

newsletter  
on  
intellectual  
freedom



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**the new  
government  
secrecy**

*In an editorial entitled "government secrets, government censors" in the July 1983 issue of the Newsletter, the editors of this publication noted our growing concern about the increasingly serious assaults by the Reagan Administration on the free flow of information and ideas. In the present issue, we publish several articles of particular relevance to this situation. On page 177, readers will find a draft working paper prepared by the American Civil Liberties Union on the special problems associated with the international exchange of information and ideas. Although the problems discussed in this highly informative memorandum did not originate with the current Administration, they have certainly gained added importance in this period of what some have called the "new cold war." On page 179, Susan L. Heath offers a provocative comparison of current trends with the chilling predictions of George Orwell's classic 1984. Will the real 1984 mirror the fictional one? Ms. Heath and Martha Gould have also prepared a useful annotated bibliography of recent materials on government secrecy, the Freedom of Information Act and personal privacy which will be found on page 181. The following article, prepared by the editors, seeks to summarize the major developments in the emergence of the new government secrecy as perceived by some prominent critics of government information policy.*

In a recently released report on "Free Speech 1984," ACLU Executive Director Ira Glasser charged that government efforts to control information and ideas have increased dramatically during the Reagan Administration. Describing a "second generation of First Amendment problems," Glasser wrote: "The new tactic of suppression . . . is nothing less than a covert action against the First Amendment and, ultimately, democracy itself . . . The procedural rights to speak, publish, hear and read remain intact. But what we are permitted to speak about, publish, hear and read is increasingly limited to what the government wants us to know."

The ACLU report charged that information and ideas are being restricted by government attempts to broaden the definition of what can be classified as secret, limit use of the Freedom of Information Act, censor former government employees, license foreign publications, bar travel by Americans to some countries, refuse entry visas to foreign scholars and control scientific research publication.

*(Continued on page 198)*

# in this issue

the new government secrecy ..... p. 175

free movement of information and ideas across  
the American border ..... p. 177

Illinois confidentiality law ..... p. 177

moral majority survey results ..... p. 178

atheists threaten lawsuit ..... p. 178

government limits on access  
prelude to 1984 ..... p. 179  
annotated bibliography ..... p. 181

AAParagraphs ..... p. 183

who censors? ..... p. 184

white house porn group ..... p. 184

## targets of the censor

### books

*Against All Odds* (Thomas Y. Crowell, 1978) ... p. 186

*The Alfred Summer* (Macmillan, 1980) ..... p. 197

*American Jewish Yearbook* (Jewish Pubn., 1981)p. 200

*Angel Dust Blues* (Coward, 1979) ..... p. 185

*Are You There God? It's Me, Margaret* (Bradbury Press, 1970) ..... p. 197

*Blubber* (Bradbury Press, 1974)..... p. 197

*The Devil's Alternative* (Viking Press, 1980) .... p. 186

*The Devil's Book of Verse* (Dodd, Mead, 1983) . p. 188

*Dr. Love* (St. Martin's, 1982)..... p. 185

*Down By the River* (Coward, 1981)..... p. 185

*Du Pont: Behind the Nylon Curtain* (Prentice-Hall, 1974) ..... p. 192

*Gentle Hands* ..... p. 187

*Happy Endings Are All Alike* (Harper and Row, 1978)..... p. 185

*Harriet the Spy* (Harper and Row, 1964) ..... p. 197

*Heaven is a Playground* (Grosset and Dunlap, 1976) ..... p. 185

*History of the Jews* (Jewish Pubn., 1968)..... p. 200

*I Love You, Stupid* (Thomas Y. Crowell, 1981) . p. 185

*Keeping Faith* (USSR)..... p. 200

*Le Ballet* (USSR)..... p. 200

*Love Is One of the Choices* (Dial, 1978) ..... p. 185

*The Many Faces of Anti-Semitism* (USSR) ..... p. 200

*My Name is Asher Lev* (Knopf, 1972)..... p. 200

*The New Limerick*..... p. 197

*Nicholas and the Jews* (USSR)..... p. 200

*Seven Theories of Human Nature* (Oxford U. Pr., 1974)..... p. 197

*Point of Departure* (Dell, 1961)..... p. 187

*Skim* (Dodd, Mead, 1983) ..... p. 188

*Street Law* (West Pub., 1980) ..... p. 186

*Tip on a Dead Crab* (Dodd, Mead, 1983)..... p. 188

*Understanding Health* (Random House) ..... p. 186

*Understanding Israeli Social Approaches* (USSR) p. 200

*The United States and the Middle East* (SUNY Press, 1979) ..... p. 188

*Where the Sidewalk Ends* (Harper and Row, 1974)p. 197

*Working* (Pantheon, 1974)..... p. 187

### periodicals

*Exodus* ..... p. 189

*Instead of a Magazine*..... p. 194

*International Family Planning Perspectives*..... p. 196

*Milliyet* (Turkey)..... p. 200

*Ms.* ..... p. 191

*Nokta* (Turkey) ..... p. 200

*The Spectrum*..... p. 195

*Tercuman* (Turkey)..... p. 200

### film

*Taxi Zum Klo*..... p. 189

### foreign speakers

Dario Fo..... p. 196

Franca Rame ..... p. 196

Ruben Zamora..... p. 196

## NIF Index, 1981-82

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## free movement of information and ideas across the American border

*The following memorandum is a working paper for a report being prepared by the American Civil Liberties Union in support of draft legislation aimed at lifting restrictions on the international exchange of information and ideas. This issue has acquired growing significance in the wake of increasing government efforts to control such exchanges, many of which are documented in this working paper.*

The right "to seek, receive and impart information through any media and regardless of frontiers" is a fundamental freedom proclaimed in the Universal Declaration of Human Rights, which the United States has pledged to respect and observe. The Helsinki Final Act of 1975, which the United States has signed, calls upon each of the participating nations to "gradually simplify . . . and administer flexibly the procedures for exit and entry" and "to ease regulations concerning movement of citizens from the other participating States in their territory. . . ." Moreover the First Amendment includes the right to gather information and to know. Nonetheless, in a variety of ways present law restricts the ability of American citizens to receive information and ideas about the world around them. Existing statutes infringe upon these rights by inhibiting the right of American citizens to travel abroad and by inhibiting the ability of citizens to import ideas and information by regulating with whom citizens can meet in the United States and what types of information Americans can import.

This memorandum describes the existing laws which affect the free movement of information and ideas and analyzes their consequences. It describes those laws which exclude foreigners because of their political beliefs, and which restrict the ability of American citizens to travel abroad. It then describes those laws which inhibit the ability to import or export ideas and information. It argues that repeal of those laws and regulations which restrict the flow of ideas, or people because of their ideas, into the country, or which restrict the freedom of international travel of American citizens would strengthen democracy since an informed citizenry is the *sine qua non* of a functioning democracy, and information from abroad is necessary for informed public debate. Congress should adopt legislation which will sweep away these restrictions, and provide for effective recourse to the courts.

### Controls on Visits by Aliens

Current law infringes upon the ability of American citizens to receive ideas and information by regulating, on the basis of political beliefs and activities, which aliens citizens can meet with in the United States. Enacted during the height of the McCarthy era over the veto of President Truman, the Immigration and Nationality Act of 1952 governs the entry of aliens into the United States. This bill, the 'McCarran-Walter Act,' contains three sections which have been used to interfere with the free movement of ideas.

Under these 'ideological exclusion' provisions consular officers are directed to deny visas to those whose activities would be "prejudicial to the public interest" or "subversive to the national security." Section 1182 (a) (28) excludes aliens who are, or have been, members of communist or anarchist organizations; it also excludes those who are not members but merely "write, publish . . . circulate, display or distribute . . . any written or printed matter advocating or teaching opposition to all organized government. . . ." or "advocating and teaching the economic, international and government doctrines of world communism."

Substantively, the language of the McCarran-Walter Act is overbroad and sweeping. As a federal court explained:

*(Continued on page 202)*

### Illinois joins the list

Make Illinois the nineteenth name on the honor roll of states which have enacted statutes protecting the confidentiality of library circulation records. The relevant provision in Illinois S.B. 1669 (Library Records Confidentiality Act), signed by Governor Jim Thompson on August 30, 1983, reads:

"The registration and circulation records of a library are confidential information. Except pursuant to a court order, no person shall publish or make any information contained in such records available to the public. This section does not prevent a library from publishing or making available to the public reasonable statistical reports regarding library registration and book circulation where those reports are presented so that no individual is identified therein."

The Illinois statute is unique in that it applies to all libraries, including private ones. Statutes protecting the confidentiality of library circulation records were previously enacted in California, Colorado, Connecticut, Florida, Indiana, Iowa, Maryland, Michigan, Minnesota, Nebraska, Nevada, New York, Oregon, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

## moral majority releases survey results

"A national survey of hundreds of public and school libraries across America has revealed that the average library has fewer than ten percent [of 62 essential] conservative books in its collection," reported Moral Majority, Inc. Vice President Cal Thomas in the June issue of *Moral Majority Report*. In April, the Moral Majority mailed thousands of library survey sheets to members across the country and called for volunteers to enter local libraries to search the card catalogues to determine whether the 62 conservative titles could be found (see *Newsletter*, July 1983, p. 103).

As of June 1983, Thomas reported, 169 libraries in forty states had been surveyed and a total of 1,090 copies of books on the Moral Majority list had been found, approximately six books per library. "Some libraries fared better than others," said Thomas. "A survey at the Wayne County Public Library in Wooster, Ohio, turned up twelve conservative books out of the 62 on the list. Allentown, Pa. Public Library has ten books. Multnomah County Library, Portland, Oregon, has thirteen."

Such instances were exceptional, however, Thomas reported. "Far more typical of the library reports we received were these: Springfield, Colo., 2; Warsaw, Ind., 3; Victoria, Minn., 4; Downey, Calif., 5; Omaha, Neb., 1; Indianapolis, Ind., 3; Dows, Iowa, 0; Stilwell, Okla., 0; Riverdale, Ga., 0; Bethesda, Md., 4; Elizabethville, Pa., 0; Humboldt, Tenn., 0; Jay, Fla., 0; South Boston, Va., 6." Thomas claimed the survey results prove that "the poor representation of conservative books is the result of discrimination at some point along the selection process. Many people (reviewers, book selection people, librarians) don't like conservative books and so they ignore them."

While it is certainly true that many publications with an out-of-the-mainstream point of view—either of the left or right of center—must struggle to be noticed, most librarians will probably find the results of the decidedly unsystematic and unscientific Moral Majority survey at best inconclusive. Librarians will be quick to note that the one-two punch of price inflation and budget cuts have placed serious limits on the acquisition of materials across the ideological spectrum. Of the many thousands of books published annually, most libraries are fortunate if they can purchase even ten percent—or much less—of all new titles, which puts the Moral Majority survey results in a different light.

In response to the Moral Majority report, the ALA Office for Intellectual Freedom, with the assistance of the ALA Headquarters Library, ran a computer search of libraries on OCLC. While only 3,000 out of 28,949 libraries in the U.S. are on OCLC, the majority of which are either academic or special libraries (only 16 percent of OCLC users are public libraries, and only

1.5 percent are school libraries), the results of the search were still instructive. While the overall average percentage of books found per library was similar to that in the Moral Majority search, the OCLC search disclosed that among those works listed in *Books in Print* and published by companies with access to national distribution mechanisms, availability was significantly higher. Books by George Gilder and Phyllis Schlafly, as well as selected titles on such controversial themes as abortion, creationism, national defense and drug use were available in as many as forty percent of OCLC libraries.

Still, both searches reveal room for improvement. Both fiscal realities and the spontaneous tendency toward self-censorship (conscious and unconscious) can make genuine diversity in library collections a difficult goal to attain. If most librarians find Thomas' charges of conscious discrimination unsubstantiated, few can differ with his contention that "if conservatives are to have a chance at changing the direction of our nation, we must have the opportunity to present our views and values, not to the exclusion of the other side, but in addition to it." It is the mission of libraries to guarantee such opportunities, not only to conservatives but to all points of view without prejudice. Reported in: *OIF Memorandum*, August 1983.

## atheists threaten library lawsuit

The *Newsletter* recently learned that the Wellesley Free Library in Massachusetts last summer received the following letter signed by one Brian Lynch, Assistant Director, American Atheists, Massachusetts chapter, which we reprint in its entirety:

"Due to a 1978 Consent Order issued by a federal court in North Carolina, public libraries are required to accept and to display *Atheist* publications in a manner comparable to *theistic* (religious) publications. Failure to do so constitutes an establishment of religion by government (however local) in violation of the first amendment to the U.S. Constitution. This means that if your library pays for *any* religious publications, it is required to pay for atheist publications as well. If you accept religious publications but don't pay for them, you are required to accept and display *The American Atheist*, or other atheist publications under the same terms.

"American Atheists has an excellent *Atheist* periodical which is available to public libraries for \$15.00 per year (half the cover price). *The American Atheist* is published monthly and contains articles of interest to atheists, or anyone interested in broadening the scope of their intellect. Because atheism is unfamiliar to most

(Continued on page 184)

# government limits on access to information

## prelude to 1984?

by Susan L. Heath

As 1984 approaches, many Orwellian scholars, social and political scientists, admirers and critics have begun debating and speculating about whether the predictions in George Orwell's prophetic satire, *1984*, were accurate in light of today's global society. Orwell's dystopian novel "epitomized for many the chilling metaphor for the oppression of the individual by the state as well as a warning against the assault on language and liberty."<sup>1</sup> In his excellent and authoritative biography, Bernard Crick quotes Orwell's personal explanation of the meaning of *1984*:

I do not believe that the kind of society I describe necessarily will arrive (allowing of course for the fact that the book is a satire) but that something resembling it *could* arrive. I believe that totalitarian ideas have taken root in the minds of intellectuals everywhere, and I have tried to draw these ideas out to their logical consequences.<sup>2</sup>

Orwell apparently believed that a "breakdown in good government [by which he meant liberty, tolerance and welfare] could cause a leap forward into a hypothetical world order of one party total power."<sup>3</sup>

As with the work of any controversial author, divergent opinions have been advanced in diverse sources on the significance of *1984* and the reality of the Orwellian future. E. L. Doctorow touched upon the dilemma facing authors when numerous critical interpretations of their work are offered the reader: "The exquisite torment of authorship is that no book, no matter how great, can legislate the way in which it is to be read."<sup>4</sup> Several articles epitomize the debate over *1984* as philosophy and prophecy. David Goodman's "Countdown to 1984: Big Brother May be Right on Schedule," in the December 1978 *Futurist*, compares a list of Orwellian predictions with current examples from our own society—with chilling results. The April 1979 issue of the *Futurist*, capitalizing on the controversy surrounding Goodman's theses, devoted four additional articles to a debate over his assumptions under the general title: "George Orwell's Vision of the Future: Pro and Con."

Another more recent debate took place in the January and February 1983 issues of *Harpers*. In "If Orwell Was Alive Today," Norman Podhoretz argued that the author of *1984* probably would be a neoconservative. In the following issue Christopher Hitchens sought to refute that thesis by arguing that, among other things, Orwell was genuinely suspicious of

the United States and American power and was opposed to nuclear weapons and Zionism as well.

William Steinhoff's thought-provoking book, *George Orwell and the Origins of 1984*, introduces the reader to a number of parallels between Orwell's ideas and writing, and those of several other English authors whom he admired. Steinhoff believes that *1984*, as Orwell's culminating work, "epitomizes a lifetime's ideas, attitudes, events and reading . . . in an age dominated by wars and politics."<sup>5</sup> He traces Orwell's fascination with, and his incorporation of the ideas of H.G. Wells, Jonathan Swift, and James Burnham within *1984*. Steinhoff further theorizes that through Orwell's adult life he was preoccupied with the following two questions:<sup>6</sup>

1. Why did people permit a society to develop which they felt might enslave them?
2. What were the forms that such a society might take?

With these questions in mind, I would like to discuss several themes developed in *1984* which bear directly on current discussions of the First Amendment and government restrictions on access to information.

One of the most memorable elements of Orwell's future world was the ubiquitous telescreen in Winston Smith's apartment, capable not only of monitoring his heartbeat, but of acting also as an inner censor, invading his mind.<sup>7</sup> Historically, Americans have abhorred invasions of personal privacy, but Nat Hentoff, for one, has noted that technologically it will not be long before it is possible to transform the essential ingredients of Orwell's vision into nonfiction.<sup>8</sup> Two-way cable systems can already transmit and receive simultaneously just like the telescreen. Going a step further, sensors in the home that can detect the presence of an intruder could also be used to monitor a homeowner's movements. This is very similar to the closed-circuit TVs which operate in many places of business to control shoplifting.<sup>9</sup> Goodman suggests that our "society could become the most snooped-on, computer-analyzed society in history."<sup>10</sup>

In a recent article written for the Cable Users Association of New Jersey, James Roman discussed the fate of privacy in our electronic marketplace.<sup>11</sup> Roman fears that computer data banks will be used to violate individual privacy by making personal information accumulated by two-way cable communications available to third parties.<sup>12</sup> Personal privacy also becomes an issue when truth drugs are administered during therapy sessions to induce an uncensored flow of thought, a spreading practice with seemingly limitless potential for Orwellian abuse.<sup>13</sup>

"One of the major problems in the 1980s," contends Nat Hentoff, "has been the embracing of technology even if it winds up embracing you."<sup>14</sup> Hentoff quotes

William Webster, Director of the FBI:

... the time has come for Americans to give up some of their privacy if they want any real progress in the fight against crime... this means increased use of wiretapping, undercover agents and informants.<sup>15</sup>

Looking back just a few short years to Watergate and the intelligence scandals, which seem to signal the coming tyranny of big government and increased technology, it is understandable why critics of modern life and politics find *1984* so disturbingly prescient.<sup>16</sup> We must continually remind ourselves that "the state personified by Big Brother allows no resistance whatsoever, not even in the privacy of the mind. Individualism is a crime. Thought is a crime."<sup>17</sup>

In this light, linked to the issue of privacy should be concern about increased government secrecy. Doctorow speculates that the "story... Orwell tells is not of good nations against bad nations, but of government against individuals."<sup>18</sup> Big Brother's way of accomplishing this in Oceania was to rewrite history with the help of technology, in order to keep party members and proles ignorant of reality; to make the government appear to be always right; and to create a veil of secrecy which was impregnable to the press or any individual. In 1936, Orwell told Arther Koestler that

history had stopped... because the possibility of discovering the objective truth had disappeared. Yet, he continued, after all, some kind of history will be written, and after those who actually remember the war [Spanish Civil War] are dead, it will be universally accepted. So for all practical purposes the lie will have become truth.<sup>19</sup>

"If anyone takes the composition of history and language as seriously as Orwell does, it is the people who run governments."<sup>20</sup> Today journalists and many public interest groups are fighting to preserve the Freedom of Information Act. They do not wish Orwell's fears to become their reality. Many, like Doctorow, are convinced that "even in a democracy the power of initiative belongs to the government,"<sup>21</sup> and therefore the power of public opinion is based on limited information. "In *1984* the creation of public opinion through the news media is together with warfare and the secret police an essential part of government."<sup>22</sup> Can we not see at least glimpses of such controlled reality when we ponder how opinion is molded with regard to, say, U.S. involvement in El Salvador, Nicaragua or Lebanon?<sup>23</sup> In *1984*, power worship underlies the rationale for withholding information, and that is exactly what many government critics see happening today, especially when government agencies like the CIA seek new restrictions on the FOIA and similar protections.

We would do well to reflect on the "Party" slogan

in Oceania: "Who controls the past, controls the future; who controls the present, controls the past."<sup>24</sup> In "The Electronic Newspaper: An Easy Route to 1984?" Henry Petroski speculates that:

with our current computer technology the potential for rewriting history is even easier than Orwell predicted, because when newspapers are no longer read in the semi-permanent form of ink on newsprint, but in the ephemeral form of the phosphorescent image on the computer terminal's cathode ray screen, the ability to manipulate information is wide open to abuses.<sup>25</sup>

Orwell feared the artificial destruction of the past and so should we. The "telephone, TV and digital computer will be linked into a paperless information network with the potential for changing not only the future, but also the past which will be stored in its memory."<sup>26</sup>

Control of language itself also plays a central role in what Goodman terms the "mutability of the past."<sup>27</sup> Again and again in *1984*, Orwell returns to the "idea of the political manipulation of reality through the control of history and language."<sup>28</sup> Orwell's concept of "doublethink"—"the power of holding two contradictory beliefs in one's mind simultaneously, and accepting both of them"<sup>29</sup>—concentrates the dilemma. "Doublethink is... a method of coping with the dilemma of totalitarian nations, which demand constant loyalty in the face of inconstant policies... What doublethink aims at is to ensure orthodoxy under any conditions."<sup>30</sup>

Including, one might add, conditions not formerly seen as totalitarian, for are not so many advertising and political slogans in the U.S. today reflections of this? Take, for instance, the Reagan Administration's term for the multiple-warhead missile—the "Peacemaker." Does this not mirror uncannily the Orwellian doublethink slogans: "Freedom is Slavery," "Ignorance is Strength," "War is Peace?"<sup>31</sup>

Of Orwell, Erich Fromm wrote:

He still hopes, but... the hope can be realized only by recognizing, so *1984* teaches us, the danger with which all men are confronted today, the danger of a society of automatons who will have lost every trace of individuality, of love or critical thought, and yet who will not be aware of it, because of Doublethink.<sup>32</sup>

To be sure, the danger can be met "if we know and resist the wish in ourselves to be comfortable, to be like the rest with the father (government). But resist or not, it will be very painful. The politics of individualism is hard."<sup>33</sup> Defending our right as citizens to have access to information about our government, but at the same time realizing the need for privacy will be a balancing act requiring a steady hand.

(Notes on page 207)

# government limits on access to information

## an annotated bibliography

compiled by Susan L. Heath and Martha B. Gould

### government secrecy

Gordon, A.C. and Heinz, J.P., *Public Access to Information*. Transaction Books, Rutgers University, 1979.

Addresses the issue of information availability from a variety of government agencies and the extent to which this information is readily accessible. Shows there are several strategies used by government agencies to control the release of damaging information. Also shows that while freedom of information laws may aid the citizen in accessing information, legal remedies are limited in cases where access to information is denied. Tabular data and footnotes.

Lewis, Anthony, "The Right to Scrutinize Government: Toward a First Amendment Theory of Accountability." *University of Miami Law Review*, Vol. 34, #4, July 1980, pp. 793-806.

Criticizes the conception of the press as enjoying a preferred position under the First Amendment and advocates instead the concept of the informed public as the basis for self-governing democracy. Suggests that the Supreme Court carefully begin to develop the principle of public accountability as a fundamental premise of the First Amendment.

Nader, Ralph, "Don't Let the Sunshine In." *The Nation*, November 7, 1981, pp. 471-473.

Discusses the following issues: moves by the Reagan Administration to block access to government information by stating that the Justice Department would fight court challenges arising from an agency's refusal to release information; elimination of government programs that collect and analyze information; and selective censorship of government publications, i.e., those running counter to administration policies or which have drawn fire from industry.

National Commission on Libraries and Information Science. *National Information Policy*. Washington, D.C., 1976.

Discusses need for a national information policy, a need generated by advances in computer and communications technology, by the shift to an information oriented society, and by the strong concerns voiced by citizens for the right to control and have access to information. Fifteen major policy issues are examined with recommendations offered.

Schiller, Anita R. and Herbert I., "Who Can Own What America Knows?," *The Nation*, April 17, 1982, pp. 461-463.

A frightening introduction to what is happening to the information resources of the federal government. Information resources are now being appropriated by private concerns for profit. Private information vendors look at the vast information files of the federal government and seek to shift their control from the public to the private domain. Foresees a possible future where those who can afford to pay for necessary information become the information rich, while those who cannot must do without.

Unger, Stephen, "The Growing Threat of Government Secrecy," *Technology Review*, February/March 1982, pp. 31-39.

The need for the U.S. government to protect information of direct military importance to the national security is not questioned, but Unger charges that the government has gone beyond this to protect

a very broad area of knowledge generated by both government and the private or academic sectors. Such efforts, however, only restrict domestic circulation of information, and cause costly duplication of research efforts. This, in turn, hardly serves the needs of national security since research and development are dangerously inhibited.

Wolfe, Alan, "How Reagan Uses Truth: Ignorance as Public Policy," *The Nation*, April 3, 1982, pp. 385.

A philosophical discussion of how the Reagan Administration is "diseducating" the citizenry by devoting its best efforts to the cultivation of ignorance. A three pronged approach is postulated: direct diseducation by manipulation of fact; reeducation, in which government engages directly in propaganda; and suppression of pluralism. The result "is the denigration of reason in the name of rationality, the elevation of ignorance as a byproduct of liberty."

### freedom of information act

Belair, Robert R., "Less Government Secrecy and More Personal Privacy? Experience with the Federal Freedom of Information and Privacy Acts." *Civil Liberties Review* May/June 1977, Vol. 4, #1, pp. 10-18.

Belair believes the FOIA and the Privacy Act have not achieved the purposes for which they were designed and that too many loopholes exist. Various agencies have structured their policies to circumvent the acts. Belair argues that there should be no systems containing personal information whose very existence is secret, the subject of the information should have access to all records, and information obtained for one purpose should be used only for that purpose or purposes compatible with it. Concludes that Congress must reexamine and reform government standards for handling personal data.

Campaign for Political Rights, *The Freedom of Information Act: Why It's Important and How to Use It*, Washington, D.C., 1982.

This excellent pamphlet summarizes the highlights, history and uses of the FOIA. Myths surrounding the act are clearly distinguished from the reality of its functioning. The authors believe the 1974 amendments to the act broadened its coverage of the FBI; established the right to appeal government classification decisions to the courts; and improved procedures for use. During the past few years, however, several government agencies have tried to limit the FOIA. The authors contend the Reagan Administration is waging a full-scale battle to close government files. Includes a bibliography and samples of request letters for various types of information.

Cole, Patrick E., "The Freedom of Information Act and the Central Intelligence Agency's Paper Chase: A Need for Congressional Action to Maintain Essential Secrecy for Intelligence Files While Preserving the Public's Right to Know," *Notre Dame Law Review*, Vol. 58, #2, December 1982, pp. 350-381.

Since enactment of the FOIA, Cole contends, the price of accountability has been high for the CIA resulting in a clash of statutory duties under the FOIA and the National Security Act of 1974. Cole argues that the FOIA places an administrative burden on the CIA by draining manpower resources. Places the issue in the context of the history of freedom of information policy and of Reagan Administration efforts to provide relief for the CIA.

"Controversy Over the Freedom of Information Act," *Congressional Digest*, Vol. 61, #2, February, 1982, Washington, D.C.

The entire issue of the *Congressional Digest* for February 1982 is devoted to a debate on the FOIA. An introductory section traces the evolution of the act and outlines its present structure. The formal

debate which follows revolves around the question: "Should Congress narrow substantially the scope of access to government records under the FOIA?" William Casey, Senator Alfonse D'Amato, Jonathan Rose and Ann Caracristi answer pro, and Charles S. Row, Morton Halperin, Jack Landau and Ernie Ford take the con position.

**Kennedy, Edward M., "Is the Pendulum Swinging Away From Freedom of Information?"** *Harvard Civil Rights-Civil Liberties Law Review*, Vol. 16, #2, Fall 1981, pp. 311-17.

Kennedy argues that the FOIA was built upon the fundamental premise that government information should be available to the public, absent a compelling reason for non-disclosure. He believes the 1974 amendments put teeth into the act by eliminating procedural barriers and closing loopholes. Recently, however, competing demands of open government and national security have been difficult to reconcile.

**Mann, Jim, "Open Season on Open Government,"** *Working Papers New Society*, March/April 1982, pp. 32-37.

Discusses various FOIA amendments before the 1982 Congress. Mann believes that at stake is the relationship between the government and its citizenry. To the extent that the law is narrowed, the direct link between individual and government is broken. Discusses the battle between federal agencies and the press over the right to know, and analyzes the new role of private industry in asking Congress to shield them from public access to information. Describes Reagan Administration proposals on exemptions, time limits and fees.

**Mason, Christopher M., "Developments Under the Freedom of Information Act—1981,"** *Duke Law Journal*, 1982, #2, pp. 423-459.

By the end of 1981, the only real changes in the judicial interpretation of the FOIA concerned a refinement of the Act's scope. But under the Reagan Administration, the Department of Justice will defend all FOIA suits having a substantial legal basis "without requiring the agency to show that demonstrable harm could result from disclosure." This new stance permits agencies to formulate more restrictive internal policies toward disclosure requests without forfeiting their practical opportunity for representation in the courts.

**Relyea, Harold C., "The Rise and Pause of the U.S. Freedom of Information Act,"** *The Government Publications Review*, Vol. 10, pp. 19-33, 1983.

Relyea argues that the FOIA was largely the creation of Congress; the executive branch has not been favorable toward it and various federal agencies have sought relief from its requirements. Yet, at present, the act is not applicable to Congress itself. Current amendments before Congress are aimed at limiting its disclosure provisions and are restrictive and therefore more government records may be classified.

**Rosenfield, Frank A., "The Freedom of Information Act's Privacy: Exemption and the Privacy Act of 1974,"** *Harvard Civil Rights-Civil Liberties Law Review*, Summer 1976, Vol. 11, #3, pp. 596-631.

Rosenfield advocates replacing the current FOIA and Privacy Acts with a coherent and workable public records policy. He contends that if the FOIA is to work properly, it is essential that requests be handled routinely without forcing the curious citizen to sue the government for disclosure.

**Theoharis, Athan G., "The Freedom of Information Act and the Intelligence Agencies,"** *The Government Publications Review*, Vol. 9, pp. 37-44, 1982.

The author challenges the claims of intelligence officials seeking to exempt their agency files from the FOIA. Noting that the FOIA's mandatory search and disclosure provision alone permits access to

the range of intelligence files, the author cites the separate filing and "compartmentalized" records policies of the CIA and FBI. He concludes by challenging the adequacy of congressional oversight.

## privacy

**Hayden, Trudy and Novik, Jack, *Your Rights to Privacy: The Basic ACLU Guide for Your Rights to Privacy*.** Avon, 1980.

A practical guide to just about everything you need to know about protecting your privacy. The book is organized into three sections: privacy of personal records, intrusion into personal thoughts, and collection and control of government information. As the preface states: "The hope surrounding these publications is that Americans informed of their rights will be encouraged to exercise them. Through their exercise, rights are given life. If they are rarely used, they may be forgotten and violations may become routine."

**Klein, Lloyd, *Individual Privacy: The Search for Social Policy Protection*.** Graduate Center, City University of New York, 1979.

Social policy regulating data collection is now necessary as data collection and use has become vital to every part of our life. What has yet to be resolved is the question of which types of information should be made available and to whom. Effectiveness of legislative remedies and current developments are also discussed.

**Petrocelli, William, *Low Profile; How to Avoid the Privacy Invaders*.** McGraw Hill, 1981.

In today's society privacy is lost. Information about your personal business is held in numerous government and private files; checks are photocopied; charge transactions are recorded in huge data banks and the government has the power to obtain even records deemed confidential. Petrocelli shows how to keep a "low profile" so those who seek will not find. Tells how to counter efforts to access private information in your bank account, insurance records, employee records, etc. and discusses the status of privacy legislation.

**"Privacy, Government, and the Media,"** *The Center Magazine*, September/October 1982 and November/December 1982.

A two-part report of the Center for the Study of Democratic Institutions. A dialogue on the conflict between the public's need to know and the individual citizen's right to privacy.

**Privacy Protection Study Commission, *Personal Privacy in an Information Society*.** U. S. Government Printing Office, Washington, D. C., 1977. Document #052-003-00395-3.

Existing standards and procedures for protection of personal privacy are identified and objectives for national policy recommended. An effective privacy protection policy must, the Commission concluded, have three concurrent objectives: to minimize intrusions by creating a balance between what an individual is expected to divulge and what the person seeks in return; to maximize fairness by opening record-keeping; and to create and define obligations with respect to disclosure and use of information.

**Pyle, Christopher H., "Invasion of Privacy,"** *Academy of Political Science Proceedings*, Vol. 34, #4, pp. 131-142.

Orwell's 1984 arose from the development in the twentieth century of the bureaucratic state, the communications revolution and nuclear war. The author says the first two have continued to develop since 1948. In this context, he examines similarities between our society and that of Orwell's Oceania.

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# AAParagraphs

## lawmakers: 'not so fast' on secrecy order

Two United States Senators and two Members of the House of Representatives—all holding influential positions in their respective bodies—have written to the White House urging a delay in implementing the drastic Directive on Safeguarding National Security Information issued on March 11 (see *Newsletter*, July 1983).

The House members wrote first: Reps. Don Edwards (D-Calif.) and Patricia Schroeder (D-Colo.), Chairs, respectively of the House Judiciary Subcommittee on Civil and Constitutional Rights and Post Office/Civil Service Subcommittee on Civil Service, wrote after conducting April hearings on the directive. While acknowledging the need to protect the national security by prohibiting unauthorized disclosure of sensitive information, the two Representatives wrote that the presidential directive, with its provisions for pre-publication review and wider use of lie detectors, "raised serious questions in both the House and the Senate."

Detailing plans of both houses to conduct further inquiries into the effects of the order, Edwards and Schroeder also raised numerous questions about the excessive breadth of the directive and asked the White House to delay its implementation until Congress takes a closer look.

"We . . . see the potential for millions of federal employees and contractors to be subject to pre-publication review requirements for the rest of their lives," the two wrote to President Reagan.

The second letter urging delay was written by Senators Charles McC. Mathias (R-Md.) and Thomas Eagleton (D-Mo.). Mathias acted as Chairman of a special September 13 hearing on the directive before the Senate Governmental Affairs Committee; Eagleton is the ranking minority member of that committee. Writing after the hearing failed to develop more than a single specific instance of a damaging leak of classified information, the Senators declared themselves "troubled" at the pre-publication review provisions. "The Constitution," they wrote, "forbids the government to impose prior restraints on the speech of citizens unless it can show the most urgent necessity for doing so."

"The implementation of the directive, as it is presently planned, will create a comprehensive system of prior restraint virtually unprecedented in our nation's history. We are concerned that this program is being implemented with unjustified haste and without any opportunity to consider the views of Congress."

They added that, should implementation go forward

without a full congressional study, "we believe this directive may curtail the constitutionally protected expression of thousands of top-level former government officials—those best able to enhance public debate—and may strike at the heart of the public's right to be informed."

There had been only a routine acknowledgement of the congressional letters at press time. Mathias and Eagleton also attached to the general foreign relations authorization bill an amendment prohibiting pre-publication review changes prior to April 15, 1984.

Among organizations that have protested the excessive sweep of the directive, in addition to AAP, are the American Library Association, the American Society of Newspaper Editors; the Society of Professional Journalists, Sigma Delta Chi; the American Society of Journalists and Authors, and the National Newspaper Association.

This column, contributed by the Freedom to Read Committee of the Association of American Publishers, was written by Richard P. Kleeman, AAP Director of Freedom to Read.

## IFRT seeks award nominations

The Intellectual Freedom Round Table of the American Library Association is seeking nominations for two intellectual freedom awards to be presented in 1984. The John Phillip Immroth Memorial Award honors the courage, dedication, and contribution of living individuals who have been exemplary in their defense and furtherance of the principles of intellectual freedom. The award consists of a citation and \$500. Nominations and supporting materials should be sent by December 1, 1983 to David Cohen, Chair, John Phillip Immroth Memorial Award Committee, 68-71 Bell Blvd., Bayside, NY 11364.

The IFRT has also established a new State Program Award that will be presented each year to the state intellectual freedom committee that has implemented the most successful and creative intellectual freedom project. The \$1,000 award, funded by Social Issues Resources Series, will be presented for one-time, one-year, or ongoing, multi-year projects. Nominations and supporting materials for the 1984 award should be sent by December 1, 1983, to Laurence Miller, Chair, IFRT State Program Award Committee, Florida International University, Tamiami Trail, Miami, FL 33199.

(Atheist suit . . . from page 178)

people, many articles reveal historical and legal information in an effort to inform the public, and thus make excellent research material for patrons.

"If your library is short of funds for next year, and "can't afford" to subscribe to *American Atheist*, under the terms of the Consent Order you are required to cancel ALL subscriptions to religious publications and periodicals. Enclosed is a copy of the consent order along with a subscription form so that your library can begin to receive *The American Atheist*. Remember, failure to accept *Atheist* periodicals and publications on the same basis as you accept religious ones may place you, the library and local government in violation of the law of the land—the Constitution! So subscribe today and avoid legal problems."

Now the American Library Association would be the first to agree that in the spirit of the *Library Bill of Rights* public libraries should try to make publications about and by atheists available along with religious materials, and we do not doubt that *American Atheist* may well merit a place on the shelves of many public, academic and even school libraries. But this letter—and the not-so-veiled threat behind it—left a very sorry taste indeed. So we submitted the consent order to counsel for analysis.

Not surprisingly, the attorneys with whom we spoke were unanimous in their conclusion that the letter had grossly misrepresented this document. The order in question pertains solely to a specific conflict in Mecklenburg County, North Carolina between the Public Library of Charlotte and Mecklenburg County and the atheist group there. It on its face establishes no constitutional principle whatsoever.

The letter in question thus represents little more than a most flagrant effort to coerce subscriptions through the threat of litigation; "subscription by threat" Cynthia Battis, Massachusetts Library Association Intellectual Freedom Chair, called it. We have as yet heard of no other library receiving such a letter, and it is certainly possible that Mr. Lynch was acting on his own authority and without the approval of the organization he claims to represent. The editors certainly hope this is the case.

Any other libraries which have received a similar communication should forward this information to the ALA Office for Intellectual Freedom. Such libraries should also rest assured that the threat implied by the letter is at most empty bluster. Libraries are free under the law to select or not select *The American Atheist* or any other atheist or religious publication according to their own selection policy statement and the principles of the *Library Bill of Rights*.

## who censors?

"People likely to censor library material are older, have less education, a less prestigious job, and earn less money than those not wanting to censor," according to Curt Burgess, Department of Psychology, and Kris Salomon, University Library, of the University of Nebraska at Omaha. Burgess and Salomon analyzed results of 1,530 surveys taken from the National Opinion Research Center's 1977 *General Social Survey*. Respondents were asked whether they would favor removing from a public library books written by a militant, a Communist, a homosexual, an atheist, and a racist. Respondents were classified as pro-censorship if they agreed in principle to censor four or five of the books.

The researchers discovered that the older a person is, the more likely that person is to advocate censorship. For example, only 28 percent of those in their twenties were classified by the study as pro-censorship, but this predisposition rose steadily with age. At the same time, the predisposition to censor decreased as family income category rose.

Those indicating they had less than a high school education advocated censorship 64 percent of the time, while only 17 percent of those with a bachelor's degree were pro-censorship. Educational level proved the most influential variable of those studied. The researchers concluded that as people become educated they have a greater sense of influencing or controlling their lives. There is less need, therefore, to compensate by trying to control others through censorship, Burgess and Salomon conjectured. Other demographic variables measured which resulted in no significant differences included social class, race, and gender. The findings were presented at a poster session at the 1983 ALA Annual Conference in Los Angeles.

## white house working group on porn organized

White House officials reportedly informed Morality in Media President Rev. Morton A. Hill, S. J., in June that the Reagan Administration has formed a White House Working Group on Pornography to coordinate investigation and enforcement of federal obscenity laws. The group consists of one representative from each of the four federal agencies involved in enforcement of the laws, the Department of Justice, FBI, Postal and Customs Services, and White House official Stephen H. Galebach of the Office of Policy Development. Galebach is Executive Secretary of the group which met at the White House for the first time in mid-June. Reported in: *Morality in Media Newsletter*, June-July 1983.

## — censorship dateline



### libraries

#### Searcy, Arkansas

"I am here because of an incident that happened back in May," Letain DeVore told the White County Library Board July 20. She said that at that time her daughter had checked out "the filthiest thing I've ever seen." The "thing" in question was a book called *Dr. Love*, which has since been removed from the shelves. "But I don't just want to take that book off the shelf. I want to get rid of the ones that are as bad," she told the board. "I don't want my tax dollars being spent on such trash."

DeVore and others in the audience suggested that a volunteer committee look through the books before they go on the shelves, or assist librarian Bruce Bumbalough in ordering, and that parental permission be required before a child could check out books from the adult section. Bumbalough said he would not oppose a volunteer committee, but feared it would wind up like much volunteer work which starts off with support but soon dies out. "I would hope the board wouldn't make any major changes," he added later. The board promised to take the issue under advisement. Reported in: *Searcy Daily Citizen*, July 21.

#### Manhasset, New York

Noted young adult author Todd Strasser's books usually win prizes, so it was with a certain amount of incredulity that he greeted news that his first novel, *Angel Dust Blues*, caused a minor furor in Manhasset, just two towns away from where he himself grew up.

An overflow crowd of parents jammed the library board of trustees meeting in July to protest the choice of Strasser's book as reading material for the Manhasset Public Library's young adult Popsicle series. According to one account, "Emotions ran so high that what

started with a delivery of a prepared statement by a spokesperson for the group turned into an angry confrontation between the audience and librarian Carol Miller, director of the book discussion group for seventh through eleventh graders."

The parents criticized the book for its "explicit and graphic sex scenes of a most crude and expletive nature" and "blasphemy." Although the parents did not call for removal of the book from the library, they did request—and were granted—its withdrawal from the book discussion program. In addition to an apology from the library board president to the offended parents, the board also issued a statement in which it said that "its policy in all cases is to apply professional judgment which takes into consideration the attitudes and values of the Manhasset community."

Strasser, who himself went to high school in the nearby community of Roslyn Heights during the sixties, expressed surprise at what those attitudes and values appeared to be: "I didn't think this would happen on the North Shore of Long Island. I believe [*Angel Dust Blues*] is an acceptable book for junior high school kids." Strasser said that he had based the novel on what he had witnessed in "my high school in the late sixties. The story is basically what happened around me." Reported in: *Roslyn News*, August 18.

#### Vancouver, Washington

The American Civil Liberties Union of Washington filed suit July 1 seeking to force the Evergreen School District of Vancouver to return more than thirty books removed from a junior high school library. The complaint, filed on behalf of parents and students, contends that the removals constitute censorship and violate the plaintiffs' rights to free speech and due process of law. The action also contends that the district's instructional materials committee violated the state Open Meetings Act because removal decisions were made behind closed doors.

The complaint cites six incidents beginning in 1982 in which the committee removed books, including thirty-three at one time from the Covington Junior High School library. The books, about teenage relationships, homosexuality and other subjects, both fiction and non-fiction, were transferred to the district's Mountain View High School. Therese Ogle, censorship project director for the Washington ACLU, said the suit was filed after unsuccessful attempts to work out a return. "The point is, we don't know why they were removed," Ogle said. "There were no complaints filled out, and we don't know why they were objectionable."

Among the titles removed were *Love is One of the Choices*, by Norma Klein; *Down By the River*, by C. S. Adler; and *I Love You, Stupid*, by Harry Mazer, all of which deal with teenage problems. One book, *Happy Endings Are All Alike*, by Sandra Scoppettone,

is about a lesbian relationship; *Against All Odds*, by Tom Helms is a non-fiction account of a paraplegic and his problems; *Heaven is a Playground*, by Rick Telander is a nonfiction account of a summer in Harlem basketball playgrounds; and *The Devil's Alternative*, by Frederick Forsyth is a best-selling spy thriller.

The suit also challenges a district practice that allows a librarian and principal to remove any book arbitrarily. In such a case, the book remains off the shelf unless a majority of the instructional materials committee calls a hearing. "Such procedures are wholly unacceptable," Ogle said.

Kenneth H. Holmes, an assistant superintendent in the district, said the district would have no comment until officials had reviewed all legal materials. "I guess that the instructional materials committee thought the subject matter was inappropriate for kids at that school level," he said. Reported in: *Seattle Times*, July 13.

## **schools**

### **Searcy, Arkansas**

The Institute of American Ideals, an organization seeking "to restore proper respect for God and country" by influencing committees that select textbooks for public schools, was organized in June by Searcy minister C. Brodie Harrell and a group of businessmen. According to Harrell, the group claims about "forty or fifty members in Florida, Oklahoma, Texas and California" and about twenty-five in Searcy.

"The main thing we are trying to do," he said, "is to update the moral standard of the country particularly in the schools because of the incidence of drunk driving, teenage suicide, drug abuse and the lack of discipline we have seen lately in the schools." Some of the textbooks now used in schools, he said, "lean too heavily" toward socialism and evolution.

Harrell said the Institute of American Ideals has gathered information on textbook selection in forty-three states and will try to influence selection committees in Searcy and around the country to choose books that promote "traditional American values."

"The textbooks ought to promote trust in God, the freedom of the individual, the profit motive, the private ownership of property, the dignity of work and government as protector not provider," Harrell said. Humanists, he charged, are using the schools to promote atheism and the result could be "the loss of souls and the loss of our country." Reported in: *Arkansas Gazette*, August 30.

### **Jefferson County, Kentucky**

A member of the Citizens for Decency in Public Schools announced August 19 that she will sue several Kentucky educational agencies and personnel because of a textbook selected by the Jefferson County Board of

Education. Frances Frederick said the complaint stems from what she calls a violation of an order which resulted from legal action she, her husband Earl T. Frederick, and eight others brought against the agencies in 1980 concerning sex education.

According to Mrs. Frederick, at that time the Jefferson County Board of Education and the Kentucky State Board for Elementary and Secondary Education agreed not to make sex education mandatory. Now she charges the book that was adopted for a required ninth-grade health class implements sex education, violating that agreement.

The threatened new suit concerns the selection of the book *Understanding Health*, published by Random House, by the Jefferson County textbook selection committee, of which Mrs. Frederick is a member. Although Mrs. Frederick argued against the book's adoption and protested that it contained sections on sex education which would stand in violation of the 1980 agreement if used in a mandatory class, she was overruled. Other committee members argued that if the sex education sections were not assigned as mandatory reading, use of the book would be consistent with the 1980 decision.

"We feel like as Christians that sex education can't be required in public schools," Mrs. Frederick said of her group's position. "Even if you had the Ten Commandments on the wall and ten minutes of silent prayer, it doesn't do any good if it's in textbooks. Even atheists don't want some of this," she said, referring to sexual references her group found in various texts.

The Citizens for Decency tried to spread its concern in December by submitting an advertisement to the *Louisville Courier-Journal*. The ad contained explicit descriptions of petting and slang sexual terminology taken from material listed in the bibliography of a school textbook. The newspaper refused to run the ad, saying that it violated "guidelines dealing with matters of general taste and publishing objectionable or inappropriate language in advertisements."

"This is too bad to put in a newspaper, but you can have it in a child's textbook in the very same words," Mrs. Frederick complained. "We're just trying to wake up people," she continued. "We used to trust public schools; it was just like grandmother's house." Reported in: *Paducah Sun-Democrat*, August 21.

### **Linthicum, Maryland**

A Linthicum parent has asked school officials to ban a social studies book that she believes is biased and pressures teenagers to make moral judgments. The appeal process, which began in February when Joy Anne Fox first submitted her critique of the book *Street Law* to school officials culminated July 28 in a hearing before a board-appointed examiner.

"I have no problem with the discussion of controversial issues," Mrs. Fox said, "but I do think this book is slanted" in its approach to certain issues. Among the topics Mrs. Fox contended were presented in a biased manner were drug use, capital punishment, family planning, abortion and the Equal Rights Amendment.

Dennis Younger, director of curriculum, defended use of the book and emphasized the importance of the classroom as a forum "where students meet ideas and come to grips with them." Hearing Examiner P. Tyson Bennett was scheduled to present his recommendations to the school board within a week of receiving a transcript of the hearing. The board can accept or reject his findings. Reported in: *Annapolis Capital*, July 29.

#### **Putnam Valley, New York**

A mural was removed from a wall at Putnam Valley Junior High School last summer because School Superintendent Richard Brodow said the 40-by-8-foot painting contained a figure which appeared to have breasts. "What prompted this action was the inclusion by the artist of material which, in my opinion, was in very poor taste and done without prior approval from either the junior high school principal or myself," he said. The mural was the first project sponsored by the Putnam Valley Coalition for Art in the Schools, a parents' group. Peter Rossi, organizer of the coalition, challenged Brodow's assessment. "It looked more like E. T. than a female nude," he said. Pierre Cornu, the artist, said he was surprised the painting had been taken down. He would have been glad to remove the "offensive" figure, he said. Reported in: *USA Today*, August 1.

#### **Arlington, Virginia**

Concerned about reports that linked suicides and bizarre incidents with the fantasy game "Dungeons and Dragons," the Arlington school board voted in August to ban the game as a sanctioned extracurricular activity. The unanimous vote to end endorsement of the game came after the parents of a Hanover County, Virginia, student filed a \$1 million suit against a public high school there. The parents charged that their child's suicide resulted from playing the game as an "organized school activity."

Margaret Bocek, the board member who introduced the resolution to ban the game, said she has seen studies demonstrating that the game has more negative than positive effects. Played by an estimated 3-4 million players in the U.S., "Dungeons and Dragons" is based

on a fantasy world in which players take on the roles of dragons, monsters, wizards and other medieval characters. Reported in: *Education Week*, August 31.

#### **Fairfax County, Virginia**

"I'm not into book-burning, but I don't believe the school system has the right to teach kids things that are not based on our moral and religious beliefs." The speaker was Penny Phillips, who along with several other parents has appealed to the county superintendent of schools to remove *Gentle Hands*, by M. E. Kerr, from the supplemental reading list for a seventh-grade class at Lake Braddock Secondary School. The appeal, filed August 17, was the second filed against the book after an initial challenge was rejected by a committee of teachers and parents (see *Newsletter*, July 1983, p. 109). The parents charge the novel glamorizes drug abuse and is anti-Semitic.

"I don't believe my children should be required to read a book that we as parents find objectionable, that totally, as far as I'm concerned, does not support or concur with our religious and moral beliefs," Phillips said. "Their minds are being molded by the books they're reading." She said that if the superintendent rejects the appeal, the parents would take their case to the full school board. Reported in: *Washington Times*, August 17; *Alexandria Gazette*, August 18.

#### **Kitsap, Washington**

The South Kitsap School Board voted by a 4-1 margin in late June to remove *Working*, by Studs Terkel, from an optional high school reading list. The book, a collection of accounts of ordinary people describing their occupations, had previously been approved by the district instructional materials committee. A local woman, active in a textbook "watchdog" group, complained that the chapter "Hooker" demeaned her marital status and degraded the sexual act. Reported in: *Washington State Coalition Against Censorship Newsletter*, July 1983.

#### **Olympia, Washington**

Reversing a decision it had reached in March, the North Thurston School Board voted 3-2 June 6 to retain the book *Point of Departure*, a collection of short stories edited by Robert S. Gold, on a high school language arts required reading list. But the board asked teachers who use the book to find a better text.

The controversy began in March when parent Pam Schuricht objected to sexual language in the collection and requested its removal from the curriculum, though not from the school library. A district instructional materials committee voted unanimously to keep the

book on the required list, but on March 21, after heated debate, the school board superceded that ruling.

Shortly thereafter, however, board member John Howard, who initially voted to remove the book, moved for a reconsideration of the decision (see *Newsletter*, July 1983, p. 109). The issue was debated once again before the board in April and a final decision was reached at the June meeting. Reported in: KGY AM Newscast, June 9.

## book publishing

### New York, N.Y.

In a move which shocked the publishing industry, Dodd, Mead & Company, the 144-year old trade book publisher, cancelled two novels advertised in its Fall 1983 catalogue and withdrew a volume of verse already in print. The publisher was ordered to take these actions by its parent company, Thomas Nelson, Inc. of Nashville, the world's largest Bible publisher, which considered some language in the books objectionable.

After being set in type, *Tip on a Dead Crab*, by William Murray, and *Skim*, by Thomas Henege, will not be published by Dodd, Mead. In addition, about five thousand copies of *The Devil's Book of Verse*, edited by Richard Conniff, will not be shipped from the Dodd, Mead warehouse.

Lewis W. Gillenson, president of Dodd, Mead, said that Nelson had insisted that certain "four-letter words, excessive scatology and language that took God's name in vain" had to be eliminated. Gillenson said that Sam Moore, president of Nelson, asked him to "publish books that will not have offensive language in them."

The language deemed unacceptable by Nelson included words or word combinations that used God, Christ or Jesus as expletives. Gillenson said a Nelson executive told him it was all right to print "damn" but not "goddamn." The four-letter word for copulation was forbidden, but the word for defecation was permitted.

The authors and their agents described the action as censorship and refused to authorize any changes. Albert F. Gillotti, vice president of the Europe Credit Group of Banker's Trust Company, who writes under the name of Thomas Henege, issued a statement which said, in part: "Thomas Nelson objects to some of the language in *Skim* because it might interfere with its Bible sales. When the accountants or salesmen who head conglomerates can tell an editor of a publishing subsidiary what he cannot accept for publication because the book might interfere with the stream of revenues from another part of his business—cigarettes, say, or food additives—then I fear for the future of

independent though in the United States."

Gillenson said he was sorry and embarrassed that the authors had not been told in advance of the restrictions on language. He explained that it was only in August that he had an exchange of letters with Nelson which clarified guidelines. Nelson acquired the publishing house in April 1982.

"The people at Nelson are not personally censorious," Gillenson said. "Thomas Nelson is in a difficult position. It has to maintain its reputation in an ultraconservative world. How can it justify to one level, the evangelical world, that it appears to approve of a different kind of language on another level? Nelson is saying, 'We don't want to censor, but it is difficult to publish under these conditions. We'd rather do without, and let someone else publish it.'"

When Nelson acquired Dodd, Mead, the company's backlist was thought to be its most valuable asset, but a fresh effort was begun to acquire new works of fiction. In the wake of these actions, however, several New York literary agents expressed doubt that they would continue to submit novels to Dodd, Mead. Asked if he thought the new limitations would make publishing more difficult, Gillenson said, "If a Mailer manuscript were delivered, I'd have to reject it. But there would be no problem with a Michener." Reported in: *New York Times*, September 1; *Publisher's Weekly*, September 9.

### Albany, New York

The State University of New York Press has discontinued a textbook on the Middle East, and a pro-Arab group is taking the credit. The press, however, says the decision was made solely for financial reasons. A pro-Israel group, which at first questioned the motives of the publisher, now says it accepts the explanation, but wants the book continued.

The text, *The United States and the Middle East*, by Philip L. Groisser, has been used in some high schools and colleges for two years. It had been commissioned by the American Academic Association for Peace in the Middle East, a pro-Israel group, but had met with sharp criticism by Arab-American organizations and scholars.

The publisher explained the book's cancellation by noting that all 2,200 copies of the first edition had been distributed and that sales volume did not warrant a reprint. But John Zogby, national field representative for the American-Arab Anti-Discrimination Committee, maintained that his group's criticism played a role. "The rug was pulled out from under them by us, but no publisher wants to admit he published a racist, garbage textbook," Zogby said. "This book was reviewed by Arab-American professors and others, and to a man they said that it was insidious propaganda

that had no place in the classroom," he added. "It is at best bad scholarship and at worst racist."

Among the passages deemed objectionable by the Arab groups was the following: "Modernization has gone hand in hand and has offered incentives for such things as personal initiative and ambition, hard work, and resourcefulness. These values have not traditionally been stressed in Muslim culture and religion."

The pro-Israel academic group had challenged the university press's decision to drop the title after a newsletter considered friendly to Arab interests stated the decision had come in response to charges of bias. But the group later apologized to the university, whose chairman and chancellor publicly reaffirmed "the scholarly independence of the State University Press." Reported in: *New York Times*, September 21.

## films

### Richmond, Virginia

Richmond Commonwealth's Attorney Aubrey M. Davis Jr. said August 10 that he would drop his efforts to have the film *Taxi Zum Klo* declared obscene if the Alternative Films Committee of Virginia Commonwealth University which wants to show it will agree not to invite the general public. Davis said his offer has been standing since Judge James B. Wilkinson called the film obscene and disgusting and ordered the committee not to show it at a hearing April 2. Wilkinson has since removed himself from the case.

State law permits films to be shown at educational institutions for educational purposes even if they are obscene, Davis said. But the film committee lost its exemption by advertising that the screening would be open to the general public. "It's not an effort on our

## Minnesota censorship survey available

Parents and school boards have tried to remove books or magazines from at least one-sixth of the public school libraries in Minnesota, according to a survey released in January by the Minnesota Civil Liberties Union. The group surveyed librarians in the state's 775 public secondary schools and 507 public elementary schools (see *Newsletter*, March 1983, p. 33). Copies of "A Report of a Survey of Censorship in Public High School and Elementary Libraries and Public Libraries in Minnesota," are available for \$5.00 from: Matthew Stark, Executive Director, Minnesota Civil Liberties Union, 628 Central Ave., Minneapolis, MN 55414.

part to try and stop them from getting an education," he said.

That, however, is not the issue, according to ACLU attorney David P. Baugh, who is representing the students. Baugh said the students realize they could show the film under the conditions outlined in the law, but maintain that it is simply not obscene. He said the committee's insistence on showing the film to the public is a protest against Davis' "arbitrary limiting of whom we may show the film to." Baugh said delays in resolving the issue had already had a chilling effect on the right to free expression. Reported in: *Richmond News-Leader*, August 10.

## periodicals

### Wichita, Kansas

Publisher Mark Hannah doesn't know when the next issue of his eight-month old bimonthly *Exodus* magazine will come out, or who will print it. Hannah switched printing companies in August to Pennypower Shopping News, but then that firm told him it wouldn't print the August 29 issue because the contents were offensive. The issue of the black-oriented publication called for a boycott of businesses which do not advertise in "black news media" and included stories labeling the Catholic church as racist and charging that the Jewish community manipulates blacks.

"We're not going to have a paper because Pennypower won't print it if these articles are in it," Hannah said. "They are just censoring my paper." "They have some articles that denounce other businesses in the community," replied William Kurz, general manager of Pennypower. "It doesn't matter if they are advertisers with us. We don't want to be part of something that's condemning something else."

Hannah said Pennypower's decision would cause serious financial difficulty for his publication, but he vowed to return to publishing as soon as possible. Previously, Hannah had claimed a circulation of 5,000, but in July he was approached by Pennypower which offered to print and distribute the publication in selected neighborhoods along with its own publication of advertisements, raising the potential circulation of *Exodus* to 20,000. But Pennypower printed just one issue of the magazine, a four-page edition mostly informing readers of the expansion plans, before renegeing on the agreement. Reported in: *Wichita Eagle*, August 25.

## foreign

### London, England

Hundreds of scholarly works destined for Britain's most prestigious libraries and universities may be destroyed by order of the government. The books

come from Argentina, and under the total embargo imposed on Argentine imports in April 1982 at the outset of the Falklands conflict, they have been piling up in customs houses. Officials say they may have to be pulped—or even burned.

“The situation is absurd,” said a Latin American specialist. “Destroying books would be more appropriate in a dictatorship like Argentina than in a democracy such as ours.” Yet attempts to get the books exempted from the import ban have met only with failure. The Department of Trade, which issues import licenses, informed each library and university that it could not provide licenses for books from Argentina. The department gave them 28 days to instigate legal proceedings or have their books “condemned.” Another option open to the scholars is to pay for shipment of the books back to Argentina, but no one has yet taken up that offer.

Among the institutions affected by the ban are London University’s Institute of Latin American Studies, the Scott Polar Research Institute in Cambridge, the universities of Essex and St. Andrew’s in Scotland, and the British Library, national library of the United Kingdom.

The world-renowned Bodleian Library in Oxford is in especially dire straits. Customs officials are holding six volumes of a fifteen-volume set of a nineteenth century publication; the other nine are already on the Bodleian’s shelves. A library spokesperson said it had taken a Buenos Aires bookseller years to find the rare books. Now, in the words of the customs men, they may be “disposed of.”

Anthony Loveday, secretary of the Standing Conference of National and University Libraries in London, commented bitterly: “There has been no discrimination. The ban is total and it’s being applied without intelligence. . . . We’re the first to acknowledge the facts of life of international relations. But if you’re studying political and economic affairs, then it’s as important to understand the Argentine as the British viewpoint.”

Indeed, at the height of the Falklands crisis, Foreign Ministry officials were virtually breaking down the doors of the Institute of Latin American Studies in search of books they did not have themselves. Now, they’re stopping those very books from even entering the country. Reported in: *Christian Science Monitor*, September 20.

#### **Tel Aviv, Israel**

Israeli television has cancelled programs based on works by mystery writer Roald Dahl on the grounds that the British author made “very strong anti-Semitic” statements in a magazine article.

The “Tales of the Unexpected” television series, some of whose programs are dramatizations of Dahl’s

two-volume collection of short stories of the same name, has been a hit on state-owned Israel Television. But government representative Erela Ravdal said the Dahl mysteries no longer would be broadcast in light of an article the author published in the *British Literary Review* last August. “He made very strong anti-Semitic and anti-Israeli statements,” she said. “His works, therefore, have no place on Israel’s national television.”

In the article, a review of a book about the Israeli invasion of Lebanon, Dahl wrote: “Never before in the history of man has a people switched so rapidly from being much-pitied victims to barbarous murderers. Never before has a state generated so much sympathy around the world and then, in the space of a lifetime, succeeded in turning that sympathy into hatred and revulsion.” Reported in: *New York Times*, September 8.

#### **Kuala Lumpur, Malaysia**

Malaysia’s national news agency, Bernama, will become the sole distributor of foreign news within the country May 1, a move that some Malaysians see as an effort to censor the press. Both the government of Prime Minister Mahathir Mohamad, which approved the plan in late June, and Bernama deny any intention to censor. They say the idea is to give Malaysia an interest in foreign news operations in the country and to generate income.

Instead of selling their news directly to subscribers, the major international news agencies will have to channel everything through Bernama. Bernama would then resell the services to customers including newspapers, banks, stockbrokers, government agencies and individuals. Only syndicated feature services will be exempt.

Malaysian newspapers and their editors, among others, have denounced the plan as an attempt to restrict the flow of information. “We have compelling political, legal, factual and procedural arguments against the move,” a large group of editors said in a statement. But they said they would submit their views to the authorities without public discussion.

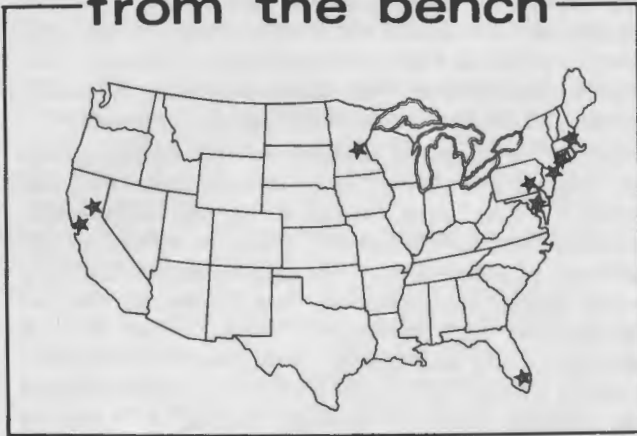
Bernama’s board consists of six government officials and six representatives of subscribing newspapers, with a chairman appointed by the government. “Bernama is a government news agency,” said Tan Chee Khoo, a newspaper columnist and former opposition member of parliament. “Its presentation of news [is] stereotyped and slanted in the government’s favor.” One editor, who declined to be identified, said Bernama wants to control the news. “We don’t trust Bernama to edit for us,” he said. “We would like to decide for ourselves.”

Bernama sources conceded that it practices self-

*(Continued on page 200)*



## from the bench



### U.S. Supreme Court

Acting as circuit justice, Justice William J. Brennan on July 13 invalidated an order of a Pennsylvania Court of Common Pleas which prohibited newspapers from publishing the names or addresses of the jurors in connection with a particular homicide trial. Even though the state might have a compelling interest in keeping personal information about the jurors confidential in an appropriate case, either to assure a fair trial or protect the privacy of the jurors, in the case of *Capital Cities Media, Inc. v. Toole*, more justification than appeared on the record would be necessary for a permanent prohibition against publishing the information to be upheld, Brennan determined. This was particularly true, he said, because the jury had been selected at *voir dire* proceedings which were conducted prior to the issuance of the order, at which times their names were not kept confidential. Reported in: *West's Federal Case News*, July 29.

### libraries

#### Mt. Diablo, California

Contra Costa County Superior Court Judge David Dolgin in an August 19 tentative decision struck down a Mt. Diablo school district requirement that students get parental permission before reading *Ms.* magazine in the high school library. "In this case the minor student does have a constitutionally protected right, based on First Amendment principles (expressed in the California Constitutional provision of Article One), to receive ideas from library books and materials; that the School Board may not interfere with this right, but that the minor student's own parents have a right to interfere with their minor child's right to receive information.

"The right of a parent to bring up his child in a way the parents have experienced and found valuable

exceeds the child's right to receive information or the magazine's right to disseminate information in the circumstances of this case. Therefore a parent, for whatever motive, may rightfully object to library material that might reach his child and forbid his child to perceive that material. However, neither the School Board, nor the objecting parents may exercise this right for children not their own."

Dolgin's ruling in the case of *McKamey v. Mt. Diablo Unified School District* met with a mixed response. On behalf of the ACLU of Northern California, which litigated the case on behalf of the plaintiffs (with support from the Freedom to Read Foundation), attorney Margaret Crosby noted that while the restriction was struck down, "the ruling is by no means a clear victory for the First Amendment rights of students, as the court found parental rights to be paramount to students' right to an education in any case where the values clashed. Essentially, the judge ruled that a school board must honor the desires of any parent who wishes to preclude his or her own child from reading a magazine. However, the Board may not issue a blanket parental consent restriction, because the burden of compliance violates the rights of students with non-objecting parents."

According to school district attorney Margaret O'Donnell, school officials believe that they "lost the battle but won the war." She pointed out that Judge Dolgin said a school advisory committee recommendation that parents be invited to write a letter objecting to use of *Ms.* by their children was constitutional. O'Donnell said that library material objections could be invited in an annual school letter notifying parents of their right to object. Reported in: *Education Daily*, August 26.

### "political propaganda"

#### Sacramento, California

The U.S. government's attempt to label as "political propaganda" three Canadian films on nuclear disarmament and acid rain was declared unconstitutional by a federal judge September 8. U.S. District Court Judge Raul A. Ramirez said the disclaimer required by the Justice Department violated First Amendment guarantees on freedom of speech. Ramirez, given national jurisdiction in the case, had already issued a preliminary injunction in May stripping the disclaimer from the films (see *Newsletter*, September 1983, p. 146; May 1983, p. 63).

Ramirez said the disclaimer unfairly stigmatized the films and identified those who exhibited them as distributors of distorted information on behalf of foreign governments. "To characterize a particular expression of political ideas as 'propaganda' is to

denigrate those ideas." he wrote. "political propaganda' is ordinarily and commonly understood to mean material that contains half-truths, distortions and omissions. Congress did, in fact, intend to denigrate the affected materials by the use of the term."

Attorney John G. Donhoff, who argued the suit filed by state Sen. Barry Keene, said Ramirez' ruling "means that the First Amendment does not apply just to materials produced within this country." He said the opinion "focuses on the phrase 'political propaganda' so as almost to preclude the government from using it again." Reported in: *Chicago Tribune*, September 10.

## libel

### College Park, Maryland

In an opinion that could have significant implications for newspaper columnists and other commentators, U.S. Court of Appeals Chief Judge Spottswood W. Robinson III wrote August 5 that statements published as opinion but suggesting specific facts can be deemed libelous if they omit information supporting another point of view. The opinion came in a unanimous decision by a three-judge appeals panel reversing a lower court ruling in the case of University of Maryland professor Bertell Ollman who claimed he was defamed in a 1978 newspaper column by syndicated writers Rowland Evans and Robert Novak. The case was sent back to the lower court for a rehearing.

Ollman claimed Evans and Novak libeled him when they asserted that his mission in the university classroom was to convert students to Marxism and that he was held in low esteem by colleagues. A U.S. District Court judge had dismissed the suit on the grounds that the columnists' assertions were opinions and thus protected by the First Amendment.

Robinson concluded, however, that Evans and Novak offered their conclusions not as "pure opinions" but as statements with a factual basis. Published expressions of opinion have generally been protected from libel charges, while statements of fact bear no such privilege. But a precise definition of where "opinion" begins and "fact" ends has consistently eluded the judiciary. Noting that the Supreme Court has been "virtually silent" on the question, Robinson attempted to establish a specific category of statements which can lose First Amendment protection due to factual deficiencies.

Calling such statements "hybrids," Robinson argued that they "differ from pure opinion in that they are remarks which most people would regard as capable of denomination as 'true' or 'false,' depending upon what the background facts are revealed to be." A "hybrid" can become libelous, he wrote, when it "appears without any recitation of the underlying facts, or when those facts are stated erroneously or incompletely."

In his suit, Ollman charged that because of the column he was denied the chairmanship of the university's political science department, a position for which he had already been approved by the university provost and the chancellor of the College Park campus.

One of the disputed portions of the column stated that Ollman was viewed by colleagues as a "political activist." That term, as used by the columnists, Robinson wrote, "reasonably could be viewed as the antithesis of scholarship." He said the statement might in one context be viewed as "pure opinion," but as used implied the "existence of facts . . . and there is little sign of any such factual predicate in the column." A survey offered in rebuttal by Ollman, which showed him ranking tenth in prestige among 317 leading political scientists, "raises a genuine issue as to whether there was a culpable omission or error in the background facts presented to the reader," Robinson argued.

Judges Patricia M. Wald and George E. MacKinnon agreed with Robinson that the case should be reheard. But Wald, who called Robinson's opinion "intriguing", voiced concerns about how his test would be applied. MacKinnon said he considered the column "opinion." Reported in: *Washington Post*, August 6.

## publishing

### New York, N.Y.

In a decision hailed by book publishers but questioned by the Authors Guild, the U.S. Court of Appeals for the Second Circuit unanimously reversed a lower court decision that Prentice-Hall publishers failed properly to advertise and promote one of its books, *Du Pont: Behind the Nylon Curtain*, by Gerard Colb Zilg.

Publishers say the decision affirms their right to determine the size of a book's press run and advertising budget. "The court has now declared that the publisher, under terms of a traditional contract, is under an obligation merely to use 'fair and reasonable' efforts to promote its books, and it also said that a jury or judge should not second-guess the decisions of a publisher," commented John Koshel, attorney for Prentice-Hall.

But Irwin Karp, counsel for the Authors Guild, which filed a brief in support of Zilg, said the publishers glee may be premature. "Authors can still claim that publishers didn't fulfill their obligation to exercise reasonable efforts," he said. Karp and Carl Stewart, lawyer for Zilg, charged that the Appeals Court did not follow New York law under which there is an implied obligation for a licensee to exercise its best efforts.

The Zilg book, published by Prentice Hall in 1974, was optioned to the Fortune Book Club for \$5,000. When the book was in galley proofs, a spokesman for

Du Pont called the head of the Book-of-the-Month Club (which owns the Fortune Book Club) and said that Du Pont considered the book "scurrilous and unfair." Soon after the club canceled its option, forfeiting the \$5,000. Following this, Prentice-Hall reduced its scheduled 15,000 copy first printing to 10,000 and cut the advertising budget from \$15,000 to \$5,500. Zilg sued both companies charging that the publisher was guilty of breach of contract by bowing to pressure from Du Pont to limit circulation.

District Judge Charles L. Brieant ruled last year that "there is no evidence that Du Pont attempted to 'suppress' the book," but concluded that Prentice Hall had failed to use its "best efforts" to promote the book "fully and fairly" because of embarrassment over its content. He ruled that Zilg was entitled to \$24,250 in lost royalties.

That decision was overturned by the three-judge Court of Appeals September 15 in an opinion written by Judge Ralph K. Winter. Reported in: *New York Times*, September 16.

## shopping malls

### Hartford, Connecticut

A Superior Court judge ruled August 15 that the National Organization for Women no longer can distribute literature inside Westfarms Mall because a court ruling that gave it permission to do so also resulted in a violent anti-Ku Klux Klan confrontation in May. The latest development in the lengthy battle over mall access (see *Newsletter*, May 1983, p. 77; July 1983, p. 116; September 1983, p. 147) came as Superior Court Judge George W. Ripley modified a March injunction in favor of NOW after mall owners asked that it be dismissed. Ripley's ruling will allow NOW and other groups to distribute literature only in specific sites outside the mall.

Citing police testimony, Ripley wrote that "interior access to the mall by persons or organizations . . . presents a highly dangerous situation . . . Control is impossible in such a location." Several people received minor injuries and three people were arrested when about 100 anti-Klan protesters confronted police outside the mall May 22. Several Klan members appeared before the confrontation, but left when requested to by the police.

The Klan planned a rally at the mall in response to Judge Arthur L. Spada's March 2 injunction forcing mall owners to allow NOW members to distribute literature in the mall. In that decision, Spada wrote that the mall is the modern "counterpart of the New England town green" and that NOW's right to free speech outweighed the mall owners' property rights. Ripley's decision leaves intact all stipulations in Spada's

ruling except the location. The mall owners have appealed to the state Supreme Court to have NOW and other groups banned entirely from the shopping center because it is private property. NOW also appealed Judge Spada's ruling, saying members' actions could not be limited to certain times or issues as Spada's decision did. The case was expected to be heard in October.

In a statement, the mall owners said they "are gratified that Judge Ripley has enjoined the National Organization for Women from politicking inside Westfarms Mall. Our position all along has been that as such, political activists have no right to utilize the exterior or the interior of the buildings."

Lynn Taborsak, Connecticut coordinator for NOW, called Ripley's ruling ridiculous and complained that the new restrictions will reduce NOW's ability to collect signatures on petitions. Taborsak called Westfarms one of the best places to petition in the state. "The battle is not over yet," she said. Reported in: *Hartford Courant*, August 16.

## cable TV

### Miami, Florida

A federal judge ruled August 2 that Miami's controversial ban on cable television pornography was unconstitutional and ordered the city not to enforce it. Citing the First Amendment, U.S. District Court Judge William Hoeweler issued a summary judgment in favor of plaintiffs Ruben Cruz, a cable TV subscriber, and Home Box Office, Inc.

In his opinion, Hoeweler said he was "sympathetic with the defendant's attempt to protect the perceived deterioration of the 'moral fiber' of the City." But, he argued, the ordinance "exceed[s] the limits of proper constitutional action." Hoeweler said the city's ordinance was "wholesale" in its prohibitions, and he noted that protections offered by cable companies enable subscribers to avoid unwanted material and protect children from unsuitable programming.

Miami Mayor Maurice Ferre called the ruling "very profound" and said the city would probably appeal. "My aim and that of the city commission is to rid the city of parasitic diseases that feed off obscenity, indecency," he said. The ordinance was enacted by the city in January after a September 1982 straw poll initiated by Ferre backed such a measure 52 to 48 percent. Under the ordinance, City Manager Howard Gary would have become the city's chief censor, ruling on viewer complaints (see *Newsletter*, March 1983, p. 50; November 1982, p. 214). Reported in: *Miami News*, August 2.

## newspapers

### Minneapolis, Minnesota

A Minneapolis city ordinance requiring a \$10 license fee for newspaper racks was declared unconstitutional by Hennepin County District Court Judge Stanley Kane. In a decision released August 3, Kane said the licensing and fee requirements constituted a prior restraint on the distribution of newspapers and therefore violated guarantees of press freedom. He also said there was no substantial need for the license and fee.

The ordinance was passed by the Minneapolis City Council on December 10, 1982, and signed into law by Mayor Don Fraser on December 16. It had been scheduled to go into effect April 1, 1983, before a group of Minneapolis newspapers challenged its constitutionality.

Kane said the ordinance was invalid on its face because the license fee had to be paid before newspapers could be circulated. He rejected the city's argument that the ordinance was a reasonable regulation of public safety, pointing out that there were no reports of significant personal injury or property damage caused by the news racks. Reported in: *Minneapolis Star and Tribune*, August 4.

## prisoners' rights

### Walpole, Massachusetts

A Massachusetts Superior Court judge July 27 warned state prison officials, including the commissioner of corrections, that they face "serious, serious sanctions" unless they obey an order he issued February 4 that a Walpole state prison inmate not be denied books and magazines mailed to him. Judge Hiller Zobel told Asst. Attorney General John Amabile to tell the prison authorities that "if this activity persists, there will be some serious difficulties. It seems to me," Zobel said, "that if a correction officer is faced with a court order, he should say to himself, 'I better find out what it means or I'm looking down the business end of a commitment order.'"

The prison officials were accused of civil contempt in a complaint filed by attorneys for Raymond Champagne who charged that the officials had refused to let him have a magazine called *Instead of a Magazine*, which deals with prison issues, anarchism, courts, police and related matters. The publication bills itself as "an organ of the Lysander Spooner Society" after a nineteenth century anarchist.

Amabile argued that the officials had followed a constitutional prison regulation permitting them to withhold material sent to prisoners if such material jeopardized the institution's security. Zobel countered, however, that "we're not talking about some hand-

written instructions. We're talking about printed matter that comes from a bookseller or a publisher." Champagne had originally approached Zobel with a complaint about the denial of reading material when the judge held court at Walpole in February. At that time, Zobel ordered the administration to let Champagne have the printed matter. Reported in: *Boston Globe*, July 28.

## solicitation

### Contra Costa County, California

A Contra Costa ordinance prohibiting door-to-door solicitation between sunset and sunrise was declared unconstitutional by the California Court of Appeal July 27. In a unanimous ruling, the court agreed that the ban interferes with the First Amendment rights both of those who have a message to spread and those residents who wish to receive communications from political or charitable groups.

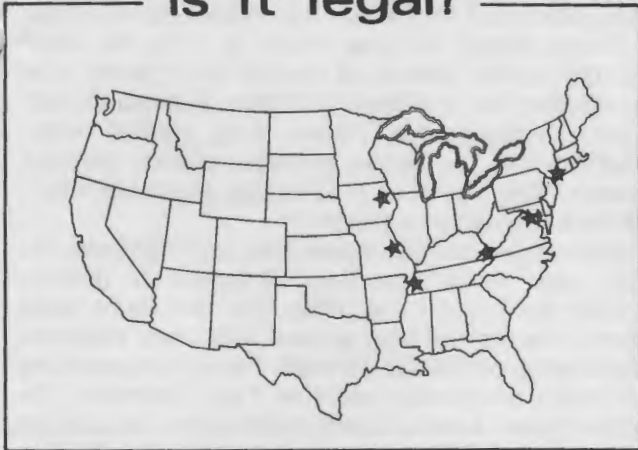
The ordinance, adopted in 1978, initially banned soliciting between the hours of 7 p.m. and 8 a.m. During the course of litigation, however, the county amended the ordinance to restrict such activity between "sunset and sunrise."

The ban was challenged by Alternatives for California Women (ACW), a non-profit group which raises funds for battered women and children. After the Contra Costa Superior Court ruled in 1979 that the statute was constitutional, the ACLU of Northern California agreed to represent ACW on appeal.

The appellate ruling was based on two premises: that the ordinance unreasonably discriminated between "solicitation" and other forms of canvassing and, more fundamentally, that the county could find less intrusive ways to deal with its legitimate concerns about privacy and safety than banning door-to-door activity during evening hours. "The ordinance abridges the group's First Amendment rights without protecting the residents' privacy from intrusion by persons who are not 'peddlers' or 'solicitors,'" wrote Justice Joseph Rattigan. "The ordinance discriminates on the basis of the content of a speaker's message to the extent that a person who literally solicits from residents is regulated, but one who only seeks a receptive listener is not." Reported in: *ACLU (Northern California) News*, August-September 1983.

(Continued on page 200)

## is it legal?



### school prayer

#### Memphis, Tennessee

Despite the nearly twenty-year old Supreme Court ban on prayer in public schools, prayers are widespread in Memphis city schools, two leaders of the American Civil Liberties Union charged in July. "We get numerous complaints that prayers are being conducted in public schools in ways different from the minute of silence allowed by state law," said Dr. Rodney Grunes, president of the ACLU West Tennessee chapter. "It's initiated by the teachers," explained Bill Johnson, Memphis ACLU director. "I can't believe they're ignorant of the law . . . They're just doing it anyway."

Johnson said the ACLU has made numerous complaints to the school board and generally the school superintendent has written a memo to the offending school. "That's good for a limited time, and then it's back to routine," Johnson said. While prayers may stop for two or three weeks, "usually it's two or three days."

"Resistance is still rather widespread across the country and particularly in the South to the Supreme Court ruling against school prayer," Grunes said. "Schools that traditionally started each day with a prayer continue to do so." Reported in: *Memphis Press-Scimitar*, July 9.

#### Bristol, Virginia

To some it seemed almost like a replay of the famous Scopes "Monkey Trial" of sixty years ago. This time, however, the issue at trial was not evolution but whether the Bible may be taught in public schools. At the center of the conflict are church-supported Bible classes that have been part of the curriculum for the last 42 years in the public schools of Bristol, a small, predominantly Baptist community of 19,000 in the southwest corner of the state.

Sam and Sally Crockett, a Bristol couple supported by the Virginia ACLU, are suing to stop the voluntary classes, claiming they violate the First Amendment guarantee of separation between church and state. The Bristol school board contends, however, that religion is not being taught because the Bible is presented as a secular subject—for its historical and literary value. The board's insurer has refused to pay the cost of defending the program, however, saying the classes are clearly unconstitutional. As a result, a group called the Bible Defense Fund has raised \$46,000 to pay legal costs.

The Crocketts, both Methodists, originally objected only to the Fundamentalist orientation of the classes. Yet the two middle-class church goers have been called atheists, Communists and servants of the devil. The conflict has divided the community, and political ambitions have become intertwined with the fundamental issue. Still, it is the question of whether the classes are genuinely voluntary—only 18 of 589 fourth and fifth graders chose not to attend this year, including Kathleen Crockett—and that of whether the Bible is taught as literature or as "truth," which will be decided in court. Reported in: *National Law Journal*, July 18.

### student press

#### St. Louis, Missouri

A group of determined student journalists from Hazelwood East Senior High School in St. Louis have filed suit in U.S. District Court charging school administrators with unconstitutional censorship of their student newspaper, *The Spectrum*. The complaint calls on the school district to permit publication of several articles banned by the school principal in May and also seeks actual damages of \$1,000 and punitive damages of \$10,000 for each of the three students who filed suit.

"We just got disgusted with the whole thing and we decided to stand up for our rights," said Cathy Kuhlmeier, a layout editor and one of the plaintiffs. "We want the school to recognize that students have certain rights under the Constitution."

The case centers on a decision by Hazelwood East Principal Robert E. Reynolds to delete several articles on teenage marriage, runaways, teenage pregnancy and the effects of divorce on children before publication of *The Spectrum's* May 13 issue. The suit charged that Reynolds censored the articles without informing the newspaper staff.

"I think we dealt with some very important topics in that two-page section," said Leanne Tippett, another plaintiff and former artist and writer for the paper. But Reynolds and other Hazelwood officials said they were following established school policies and that the articles in question, suggested by journalism students and written under faculty supervision, were "inappro-

appropriate to be used in a school newspaper. Our position on these articles is that the content was personal and highly sensitive," Reynolds said. The student journalists are supported by the American Civil Liberties Union. Reported in: *St. Louis Post-Dispatch*, August 21; *St. Louis Globe-Democrat*, August 20.

## government funding

### Washington, D.C.

A recent decision by the Reagan Administration to withdraw financial support from a publication said to express ideas contrary to Administration policy is being challenged in a lawsuit filed by the ACLU. For several years, the Agency for International Development subsidized *International Family Planning Perspectives*, a magazine published by the Alan Guttmacher Institute. That subsidy was stopped because the magazine was said to advocate abortion in two articles, one about illegal abortion in Bangladesh, the other about Tunisia that mentioned abortion only in passing.

The agency acted under instructions from the Administration to curtail government spending on publications and from David A. Stockman, director of the Office of Management and Budget, to consider whether the publication "reflects Administration goals and priorities." The head of the agency, M. Peter McPherson, received letters from Sen. Jesse Helms (R-N. Carolina) and Rep. Henry J. Hyde (R-Illinois), both outspoken abortion foes, urging him to drop the subsidy.

The ACLU suit charges de facto censorship, but supporters of the Administration position argue that the journal remains free to publish without government subsidy. "It is disingenuous to assert that AID is performing censorship by merely refusing to foot the bill," said Rep. Hyde. Reported in: *New York Times*, July 25.

## visas

### New York, N. Y.

Dario Fo and Franca Rame, two of Italy's best-known political satirists, have been denied visas by the American Consulate in Milan. They were scheduled to come to the U.S. for the first time in September to perform at the New York Shakespeare Festival and to lecture at the New York University School of the Arts and the Yale Drama School. Joseph Papp, producer of the Shakespeare festival, termed the denial of visas to the husband-and-wife team "a political act imposed on what is decidedly a cultural affair." Papp also called the decision "a form of censorship," and said that "to have the authors of their plays on stage hardly constitutes a threat to the United States."

John Caulfield, a spokesman for the State Depart-

ment, said the visas were denied under the 1952 Immigration and Nationality Act, commonly called the McCarran-Walter Act (see article, p. 177). He noted that the relevant section of the law bars "aliens who are members of or support anarchist, Communist and terrorist organizations" from being granted visas. Caulfield said the Italian performers were excluded because "they had done fund-raising and other activities for Italian terrorist groups."

Although Fo and Rame have been excluded from the U.S., their works have been performed in theaters around the country. In 1980, Fo and Rame were denied visas on the same ground after they had been scheduled to perform in a theater festival sponsored by the Italian government and New York University. To support them, American performers at that time put on a show at New York's Town Hall entitled "An Evening Without Dario Fo." Reported in: *New York Times*, August 27.

### Managua, Nicaragua

The U. S. government September 16 refused for the first time to allow Salvadoran leftist rebel leader Ruben Zamora to visit the United States. The U.S. embassy in Managua issued a statement saying that a visit by Zamora would not be "appropriate." Under U.S. immigration law, Zamora needs a special waiver to visit the United States because he belongs to a group classified as "anarchist, communist or terrorist" (see article p. 177). Before being turned down, Zamora had received the waiver eleven times.

Zamora said that he had planned to travel to the U.S. for about two weeks at the invitation of Rep. Jim Moody (D-Wisconsin) and of the World Affairs Council in Riverside, California. He said that several other congressmen had asked to meet him in the United States. Zamora expressed bewilderment that he was refused entry after having met presidential envoy Richard Stone in July and August.

In Milwaukee, Rep. Moody protested the visa denial as "unfortunate and harmful to American interests." He said Zamora, probably the rebels' best-known representative in the U.S., had been invited as a panelist for a conference at the University of Wisconsin Milwaukee, along with El Salvador's ambassador to Washington. Reported in: *Washington Post*, September 17.

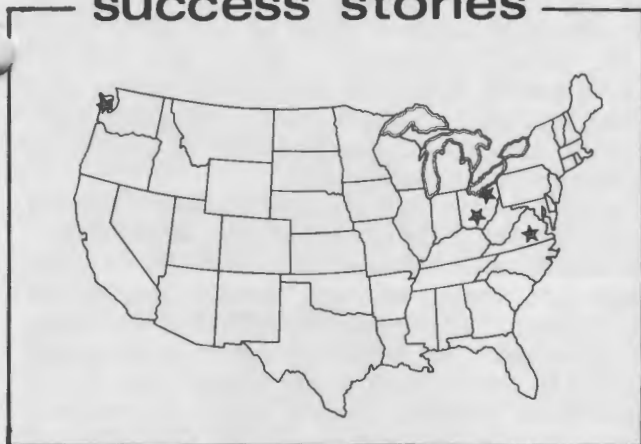
## international communication

### Washington, D.C.

The State Department is blocking plans by an American company to transmit television coverage of the 1984 Olympics to Cuba, insisting the Cubans book time on an international satellite instead of an American one.

(Continued on page 202)

## success stories



### libraries

#### Cleveland, Ohio

Cleveland Public Library officials have turned down a parental request to restrict minors access to certain library materials. The request was made by Marlene Sanchez, whose 13-year old daughter checked out a book of erotic limericks. The book in question, *The New Limerick*, by G. Legman, bears a caption boasting that the book is "the largest collection of limericks ever published, erotic or otherwise." Sanchez said her daughter did not know what the word erotic meant.

Constance Koehn, in charge of book selection for the library, handled the complaint. "I told her we don't censor material in the library or the child's reading," Koehn said. "The parent has full responsibility." "We recognize that she [Sanchez] may find things in the library that she doesn't like, but would it be better to restrict that for everyone?" added Norman Holman, director of branch libraries. "My answer would be no." Reported in: *Cleveland Plain Dealer*, August 14.

#### Xenia, Ohio

The Xenia school board voted unanimously July 11 not to ban four children's books from elementary school libraries. The books in question, *Are You There God, It's Me, Margaret* and *Blubber*, both by Judy Blume; *Harriet the Spy*, by Louise Fitzhugh; and *Where the Sidewalk Ends*, by Shel Silverstein, had come under attack by a citizen's group in June (see *Newsletter*, September 1983, p. 139).

Parents opposed to the books argued that they seemed to denigrate religion and parental authority, and over-emphasized sex and drug use. Board members, however, said they felt a review process undertaken by a board-appointed committee was adequate. Board member Barbara Falls said she agreed wholeheartedly

with the committee's recommendation that the books remain on the shelves without restriction. She said she read all four books and found them "delightful . . . and warm and human with good examples of human behavior, albeit sometimes cruel and unfair."

"We have highly competent librarians who choose books," Falls added. "I have complete confidence in this selection process." Reported in: *Dayton News*, July 12.

#### Charlotte County, Virginia

The Charlotte County School Board voted July 5 not to remove *The Alfred Summer*, by Jan Slepian, from the district's Central Middle School library. Parents Betty and Lee Copeland had requested the book's removal in May after discovering what they felt to be objectionable words in its pages.

After the complaint was filed by the Copelands, the book was removed from the shelves and reviewed by a committee formed by Central Middle School's principal, Judy Lacks. On June 6, the committee recommended the book's retention, but the board tabled a final ruling until board members had a chance to read the entire volume.

"Overall, I couldn't find anything strong enough or zealous enough to have it removed," said board member William Devin. "It's a real good story," said C. L. Jackson, Jr. "It's about three kids growing up with handicaps and learning to deal with problems." Reported in: *Brookneal (Virginia) Union Star*, July 7.

### schools

#### Kitsap, Washington

After a member of the Central Kitsap Instructional Materials Committee objected to the use of the text *Seven Theories of Human Nature*, by Leslie Stevenson, in a high school class for gifted students, the class instructor, Louis Graham, decided to defend the book. Attached to the original complaint was a critique of the book's presentation of Christian theory, authored by a local minister. Graham asked another pastor, a Presbyterian, to prepare a rebuttal. The pastor offered a thorough 12-page analysis and the committee voted 11-1 to retain the book.

But, it should be reported, Graham did not stop here. He made the controversy over the book an educational exercise itself, using the original complaint, the pastor's response and his own written analysis submitted to the committee as classroom materials. As Graham put it to the committee: "Reading material is, and should be, influential so we must take care that we are broadening the intellectual horizons of our students and not unwittingly funneling them into our own views or into the views of a select minority, however that minority might label itself. At the same time schools should make

students think analytically and that goal calls for more than mere repetition of the current views of the self-proclaimed majority. In this sense, to examine is to understand." Reported in: *Washington State Coalition Against Censorship Newsletter*, July 1983.

## visas

### Belfast, Northern Ireland

In a change of attitude, the U.S. State Department issued a visa July 14 to the Rev. Ian Paisley, a militant Protestant leader in Northern Ireland. The visa for a onetime visit was issued by the U.S. Consulate in Belfast so that Paisley could take part in the World Congress of Fundamentalists at Bob Jones University in Greenville, South Carolina in early August. Paisley, leader of the Democratic Unionists and a member of the British Parliament, was listed as co-chairman of the Congress.

Some of Paisley's previous applications to visit the United States were rejected on the ground his activities would be contrary to the U.S. desire to achieve a peaceful solution of Northern Ireland's problems. The State Department said Paisley was issued a visa this time because he pledged the trip would be "religious in nature." In June, the department denied entry to one of Northern Ireland's prominent Roman Catholic leaders, Bernadette Devlin McAliskey (see *Newsletter*, September 1983, p. 151). Reported in: *Chicago Sun-Times*, July 17.

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(Government secrecy . . . from page 175)

"Those in government who support such restrictions do not share the vision reflected by the First Amendment," Glasser concluded. "They see the free flow of information as a threat and seek increasingly to insulate governmental decisions from public debate. While this trend began before 1980, the Reagan Administration has accelerated it enormously and seems to regard restriction of information as a central strategy of government."

The ACLU is not alone. In an important article in the *New York Times Magazine* of September 25, prominent New York attorney Floyd Abrams echoed Glasser's charges and systematically dissected the present administration's information policy. This, Abrams concluded, is "unique in recent history—clear, coherent and, unlike that of some recent Administrations, not a bit schizophrenic. More important, it seems at odds with the concept that widespread dissemination of information from diverse sources furthers the public interest. In fact, it appears to be hostile to the basic tenet of the First Amendment that a democracy requires an informed citizenry to argue and shape policy.

" . . . this is an Administration that seems obsessed

with the risks of information, fearful of both its unpredictability and its potential for leading the public to the 'wrong' conclusions. . . . It is a view that not only focuses on security but also equates security with secrecy, and treats information as if it were a potentially disabling contagious disease that must be controlled, quarantined and ultimately cured."

Carefully, almost dispassionately, Abrams chronicled the development of the administration's secrecy stance. The administration's distrust of the Freedom of Information Act, Abrams said, was "evident from its first days in power." Arguing that the FOIA was weakening law enforcement and intelligence gathering operations and had become administratively burdensome, the administration proposed several major amendments sharply limiting the scope of the act. One proposal, rejected by Congress, would have totally exempted the CIA from the provisions of the FOIA, even though the agency had won every case in which it sought to avoid disclosure of properly classified information.

Failing to obtain congressional approval for the proposed amendments, the administration turned to a different approach. Under the act, classified information is denied to the public unless it can be proven in court that the material was classified improperly. By changing the classification guidelines, the President avoided the risk that courts would order the release of certain documents. Early this year, the Department of Justice reversed a policy established under the Carter Administration of being "generous" in waiving the payment of processing fees to public interest organizations and individuals seeking information under the act. Among other things, the new criteria barred fee waivers unless the government first decided that the information "meaningfully contributes to the public development or understanding of the subject." In other words, the government itself is to decide what information about its own conduct is "meaningful."

The administration has also begun using the McCarran-Walter Act to deny visas to controversial foreign speakers (see p. 177). Invoking this act, the government has denied entry to a broad variety of speakers and entertainers. Last year, the Justice and State Departments stopped groups of foreigners from attending a UN disarmament meeting. When protests were addressed to Kenneth L. Adelman, then deputy UN delegate and now director of the arms control and disarmament agency, about the denial of visas to hundreds of Japanese delegates, including many Buddhist monks, his response was an incredible: "We have absolutely no legal obligation to let Tommy Bulgaria or anyone else from Soviet-front groups" enter the country.

Perhaps the best-known act of effective censorship taken by the administration was the labeling by the Justice Department of three Canadian films on nuclear



war and acid rain as "political propaganda" (see p. 191 and *Newsletter*, May 1983, p. 63). Less well known is that American-made documentary films destined abroad have not escaped either. Under a 1948 UN agreement, filmmakers pay no American export or import duties if the United States Information Agency certifies that their films are primarily "instructional" or "informational" rather than propaganda. In making its decisions, the USIA relies on relevant government agencies.

Under this administration, as revealed in the July-August issue of *American Film*, a 1979 Emmy Award-winning documentary on toxic waste, "The Killing Ground," was denied certification by the Environmental Protection Agency which concluded that the program was "mainly of historical interest" since the U.S. "has made great progress in managing hazardous wastes." To the EPA, the news documentary is propaganda not information because its "tone . . . would mislead a foreign audience into believing that the American public needed arousing to the dangers of hazardous wastes [when] this is no longer the case."

Yet, according to Abrams, "of all the policy changes of the Reagan Administration from that of its predecessors, the ones that may have the most lasting impact are the decisions to classify more information and to subject government officials to lifetime pre-publication review." Abrams identifies three distinct stages in the development of these changes.

The first step came just eight months after President Reagan's inauguration when Attorney General William French Smith revoked 1980 Justice Department guidelines concerning the U.S. Supreme Court decision in *Snepp v. United States*. In that case the justices upheld the CIA's right to make its employees agree to lifetime prepublication review of their writings to insure the security of classified information. The decision was very broad, and then Attorney General Benjamin Civiletti formulated guidelines for its implementation aimed at limiting the pressure for "rushing to court." In revoking the Civiletti rules, Smith explained that he sought to avoid "any confusion as to whether the United States will evenhandedly and strenuously pursue any violations of confidentiality obligations."

The second step identified by Abrams related to the classification system itself. That system has long been criticized for overinclusiveness and in 1978, an Executive Order signed by President Carter attempted to limit the amount of government paperwork being held from the public, often for no apparent reason. But by an Executive Order signed on April 2, 1982, President Reagan reversed the major components of the Carter decision. Now government officials are no longer required to even consider the public's right to know when information is classified and when in doubt they are mandated to classify at the highest, not the

lowest, level of secrecy. A requirement established by Carter that potential harm to national security be "identifiable" was quietly dropped.

The third stage came in two steps. On March 11, 1983, a presidential directive was issued requiring a wide range of additional present and former government officials to obtain clearance from the government before publishing material that *might* be classified. On August 25, the administration released an "agreement" implementing the March 11 directive which established a new category of protected information described as "sensitive compartmented information." In a tough-worded and unprecedented memorandum to all federal employees, President Reagan warned that unauthorized disclosures would be met with "appropriate administrative action" including "criminal prosecution."

According to Abrams, the agreement released on August 25 "has no precedent in our nation's history. To be signed by all government officials with access to high-level classified information, it will require these officials, for the rest of their lives, to submit for governmental review newspaper articles or books they write for the general reading public. The contract will affect thousands of senior officials in the Departments of State and Defense, members of the National Security Council staff, senior White House officials and senior military and Foreign Service officers. Its purpose is to prevent unauthorized disclosure of classified information, but its effects are likely to go far beyond that. It will give those in power a new and powerful weapon to delay or even suppress criticism by those most knowledgeable to voice it . . . The effect of the directive is this: Those people most knowledgeable about subjects of overriding national concern will be least able to comment without the approval of those they wish to criticize." According to the American Society of Newspaper Editors, the new requirements amount to "peacetime censorship of a scope unparalleled in this country since the adoption of the Bill of Rights in 1791."

One area of real concern to Abrams is the administration's apparent attempt to control the flow of unclassified research information to and from American universities. In particular, Abrams notes, university leaders have become increasingly concerned about abuse of the International Traffic in Arms Regulations and the Export Administration Regulations which, according to Stanford University President Donald Kennedy and the presidents of California Institute of Technology, MIT, Cornell and the University of California, had "not until now been applied to traditional university activities."

Abrams relates one typically frightening incident:

In 1981, in a letter similar to that sent to universities around the nation, the then State Department exchanges officer, Keith Powell

2d, asked the University of Minnesota to restrict the academic activities of Qi Yulu, a Chinese exchange student, including denying him access, in the area of computer-software technology, "to unpublished or classified government-funded work." Federal law enforcement officials also visited the university to emphasize the need for the restrictions.

In a blistering response, the University of Minnesota's president, C. Peter Magrath, pointed out to Mr. Powell that since the university refused to accept classified government research, scholars from China would not have access to any such material. "We have all kinds of unpublished government-funded research all over the campus," Dr. Magrath went on, "your proposal would restrict him from access to all of it."

Mr. Powell had asked that the government be informed prior to any visits of Qi Yulu to any industrial or research facilities. "I can only interpret this," wrote Dr. Magrath, "to give us the choice of confining him to the student union or contacting you several times a day about his campus itinerary. . . . Both in principle and in practice, the restrictions proposed in your letter are inappropriate for an American research university."

Undoubtedly, Abrams readily acknowledged, some information should be kept secret. And he recognized too, that other administrations have also taken actions whose effect and sometimes intent was to restrict freedom of information. Abrams pointed out that the Italian playwright and actor Dario Fo, recently denied admission to the United States (see page 196), was barred as well by the Carter Administration because he "never had a good word to say" about the U.S. The Intelligence Identities Protection Act, which University of Chicago law professor Philip B. Kurland called "the clearest violation of the First Amendment attempted by Congress in this era," while signed into law by President Reagan, was drafted by the Carter Administration.

Still, Abrams concluded, "the information policies of this administration are radical and new. The across-the-board rejection of the values of information is unprecedented." Whether this rejection will succeed in leaving a lasting imprint on our society is still undecided, however. Much will depend on us.

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(From the Bench . . . from page 194)

#### **York, Pennsylvania**

An ordinance prohibiting persons engaged in transient retail business from making calls by telephone or by physical presence except between the hours of 9 a.m. and 6 p.m. was unconstitutional, District Judge William W. Caldwell ruled August 15 in the case of *Pennsylvania Public Interest Coalition v. York Township*. By banning solicitation during the evening hours, the ordinance effectively eliminated access to the working portion of the population, Caldwell ruled. This was far too high a price to pay to insure the undisturbed peace of the individual home when less restrictive and equally effective alternatives were available. Reported in: *West's Federal Case News*, September 2.

(*Censorship Dateline . . . from page 190*)

and will sometimes drop news items on instructions from senior government officials or ministers. But that practice is followed by Malaysian newspapers as well, they note. Reported in: *Wall Street Journal*, September 1.

#### **Istanbul, Turkey**

The martial law government of Turkey has taken a series of actions against Turkish newspapers and journalists in what foreign observers say appears to be a general tightening of already stringent press controls in preparation for parliamentary elections scheduled for November.

On August 10, Istanbul military authorities closed the influential conservative daily *Tercuman* for an indefinite period and six days later took the same measure against the centrist daily *Milliyet*, which was allowed to reappear two weeks later after court action was initiated against two of its columnists, Metin Toker and Teoman Erel. In late August, the Istanbul prosecutor summoned Toker and a *Tercuman* columnist, Nazli Ilicak, for questioning along with their editors. Ms. Ilicak, who spent three months in prison last fall and could face a new prison sentence because of her campaign to restore democracy, was informed that legal proceedings had been initiated against her on charges of inciting the people to rebellion and insulting the government. Toker was told he had been called in for infringing a regulation barring all criticism of the National Security Council.

Meanwhile, a columnist for the leftist daily *Cumhuriyet*, Oktay Akbal, began a three month sentence for an article published last fall which criticized the draft constitution. Earlier this year, *Cumhuriyet* was shut down for three weeks and its publisher sentenced to four months in prison.

In another action, the martial law authorities shut down the popular political weekly *Nokta* August 23 without specifying the reason. Some Turkish journalists speculated that the probable motive was a published interview with a leader of the conservative True Path Party, which is seen as an offshoot of former Prime Minister Suleyman Demirel's prohibited Justice Party, and which has been eliminated by the military from the November 6 election.

When the Turkish military seized power on September 12, 1980, it immediately abolished publications of the radical left and right and imposed censorship controls on the rest of the press. Since then most journalists have been cautious about what they write. "We're just trying to survive," one editor said. Reported in: *New York Times*, August 29.

### Moscow, USSR

According to exhibitors, authorities banned more than fifty books submitted for exhibition at the Moscow International Book Fair in September. Among the works barred as "anti-Soviet" were dozens of books on Jewish themes, President Carter's memoirs and a history of ballet.

Fair officials reportedly barred forty-nine books from the display of the U.S. Association of Jewish Book Publishers and took three books from the Israeli exhibit. The list of banned titles included *Keeping Faith* by Carter, fifteen books by a group called Friends of Jews from Eastern Europe, *The Many Faces of Anti-Semitism*, *Tsar Nicholas and the Jews*, *Understanding Israeli Social Approaches*, and the novel *My Name is Asher Lev*, by Chaim Potok. An exhibitor said officials also barred *The History of the Jews*, by former Israeli Foreign Minister Abba Eban, and the *American Jewish Yearbook*, both of which were also barred from the fair in 1981. Italian booksellers reported that *Le Ballet* was banned by fair officials because it contained favorable comments about Mikhail Baryshnikov and Rudolf Nureyev, Soviet ballet stars who defected to the West.

The book fair is run by the Soviet government. In 1981, authorities barred only a half-dozen Western books and in 1979 a dozen. Observers speculated that this year's restrictions were more the result of "arbitrary censorship" than of a tougher overall policy. "There's no indication of a new policy at the book fair, and most people told us things went quite well," one Western diplomat told reporters. In all, there were 200,000 books from about ninety countries exhibited at the fair. Most foreign exhibitors reported no problems.

In previous years, officials have announced exhibition rules prohibiting books "that propagandize war and racial or ethnic exclusivity," "books that insult another country participating in the book fair" and "works by renegades who have made a profession of slandering our life." Several prominent American publishers have withdrawn from participation in the Moscow fair rather than acquiesce to such censorship. Reported in: *Philadelphia Inquirer*, September 13.

### Caracas, Venezuela

The Venezuelan Ministry of Transport and Communication has prohibited the portrayal of homosexuals and transsexuals on television and radio in order to promote the country's mental health. According to a report in the newspaper *El Mundo*, the Ministry claims that numerous children have had to receive psychiatric treatment because of personality disorders which resulted from the negative influence of gay role models on television. Reported in: *Gay Community News*, June 18.

### Frankfurt, West Germany

In response to proposed legislation mandating censorship of videocassettes, the West German Video Association and the Association of Video Program Distributors have agreed on principles of self-censorship for their industry. The two groups resolved that films deemed unsuitable for young people due to "excessive" sex or violence will be labeled as such and neither sold nor rented to Germans under the age of eighteen. The majority of videocassettes on the West German market have already cleared the West German Film Censorship Board, which controls the full-length feature theatrical films in the country and thus have already been regulated. The same restrictions will be imposed on the cassettes as those now operative in theatres. Reported in: *Variety*, August 10.

### Harare, Zimbabwe

The government of Zimbabwe clamped stringent restrictions August 5 on press coverage of the volatile security situation in this southern African country. The measure, which came five days after the government banned entry to foreign correspondents based in South Africa, was expected to curtail severely coverage of military activities in the dissident-plagued southwestern province of Matabeleland.

The new regulation banned publication or transmission of any information on acts of terrorism or sabotage or military efforts to suppress terrorism in areas designated by the minister of home affairs. The measure applies to information "in the press or on radio or television, whether within or outside Zimbabwe" and holds both reporters and their editors responsible for violations. No penalties are spelled out, but government spokesperson John Tsimba said resident foreign correspondents who violated the regulations would be expelled.

Tsimba said the government acted because of recent "wild speculation" in the foreign media about atrocities in Matabeleland. "This is the only way we can control the situation," he said.

The new regulations are reminiscent of those imposed by the white government of former prime minister Ian Smith in 1978 during the peak of the guerrilla war to attain majority rule. Mugabe rescinded the measure after he won power in independence elections in 1980. The main difference is that under Smith the whole country, then known as Rhodesia, was considered a war zone where reporting on the security situation was banned.

The August 5 restrictions also were introduced in the same fashion as under Smith—by invoking emergency powers introduced by the Smith government after it unilaterally declared independence from Britain in 1965 to prevent black rule. Parliament was not consulted in either case. Reported in: *Washington Post*, August 6.

*(Is it Legal . . . from page 196)*

Wold Communications, Inc. signed a \$250,000 contract in April with EmtelCuba, the Cuban government communications and broadcasting agency, for Wold to furnish twenty days of continuous satellite time from Los Angeles during the Olympic Games. The State Department, however, has refused a permit to allow Wold to be paid by Cuba. EmtelCuba asked Intelsat, which operates the global satellite system, for sixteen hours of satellite time daily during the games, but Intelsat has offered only two hours a day. Reported in: *New York Times*, August 12.

**etc.**

#### **Des Moines, Iowa**

A rule prohibiting note-passing among pupils is unconstitutional because it violates free speech, a state Department of Public Instruction hearing panel has ruled. Prairie Junior High School administrators in Gowrie imposed the ban because other measures had failed to stop the circulation of notes written by seventh and eighth graders, some with vulgar language, sexual overtones and false accusations about classmates. The panel said the ban went too far by applying to all notes regardless of content or when passed. Reported in: *Memphis Commercial Appeal*, September 9.

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*(Across border . . . from page 177)*

[The Act] . . . is explicit in its selective direction against that which is specifically not active subversion but belief and preaching. It operates not only against present adherence to disfavored political doctrines, associations and programs but also against any past adherence to them. It embraces not advocacy alone but teaching as well, and any affiliation with any organization that either advocates or teaches the doctrines or programs. It reaches not only personal advocacy or teaching but also either writing or publishing or wittingly circulating or printing or displaying (or possessing for any of these purposes) any printed or written matter advocating or teaching the disfavored doctrines or programs; beyond that it extends to membership in or affiliation with an organization so resorting to the printed or written word or its circulation. Present or past Communist party membership or affiliation are also embraced in the subsection. (*Mandel v. Mitchell*)

Procedurally, the McCarran Act has been interpreted to give to visa-issuing consular officers near plenary power to exclude aliens. Neither the Secretary of State nor the Attorney General can reverse a consular decision to deny a visa. The President's Commission on Immigration and Naturalization in the 1950's found that "such administrative 'absolutism' is unparalleled in

the whole range of American law."

Although the McCarran Act was intended to exclude those who would engage in acts of espionage, illegal incitement to violence, or who would otherwise threaten our national security, its provisions are frequently invoked to bar foreign lecturers, artists and scientists who hold dissident political views. Consider the case of Mrs. Hortensia Allende, widow of slain Chilean President Salvador Allende. Mrs. Allende was invited to the San Francisco area by the Roman Catholic Archdiocese there, Stanford University, and the Northern California Ecumenical Council. However, the administration denied Mrs. Allende's application for an entry visa, stating that "her planned address to California church groups on women's and human rights issues would be 'prejudicial to U.S. interests.'" (see *Newsletter*, May 1983, p. 83).

Mrs. Allende is not the first distinguished visitor to be barred from visiting the United States. Indeed, she joins a long and growing list of eminent artists, authors, academics, publishers and scientists who have been excluded from our shores. Among the many thinkers and writers denied entry under provisions of this Act are Nobel-prize-winning authors Gabriel Garcia Marquez and Czeslaw Milosz, Mexican novelist Carlos Fuentes, Argentinian author Julio Cortazar, Italian playwright Dario Fo and French author Regis Debray.

Congressional action would be necessary to change this situation as the Supreme Court has provided for very limited judicial review of consular decisions to deny visas in a challenge by U.S. citizens who wished to hear a foreign speaker. The leading case involved Dr. Ernest Mandel, a prominent Belgian journalist and Marxist theoretician (but not a member of the Communist Party), who tried to obtain a visa to participate in a series of academic conferences. Denied his visa, Mandel nevertheless addressed one of his scheduled audiences by transatlantic telephone. Then, along with six American professors, he sued the U.S. Government.

The lower court determined that U.S. citizens had a First Amendment right to hear, speak and debate with Mandel in person. This, the court said, "is the essence of self-government." The Supreme Court, however, reversed the lower court, holding that "when the Executive exercises this power negatively on the basis of a facially legitimate and bona fide reason, the courts will (not) look behind the exercise of that discretion."

Justice Douglas filed a strong dissent claiming that "thought control is not within the competence of any branch of government," and that the Congress did not intend to make the Attorney General a censor. Justice Marshall, joined by Justice Brennan, claimed that the Attorney General's reason for refusing to waive Mandel's ineligibility was "a sham," and that "govern-

ment has no interest in stopping the flow of ideas."

History, sound policy, and a healthy respect for democracy suggest that the dissent is correct. Indeed, the *Mandel* and *Lamont* decisions yield a rather anomalous result: an alien Marxist may send his writings into the United States, or even discuss Marxism by long distance telephone with Americans, but he may not set foot in the United States to personally communicate his views.

In 1977, Congress passed the 'McGovern Amendment' requiring the Secretary of State to recommend to the Attorney General that a visa be issued to aliens who are excludable solely because of membership in a proscribed (e.g. Communist) organization unless the applicant's admission "would be contrary to the security interests of the United States." There is, of course, a gaping loophole in this provision: it does not apply to "applicants ineligible on grounds other than, or in addition to, mere organization membership." Also, the Attorney General's power is totally discretionary and, as the *Allende* case illustrates, he can avoid this provision by relying on other sections of the law.

*Mandel's* reasoning is unpersuasive and should be rejected by the Congress. Even if not constitutionally mandated, such action is certainly required by U.S. obligations under the Helsinki Act. The proposed legislation would prohibit exclusions for ideological reasons, repealing those sections of the Act which explicitly sanction exclusions based on political beliefs or activities. The draft bill makes it unlawful to withhold visas because (1) of "any activity, belief or membership which if conducted within the United States would be protected by the First Amendment to the Constitution" or "(2) the expected consequences of any activity which the person would conduct in the United States if that activity is protected by the First Amendment to the Constitution." The draft bill also provides Americans who intend to directly communicate with a foreign visitor a cause of action in federal court, to order the granting of a visa if it is determined that the applicant was denied a visa in violation of these principles.

This proposal is consistent with American laws and values. As Bernard Malamud recently noted "(t)he free exchange of ideas among nations and individuals does not endanger our national security but strengthens it. The denial of visas . . . is a denial of the opportunity to enrich the intellectual and artistic life of our country."

### Passport Controls

In medieval England, under the writ of *Ne Exat Regno*, subjects of the British crown were unable to leave the realm unless they received a license from the King. The reasons for granting or denying these licenses

to travel were frequently political in nature. In 1606, under King James I, an Act was passed prohibiting the restraint of travel for ideological reasons. Today, American citizens need passports in order to travel abroad. The Secretary of State has the power to grant, or to deny the issuance of or to revoke passports pursuant to the Passport Act of 1926. Congress amended this Act in 1978 to prohibit the executive branch from imposing peacetime passport travel restrictions without the authorization of Congress, except for health and safety reasons.

In *Kent v. Dulles* the Supreme Court recognized that the right of citizens to travel abroad is a part of the 'liberty' protected by the First Amendment of the Constitution. The Court emphasized that:

Freedom of movement across frontiers in either direction, and inside frontiers as well, [is] a part of our heritage. Travel abroad, like travel within the country . . . may be as close to the heart of the individual as what he eats, or wears, or reads. Freedom of movement is basic in our scheme of values.

The right to travel serves important educational business, professional, social and personal values. The freedom to visit other countries is integrally related to the livelihood of many businessmen, as well as correspondents and journalists who need first hand information. International conferences and consultation with foreign colleagues play a vital role in the professional development of American scholars and scientists. Many students prepare themselves for more productive careers in the United States by studying at foreign universities. Foreign travel offers an opportunity to meet new cultures and make new friends, and, by confronting new ideas, to widen our horizons and enrich our lives.

Finally, and perhaps most important, the freedom to travel is a constitutive element of the judicially recognized "right to know." International travel not only enables Americans to develop informed and independent ideas about international affairs, but also helps build goodwill and understanding among different peoples. As the Supreme Court stated:

. . . [T]ravel abroad enables American citizens to understand that people like themselves live in Europe [and elsewhere] and helps them to be well informed on public issues. An American who has crossed the ocean is not obliged to form his opinions about our foreign policy merely from what he is told by officials of our government or by a few correspondents of American newspapers. Moreover, his views on domestic questions are enriched by seeing how foreigners are trying to solve similar problems. In many different ways direct contact with other countries contributes to sounder decisions at home.

However, many Americans have been unable to exercise this fundamental right because of their political beliefs. During the 1940's and 1950's, passports

were denied to Congressman Leo Isaacson, playwright Arthur Miller, actor and singer Paul Robeson and Nobel Prize winner Linus Pauling, among others, because the State Department determined that "travel abroad at this time" by these talented and outspoken individuals "would be contrary to the best interests of the United States." Although the most frequent targets of travel control at this time were artists and scientists, lawyers involved in international litigation, congressional investigators and even federal judges were not immune from this system of controls.

Passport control on explicitly ideological grounds was practiced through the 1960's but is presently limited by two leading Supreme Court decisions. In *Kent*, the Court struck down a regulation that denied passports to citizens because of alleged Communist beliefs and associations. The opinion rests upon the premise that the right to travel abroad is an important component of constitutional 'liberty' and therefore the power delegated to the Secretary of State to deny or revoke passports should be construed narrowly. The Court found that Congress never authorized the Secretary to deny passports on the basis of political affiliation. Similarly, in *Aptheker v. Secretary of State* the Court struck down a statutory ban on the issuance of passports to Communists. The Court found that the statute impermissibly infringed on this fundamental right because it indiscriminately presumed that any and all international travel by American Communists was dangerous to national security.

Recently, however, in *Haig v. Agee*, the Court seemed to abandon the sound reasoning of *Kent* and *Aptheker* and upheld the power of the Secretary of State to revoke passports on national security and foreign policy grounds. The regulation upheld in *Agee* authorizes revocation of a passport where "(t)he Secretary determines that the national's activities abroad are causing or are likely to cause serious damage to the national security or foreign policy of the United States."

*Agee* sets a dangerous precedent. It clearly has implications extending well beyond those travelers who have violated criminal laws relating to national security. The opinion fails to take adequate account of the constitutionally protected and related freedoms of travel, speech and association. The broad language and deferential standard adopted by the Court in *Agee* suggests that the government can deny a citizen's right to travel for purely ideological reasons. Indeed, at oral argument the government made the following astonishing claim:

QUESTION: "General McCree, supposing a person right now were to apply for a passport to go to Salvador, and when asked the purpose of his journey, to say, denounce the United States policy in Salvador in supporting the junta. And the Secretary of State says, I will not issue a passport for that purpose. Do you think that he can consistently do that in light of our previous

cases?" MR. McCREE: "I would say, yes, he can. Because we have to vest these—The president of the United States and the Secretary of State working under his are charged with conducting the foreign policy of the Nation, and the freedom of speech that we enjoy domestically may be different from that we can enjoy in this context."

Apparently the government was claiming the power to halt all extraterritorial dissent. However, the right to travel is firmly grounded in our traditions and law, and ought not to be predicated upon a citizen's satisfactory political beliefs. The draft legislation would protect our rights to travel by prohibiting the denial or revocation of passports for politically motivated reasons.

### Area Restrictions

The government also inhibits the travel of American citizens abroad through regulations issued pursuant to the Trading with the Enemy Act (TWEA) and the International Emergency Economic Powers Act (IEEPA). During times of "war" (TWEA) or "national emergency" (IEEPA) the President is authorized to "prohibit . . . [any] transfer . . . transportation . . . or transactions involving any property in which any foreign country or a national thereof has any interest by any person . . . subject to the jurisdiction of the United States."

Thus, by prohibiting, for example, the transfer of "transportation-related" expenses "ordinarily incident to travel to and from [or] within" a particular country, "including payment of living expenses and the acquisition . . . of goods for personal consumption there," the government can effectively ban travel to specified countries. Such 'area restrictions' have been invoked numerous times since World War II: Albania, Bulgaria, China, Cuba, Czechoslovakia, Egypt, Hungary, Israel, Jordan, North Korea, North Vietnam, Poland, Rumania, the Soviet Union, Syria and Yugoslavia have all been at various times, off limits to American travelers. More recently, invoking the IEEPA, then-President Jimmy Carter imposed a ban on travel to Iran during the hostage crisis. The Supreme Court has held that when "supported by the weightiest considerations of national security" area restrictions are not unconstitutional.

In fact, however, most area restrictions are not supported by the weightiest considerations of national security; rather, they are used as an instrument of American foreign policy. An examination of the interests served by area restrictions reveals that they are of minimal value, and that the goals they serve can be better effectuated by alternative means. As these restrictions severely infringe upon the fundamental right to travel, their use ought to be discontinued.

The government imposes area restrictions to prevent the propaganda or bargaining advantages that a hostile nation might gain from the activities of private citizens and to prevent unauthorized citizens from undertaking negotiations with foreign governments. But area

restrictions are an ineffective response to these problems. Direct visits to foreign capitals are not necessary to make domestic discontent with America's foreign policy known. Further, although area restrictions can prevent citizens from traveling to hostile territory and demonstrating solidarity with a foreign power, foreign leaders can meet and be seen with American dissidents in third countries. Such restrictions are also unnecessary for the purpose of preventing unauthorized negotiations, as such negotiations are criminally punishable under the Logan Act. Use of this criminal statute, to the degree that it is constitutional, is more straightforward and more effective than the institution of area restrictions because it carries stronger sanctions, it covers cable and telephone negotiations as well as contact outside restricted countries, and it does not inhibit the travel of the many Americans who would not engage in private negotiations.

More important, there is the very real danger that area restrictions can be used as a "self-protective device for those in power, utilized to keep the public ignorant and thereby to quiet criticism of policy decisions." One need only recall the disclosures resulting from journalists' trips to North Vietnam that first challenged the government's claim that our bombing of the North was limited to military targets to appreciate the importance of travel to troubled areas to promote informed discussion. Responsible public criticism of foreign policy is an integral element of democratic government, yet public debate is meaningless unless more than the 'official' view of the situation is available. That is, to inhibit our right to travel to certain areas is to inhibit our ability to participate in our democracy.

Under the draft bill the government retains its power to restrict travel to certain areas for "health and safety reasons." To ensure that this statutory authority is not abused however, the bill creates a cause of action for citizens who suspect that specific area restrictions, infringing their right to travel, have been promulgated for reasons other than health and safety. It also revokes the authority relied on in *Agee*.

### Importing Ideas

Our right to know is further inhibited by government restrictions on information—books, periodicals, films, etc.—imported from abroad. Regulations inhibiting the free flow of ideas and information take two forms. Certain regulations, promulgated pursuant to the TWEA, severely impede the ability of American citizens to receive "publications, films, posters, phonograph records, photographs, microfilms, microfiche and tapes" from certain countries. Currently, such materials from Cuba, Vietnam, Cambodia and North Korea are effectively banned.

These regulations were recently invoked by Customs Agents to seize several thousand copies of *Granma*,

the official organ of the Central Committee of the Cuban Communist Party. The paper had been regularly delivered to subscribers through Canadian postal channels, but came to the attention of U.S. Customs authorities when a threatened postal strike diverted the mail through Boston. After the filing of a lawsuit and months of negotiations with Treasury and State Department officials, the regulations were modified to accommodate non-commercial, single-issue subscribers.

These regulations seem to violate the intent of *Lamont v. Postmaster General* where the Supreme Court held that a postal regulation requiring the addressee of political propaganda mailed from abroad to request its delivery in writing was an unconstitutional limitation on the unfettered exercise of the addressee's right of free speech. Although the present regulations are, in fact, an instance of prior restraint they are not unconstitutional when "[t]he restriction of First Amendment freedoms [are] only incidental to the proper general purpose of the regulations: restricting the dollar flow to hostile nations." As the courts have adopted an extremely deferential standard respecting these regulations, our right to receive information and ideas is at present held hostage to the judicially recognized fact that "[h]ard currency is a weapon in the struggle between the free and communist worlds."

As the ability of Americans to import informational materials should not depend upon the material's country of origin, the draft bill repeals those regulations which require a license for the import of such materials.

Further, the government denigrates certain imported materials by designating them as "political propaganda." Under provisions of the Foreign Agents Registration Act, certain communications transmitted by foreign agents are labelled "political propaganda" if they are

reasonably adopted to . . . [in any way] influence a recipient or any section of the public within the United States with reference to the political or public interests, policies or relations of a government or a foreign country or foreign political party or with reference to the foreign policies of the United States . . .

This sweeping provision was recently invoked with respect to three films produced by the prestigious National Film Board of Canada, including the Academy Award winning *If You Love This Planet* (see *Newsletter*, May 1983, p. 63). A recent GAO report revealed that forty-one percent of the foreign films reviewed by the Justice Department from 1980 to 1982 were classified as political propaganda.

Such official, public designation of certain books and films not only denigrates the material labelled and stigmatizes its dissemination, but also deters a portion of the likely audience. The public is thus unfairly and negatively influenced, and the "uninhibited, robust and wide-open" debate and discussion of the First Amendment is designed to ensure is stifled.

The draft bill repeals those sections of the Foreign

Agents Registration Act which require the review and labeling of foreign information materials.

### Exporting Ideas

Our right to export information is inhibited by current export laws. In combination, the International Traffic in Arms Regulations (ITAR), which implement the Arms Control Export Act, and the Export Administration Regulations (EAR), which implement the Export Administration Act, give the government broad authority to restrict the export of "technical data" related to the U.S. Munitions List and Commodity Control List.

The definition of technical data is broad enough to encompass practically any information, including unclassified information, related to the items on the Lists. Both Lists are comprehensive in scope, covering everything from algorithms for designing fault tolerant logic circuits to rubber and rubber products. Furthermore, the definition of export includes not only shipment abroad of writings and plans, but also face-to-face discussions in or out of the United States between citizens and foreign nationals. Given the scope of these laws, and the fact that approximately one-fourth of all graduate science and engineering students at American universities are foreign nationals, virtually every United States professor in the sciences and engineering should probably be licensed by the State Department!

Although enforcement of these regulations has been inconsistent, the Reagan administration has indicated it will step up efforts to control the dissemination of unclassified information under these acts. In one dramatic action, the Defense Department forced the withdrawal of at least 100 of the 700 papers scheduled to be presented at the International Technical Symposium of the Society of Photo-optical Engineers. More than 2700 technical experts, including scientists from 300 countries, attended the conference, only to learn of the cancelled presentations on the morning of their arrival (see *Newsletter*, November 1982, p. 207).

In a similar incident, the Commerce Department notified the American Vacuum Society (AVS) a week before a scheduled international meeting that an export license was required for the export of magnetic bubble data to Eastern Europeans. Upon the suggestion of the State Department, the AVS rescinded invitations to Poles, Hungarians and Russians, and had thirty foreign nationals sign agreements not to "re-export" any data to any of 18 nations. In other situations, the government "suggests" which Americans can talk to foreign nationals, and what they can talk about. For example, in 1981, the State Department informed Cornell University that a Hungarian engineer could not participate in private discussions or seminars, nor could he review prepublication copies of research. In 1982, M.I.T. was informed that a Russian chemist

visiting the school's department of nutrition could see what he liked, provided it had nothing to do with nutrition. The State Department claimed that they were trying to bar the visitor from access to genetic engineering information; they were apparently unaware that no genetic engineering was done in the laboratory in question.

In one significant case involving private commercial data, the courts attempted to limit the ITAR's reach. In *United States v. Edler Industries, Inc.*, the court held that the prohibitions must be limited to "technical data significantly and directly related to specific articles on the Munitions List." The opinion noted that if read literally, the ITAR definition of "technical data" would regulate scientific speech without any "substantial military application" and hence be unconstitutional.

Another statute used to restrict the dissemination of *unclassified* information is the Atomic Energy Act of 1954. Just two years after *The Progressive* case, where the government obtained an injunction barring publication of an article on the design of the H-bomb, the Secretary of Energy obtained authority "to prohibit the unauthorized dissemination of unclassified information." This broadly written amendment permits the regulation of privately generated information which merely "pertain[s] to" designs for nuclear facilities.

Administration claims to the contrary notwithstanding, a report prepared by a blue-ribbon panel appointed by the National Academy of Sciences concluded that "universities and open scientific communication have been the source of very little of [the] technology transfer problem," and recommended that "unclassified information available domestically should receive a general . . . exemption from the [export] licensing process." The draft bill incorporates the suggestion of the panel.

The government has also promulgated regulations which inhibit the free flow of American films and audio-visual materials out of the country. Ironically, these regulations have been issued to enforce the United Nations Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character. This 'Beirut Agreement' stipulates that once an exporting country has certified a film as being of educational, scientific or cultural character, importing countries will exempt the material from all import duties, fees and taxes.

Pursuant to an Executive Order and Congressional legislation, the United States Information Agency is directed to carry out this Agreement. The USIA regulations incorporate the definitions of the Beirut Agreement. Section 502.6(a)(3) provides that:

Audio-visual materials shall be deemed to be of international educational character when their primary purpose or effect is to



instruct or inform through the development of a subject, or when their content is such as to maintain, increase or diffuse knowledge and augment international understanding and goodwill . . .

Section 502.6 (b) (3) provides that the Agency will not certify materials which "by special pleading attempt generally to influence opinion, conviction or policy (religious, economic or political propaganda), [or] to espouse a cause. . . ."

A number of films concerning controversial social issues have been denied certificates: thirty films in 1979, twenty-seven in 1980, thirty-four in 1981, and thirty-one in 1982 and the first three months of 1983. Films denied certification include:

*The Killing Ground*, an ABC news documentary on toxic waste disposal. Winner of two Emmys, First Prize at the Monte Carlo Film Festival, the Sidney Hillman Prize for Courage in Journalism (Columbia Univ.) and an Academy Award nomination. EPA reviewers claimed that "the tone of *The Killing Ground* would mislead a foreign audience into believing that the American public needed arousing to the dangers of hazardous wastes." *Soldier Girls*. Winner of First Prize at the U.S. Film Festival, a Blue Ribbon at the American Film Festival, the Prix Italia and a British Academy Award. This 16mm verite documentary, which follows the day-to-day progress of a platoon of female army recruits going through basic training, was denied a certificate on the grounds that it contained sequences "which may lend themselves to being misunderstood or misinterpreted." *Interviews with My Lai Veterans*. Joseph Strick's Academy Award winning documentary, denied certification in 1970. *Cobalt Blues*. Made by Theodore Bogosian for the PBS "Nova" science series; this film is about strategic minerals.

According to the Beirut Agreement, films that lack certification must pay import tariffs, which oftentimes effectively eliminates foreign markets. That is, a USIA decision that a film is political propaganda frequently means that films expressing views the government disagrees with will not leave the country.

The USIA procedures are arguably unconstitutional for, in bestowing a governmental benefit upon some as opposed to others on purely ideological grounds, they constitute an exercise of prior restraint. However, to date there have been no legal challenges to these procedures.

### Summary

The draft bill is needed to guarantee those First Amendment freedoms which are presently curtailed by a variety of regulations. The bill would prohibit the exclusion of aliens, or the revocation of citizens' passports because of unorthodox political views. It prohibits area restrictions promulgated for ideological reasons. Finally, the bill prohibits the restriction of informational material on account of its country of origin. This bill strengthens our national security by ensuring citizen access to foreign ideas and people, making possible a more fully aware and politically active citizenry.

## just for laughs

The following item appeared in the September 16 edition of the *Memphis Commercial Appeal* under the heading "Corrections and Amplifications:" "The Coalition for Better Television, formed by Rev. Donald Wildmon of Tupelo, Miss., was incorrectly identified in Wednesday's editions as the Coalition for Better Violence." And just when we were thinking the Rev. Wildmon had perhaps adopted a new compromise approach to television censorship!

(1984 . . . from page 180)

1. David Gelman, "Slouching Toward 1984," *Newsweek*, (February 21, 1983), p. 53.
2. Bernard Crick, *George Orwell: A Life*, (Boston: Little, Brown and Co., 1980), p. 398.
3. *Ibid.*, p. 398.
4. E. L. Doctorow, "On the Brink of 1984," *Playboy*, Vol. 30, #2, February, 1983, p. 156.
5. William Steinhoff, *George Orwell and the Origins of 1984*, (Ann Arbor: University of Michigan Press, 1975), pp. 4, 23.
6. *Ibid.*, p. 4.
7. Paul Roazen, "Orwell, Freud and 1984," *Virginia Quarterly Review: A National Journal of Literature and Discussion*, Vol. 54, 1978, p. 681.
8. Nat Hentoff, "The New Age of No Privacy," *Village Voice*, Vol. XXVII, February 1, 1983, p. 20.
9. *Ibid.*, p. 20.
10. David Goodman, "Countdown to 1984: Big Brother May be Right on Schedule," *Futurist*, December, 1978, p. 348.
11. James Roman, "Orwell's 1984: Arriving in N.J.?", *Newsletter*, Cable Users Association of New Jersey, March 1983, p. 6.
12. *Ibid.*, p. 6.
13. Goodman, *op. cit.*, p. 356.
14. Hentoff, *op. cit.*, p. 21.
15. *Ibid.*, p. 21.
16. George E. Jones, "1984, How Close to Reality?," *U.S. News and World Report*, February 5, 1979, p. 49.
17. Doctorow, *op. cit.*, p. 80.
18. *Ibid.*, p. 156.
19. *Ibid.*, 158.
20. Steinhoff, *op. cit.*, p. 175.
21. *Ibid.*, p. 105.
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23. *Ibid.*, p. 160.
24. Roazen, *op. cit.*, p. 687.
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26. *Ibid.*, p. 60.
27. Goodman, *op. cit.*, p. 351.
28. Doctorow, *op. cit.*, pp. 156-157.
29. Gelman, *op. cit.*, p. 54.
30. Steinhoff, *op. cit.*, p. 166.
31. Jones, *op. cit.*, p. 49.
32. *Ibid.*, p. 50.
33. Murray Sperber, "Gazing into the Glass Paperweight: The Structure and Psychology of Orwell's 1984," *Modern Fiction Studies*, Vol. 26, 1980, p. 226.

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