the new law would affect his petition drive, he acknowledged that for the moment "the board has made it pretty clear how it feels."

That admission set the stage for the entry of Emery and Varner. On January 20, the Niles Community Library Board meeting was nearing an end when Emery, Varner, and three supporters entered and requested permission to speak. "McQuade may have backed down on the issue of Niles library books, but the Klan won't," Emery vowed. In a written statement, he and Varner said:

"Having read the book reports written by Rev. David McQuade on the pro-homosexual books in this library that are being dispersed to the young people of this community, we wish to advise the library board that we are in full agreement with Rev. McQuade, and do hereby request that any and all pro-homosexual material be removed from the shelves . . . Realizing that all books have already been censored by the American Library Association and their Gay Task Force, to prevent any anti-homosexual books from being placed on the shelves, we object to these tactics by this Sodomite group and take issue with this board and their approval of such filth, that belongs on the shelves of a porno shop."

After the meeting, Emery and Varner requested use of the library auditorium for a Ku Klux Klan meeting about the book controversy on February 26. Emery said the meeting would "plan strategy" and "let every American citizen know what their children are exposed to. This stuff is accessible to children—young white children—and we want some guarantee that a child can't get it." Librarian Frese said the request for the meeting would be given to the board, whose next meeting was February 24.

In several press reports, Rev. McQuade dissociated himself and his Ministry from the activities of Emery and Varner, and from the Klan. Rep. Siljander also issued a strong denunciation of the KKK's involvement in Three Rivers and Niles. "Certain individuals have recently made a point of objecting to the presence of several books in our local library," a Siljander aide said in a speech written for him by the Representative and delivered to a conservative Christian group. "When the local library board overruled their objections, they solicited the support of the KKK. Thus, reactionary fanaticism comes to Three Rivers. Any group that promotes hatred and racism in an effort to curb pornography leaves a moral evil of even greater pro-

portions. What is disgustingly more immoral than any pornography book or magazine could ever be, is the human heart that substitutes hatred and prejudice for compassion and love. Is hatred toward blacks and Jews moral? Certainly not!"

Despite such strong criticism, however, Emery and Varner pledged to continue their efforts. "Three empires of the Klan are opening a full-scale war on the American Library Association," Emery announced. "And we won't stop until it's destroyed." Reported in: *South Bend Tribune*, January 13, 17, 18, 19, 21; *Niles Daily Star*, December 27, January 18, 21, 22; *Benton Harbor-St. Joseph Herald-Palladium*, January 14, 15, 20, 21; *Elkhart Truth*, January 20; *Kalamazoo Gazette*, January 10, 16.

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(IFC report . . . from page 32)

our essential role. The strategy session offered the opportunity to build on the strengths of our current support system, while at the same time, honestly deal with areas which need improvement.

On behalf of the Committee, I would like to thank President Nemeyer and the ALA Executive Board, the Executive Director, and Mrs. Krug for the success of this effort. A special note of thanks must be made to Elliot and Eleanor Goldstein of Social Information Resource Series and Tony Lisener of Quality Books for their financial support of this important project.

The Committee is now aggressively following up on the recommendations made at the session by developing a series of short and long range charges.

Current activities which address some of the areas of concern noted at the session include "spreading the word" to our natural allies.

In this regard, the Committee sponsored a session at the AASL National Conference in Houston and is presenting a major program on Intellectual Freedom Challenges in the 1980's at the PLA National Conference in March.

At the instigation of the Wisconsin Intellectual Freedom Coalition and other groups, a conference on Orwell's *1984* is now being planned for March, 1984. The Committee agreed not only to join this effort as a co-sponsor, but to authorize two of its members to participate in the planning.

In yet another Midwinter "happening," the Intellectual Freedom Committee and the Public Library Association agreed to co-sponsor, along with AAP and the Fund for Free Expression, a study of public libraries. Tentatively entitled, *Intellectual Freedom and the Public Library*, the study will focus on pressures

that public libraries face in building diverse library collections. I will keep you informed of the study's progress.

Throughout this Midwinter Meeting and, in fact, during this past year, the Intellectual Freedom Committee has received substantial input from all the intellectual freedom units of the Association in preparing policy statements, in planning conference programs, and in drafting procedural documents. As an example of these combined efforts, the Intellectual Freedom Committee is presenting to the ALA Council for information purposes a procedural document entitled *Dealing with Concerns about Library Resources.* The Intellectual Freedom Committee would like to thank the intellectual freedom committees of ALSC, ALTA, and YASD, and the IFRT for their enthusiastic, active involvement in the Committee's work. We are also delighted with the news that the Public Library Association will soon be establishing an intellectual freedom committee.

In a closing note, the budgetary problems of the Association are being strongly felt by the Office for Intellectual Freedom. The frozen position coupled with the recent cut of \$10,500 in the budget has created a major burden for the staff. However, through the hard work of the staff and the Committee, there is an ongoing thread of continuity in many key aspects of the program.

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*(Sin of obscenity . . . from page 35)*

in the name of God! In England, Church authorities jailed or executed numerous individuals for heresy, held public book burnings, and helped control printing presses under the royal licensing system.

Obscenity did not become a state offense at common law until early in the eighteenth century. Earlier prosecutions for obscenity took place in the ecclesiastical courts of the Church of England. When a prosecutor attempted to try an obscenity case in a state court in 1708, the judge *dismissed* the case for lack of jurisdiction, observing that the proper place for such matters was a Church court. Furthermore, the judge noted, neither the common law nor statute law provided for the punishment of such material.

This rule was altered by a Christian judge in another state court who, in 1727, permitted the prosecution of Richard Curl for obscenity. Curl was found guilty of the charge because his naughty booklet, *Venus in the Cloister, or the Nun in Her Smock*, reflected upon "religion, virtue, and morality." By way of this specific case, the "sin of obscenity" became criminal offense at common law.

Following Curl's conviction, support grew among religious leaders for the concept of permitting state courts to punish such matters as blasphemy, profanity, obscenity, and other forms of religio-moral heresy. In 1802, Thomas Bowdler (from whose name we get the term "bowdlerize," meaning to prudishly eliminate objectionable language from works of literature) started England's first "Christian action league," which he named The Society for the Suppression of Vice. The announced goals of Bowdler's group were "to prevent the profanation of the Lord's Day, prosecute blasphemy and suppress blasphemous publications, bring the trade in obscene books to a halt, close disorderly houses and suppress fortune tellers." Several decades later, Parliament responded to the lobbying efforts of this and other "anti-sin" organizations by enacting the Obscene Publications Act of 1857—the first such statute in English history.

Developments in the United States paralleled those in England, with actions against "sinful" expression evolving from Church courts to those of the states. The first conviction for obscenity in a civil court in the United States occurred in Philadelphia in 1815, when Jesse Sharpless was found guilty at common law of displaying a painting "representing a man in an obscene, impudent, and indecent posture with a woman." In 1821, Vermont became the first state to write the "crime" of obscenity into its legal code, an action soon followed by Connecticut (1834) and Massachusetts (1835).

The major federal statute, which remains in the *U.S. Code* to the present day, is the Comstock Act of 1873. This law, lobbied through Congress by New York anti-vice crusader Anthony Comstock, makes it a federal crime to use the mails to disseminate legally obscene materials. In 1957, in the landmark case of *Roth v. U.S.*, the U.S. Supreme Court upheld the obscenity provisions of this law. Current enforcement of state and federal obscenity statutes is based upon the 1957 *Roth* definition of obscenity, as altered by the Supreme Court, in 1973, in *Miller v. California*.

American courts have developed a definition of obscenity which differs from the term's original meaning. At first, "obscenity" (from the Latin *obscenus*) meant that which was loathsome, offensive, or repulsive. American judges—particularly those of the Supreme Court—have redefined the term to mean the sexual, the sensual, and the erotic (including feelings which are warm and pleasant to many). Crude language, for example, is no longer legally obscene in the United States—only sexual material is obscene.

During the twentieth century, the U.S. Supreme Court declared unconstitutional a variety of statutes and government regulations which attempted to further establishment of religion. For example, New York's

effort to forbid the showing of the Italian film *The Miracle* on the ground of sacrilege was overturned by the high court in 1959. Also, an Arkansas statute from the late 1920's which forbade teaching evolution in the public schools because the theory supposedly conflicts with the Bible was rejected by the Court in 1968. The pious judges of the U.S. Supreme Court, however, continue to approve of government censorship of sinful ideas about sexual morality, *thereby making "obscenity" the last religio-moral heresy legally suppressed by civil authority on behalf of the nation's majority religion.*

When Thomas Jefferson was informed by his Philadelphia book agent, N. G. Dufief, that a French scientific treatise requested by Jefferson was not available because it had been suppressed by religious authorities in Pennsylvania, the author of our Declaration of Independence responded as follows (letter to Dufief, April 19, 1814): "Is this, then, our freedom of religion? And are we to have a censor whose imprimatur shall say what books may be sold, and what we may buy? . . . Whose foot is to be the measure to which ours are all to be cut or stretched? Is a priest to be our inquisitor, or shall a layman, simple as ourselves, set up his reason as the rule for what we are to read, and what we must believe? It is an insult to our citizens to question whether they are rational beings or not, and blasphemy against religion to suppose it cannot stand the test of truth and reason." If the book in question, Jefferson added, "be false in its facts, disprove them; if false in its reasoning, refute it. But, for God's sake, let us freely hear both sides, if we choose. . . ."

I can think of no more fitting rebuke to the would-be censors of the United States—whether of some local church, some "decency league," some legislative committee, or some judicial body such as the U.S. Supreme Court (often described by the late Justice Hugo Black as a "National Board of Censors")—than to paraphrase Jefferson: "If explicit sexual communications teach false values, disprove them; if such materials express ideas which you consider to be immoral or sinful, refute them with effective education and persuasion. But for God's sake, let the citizens of this nation hear both sides, if we choose!"

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*(Obscene nuisance . . . from page 35)*

theaters which display obscene films and bookstores in which obscene materials make up "a principal part of the stock in trade." Again, the test is *Miller*. Unlike Indiana, however, Washington will only permit government attorneys to institute a proceeding. Moreover, the Washington law does not specify the penalty to be imposed; that is left to the court to decide. As a small comfort, the Washington law contains an exemption

for historical societies, museums and libraries.

The California obscene nuisance statute, which started out looking very similar to the Indiana and Washington measures, was reduced by the time of its passage in September to a shadow of its former self. The lawmaker who introduced the proposal intended to broaden the state's Red Light Abatement Act, which covers places used for illegal gambling, lewdness, assignation or prostitution. S.B. 1720 would have added outlets for films and literature judged obscene under *Miller* to the "nuisance" list.

In the end, however, S.B. 1720, entitled "Public Nuisances," not "Moral Nuisances" as in previous drafts, provided only that in cases where the court enjoins the sale of obscene material, it may award costs, including the cost of investigation and attorney's fees, to the government agency which brought the action.

While no other obscene nuisance bills were adopted in 1982, a Michigan bill which included provisions for abatement of obscene nuisances was on the brink of passage during the legislature's eleventh hour. Having passed the House, it was brought before the Senate on the final night of the session and approved, fifteen to seven. Fortunately, it was a meaningless vote, as not enough senators were present for a quorum.

Besides defining "obscene nuisance," the Michigan bill would have increased penalties for distributing obscene materials. A first conviction could bring up to four years in jail and \$10,000 in fines. A repeat offender could serve up to twenty years. Howard Simon, executive director of the Michigan CLU, believes the bill will be reintroduced this session. He feels it enjoys increased chances of success.

Bad as they were, none of the bills considered in 1982 can compare with S.B. 1977, now before the New Jersey legislature. In Indiana and Washington, the test for obscenity is at least constitutional. In New Jersey, no proof at all of obscenity is required to shut down an establishment as a nuisance.

According to the bill, any account or visual representation of any anatomical area or sexual activity which "emits sensuality with sufficient impact to concentrate prurient interest on the area or act" constitutes "lascivious material." The sale, photographing, manufacture, or exhibit of such materials may be enjoined, the materials seized, the business closed for up to a year and a fine of \$300 to \$1,000 collected. In addition, the proprietor may be found guilty of a crime of the fourth degree and additional punishments imposed. A Mississippi bill doesn't define "obscene" at all! This, however, appears to be a printing error.

These are the "nuisances" to date, but the legislative season is young. There is still plenty of time for legislators to annoy the Constitution.

# intellectual freedom bibliography

Compiled by Robert P. Doyle, Assistant to the Director, Office for Intellectual Freedom.

- Aufdemberge, Sara. "Selection vs. Censorship." *The Book Report*, November-December 1982, pp. 24-25.
- Berman, Sanford. "'Inside' Censorship." *Anvil*, August-September 1982, pp. 20-22.
- Broadhurst, Austin. "A Legal Opinion: *Island Trees v. Pico*." *Massachusetts Association of School Committees Journal*, September 1982, pp. 14-17.
- Broderick, Dorothy M. "Lottery: An Analysis of a Controversy." *Media and Methods*, September 1982, p. 8.
- Brodinsky, Ben. "The New Right: The Movement and Its Impact." *Phi Delta Kappan*, October 1982, pp. 87-94.
- Butts, R. Freeman. "The Danger of Beguiling Half-Truths: The First Amendment Framers on Prayer." *Education Week*, February 2, 1983, p. 24.
- "Censorship in the Classroom and Program Evaluation." *Elementary School Guidance and Counseling*, October 1982, pp. 4-65.
- Cover, Robert M. "The Left, the Right, and the First Amendment: 1918-1928." *Maryland Law Review*, v. 46, no. 3, 1981, pp. 349-88.
- Dixon, Greg. "The Deliberate Sabotage of Public Education by Liberal Elitists." *Phi Delta Kappan*, October 1982, p. 97.
- Donelson, Kenneth. "Rationale for Writing Rationales: Advice to (and comments on) Teachers Who Don't See Any Point in Writing Rationales." *Contemporary Education*, Fall 1982, pp. 9-12.
- Engelbert, Alan. "Censorship in Missouri: A Survey." *Show-Me Libraries*, December 1982, pp. 5-10.
- Flygare, Thomas J. "Supreme Court Perpetuates Confusion in School Library Censorship Case." *Phi Delta Kappan*, November 1982, pp. 208-209.
- Foley, Robert. "The Community's Role in Dealing with Censorship." *Educational Leadership*, January 1983, pp. 51-55.
- Gabler, Mel and Gabler, Norma. "Mind Control Through Textbooks." *Phi Delta Kappan*, October 1982, p. 96.
- Greene, Alice. "We Took Censorship to the Classroom." *The Book Report*, November-December 1982, p. 29.
- Hentoff, Nat. "Nice People Who Burn Books." *Progressive*, February 1983, pp. 42-44.
- Iarusso, Marilyn Berg. "Controversy Flares Over *A Real Naked Lady*." *Sightlines*, Fall/Winter 1982/83, pp. 4-7.
- Index on Censorship*, December 1982. Articles on censorship around the world.
- Jenkinson, Edward B. "Censorship in the Schools: Schoolbooks Under Attack." *School Administrator*, March 1982, pp. 1, 12-13.
- Jones, David M. "Selecting Instructional Materials: Before the Crisis." *School Administrator*, March 1982, pp. 14-16.
- Joseph, Gary. "The Enemy Within." *The Book Report* November-December 1982, pp. 26-27.
- Knop, Marilyn. "I'm Totally Opposed to Censorship, But . . ." *The Book Report*, November-December 1982, p. 23.
- McGraw, Onalee. "Where is the Public in Public Education?" *Phi Delta Kappan*, October 1982, pp. 94-95.
- Messall, Rebecca S. "The Public School Library: Who Will Control?" *University of Missouri—Kansas City School of Law*, Summer 1982, pp. 567-602.
- O'Neil, Robert M. "Sorting Out the Library Shelf In the Wake of the *Pico* Decision." *Education Week*, January 26, 1983, p. 17.
- Pincus, Fred L. "Censorship in the Name of Civil Rights: A View From the Left." *Education Week*, January 26, 1983, p. 20.
- Ravitch, Diane. "Censorship in the Eighties: Perspective." *Massachusetts Association of School Committees Journal*, September 1982, pp. 5-11.
- Schwartz, Gilbert. "Policies and Procedures to Handle Complaints." *The Book Report*, November-December 1982, pp. 19-22.
- Stahlschmidt, Agnes. "A Workable Strategy for Dealing with Censorship." *Phi Delta Kappan*, October 1982, pp. 99-101.
- Statz, Beatrice. "Preparing the School Staff for the Censor." *The Book Report*, November-December 1982, p. 98.
- Truett, Carol and Lowell, Cliff. "Ed Jenkinson Gives Keynote Address on Facets of Censorship." *Nebraska Educational Media Association News*, Winter 1983, p. 2.
- Weiman, Jean and Motomatsu, Nancy. "Keeping Calm Under Pressure: Practical and Tested Strategies for Censorship Controversies." *The Book Report*, November-December 1982, pp. 14-18.
- Woods, L. B. and Sessions, Marcia A. "Censorship in the Public Schools of New England 1976-1980." *Rhode Island Library Association Bulletin*, December 1982, pp. 5-10.
- Yates, John. "One Response to Classroom Censors." *Instructor*, September 1982, p. 27.

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