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confidentiality of library records

By Gerald R. Shields, Associate Dean, School of Information and Library Studies, State University of New York at Buffalo. The problem of maintaining the confidentiality of library circulation records has gained increasing attention. Although 23 states have now adopted legislation protecting such records (for an update on the confidentiality front see page 91), many libraries and librarians are still unsure of their rights and obligations. One incident which focused attention on the problem took place in Oneonta, New York in November, 1983 (see Newsletter, *January 1984, p. 5). In the following article Gerald Shields uses the Oneonta controversy to raise several still unanswered questions about the protection of reader confidentiality.*

Issues need personalities. Abstract discussions of theory don't move people to accept a commitment to a cause until they see it personified. Certainly the issue of confidentiality between user and librarian remained unreal to many until Zoia Horn caught the profession by surprise by allowing herself to be shackled and led off to a cell rather than testifying before a federal grand jury. Yet, out of that experience came the ALA statement on use of government intimidation to make informers and spies out of librarians. Since then the Office for Intellectual Freedom and its motivating ALA committee have pushed for passage of state laws providing due process protection for circulation records. The need for such statutes was revealed in the 1970s when posses of federal agents began to invade libraries demanding to know who was reading literature about bombs and incendiary devices. Librarians were incensed and said so. The Feds retreated.

Still, there has been little debate or discussion among librarians on the merits of denying such access. For many it simply seems like a proper stand—until one's job is on the line. Some librarians have quietly capitulated to governmental snooping and others have volunteered information, as in Denver, where the revelation of the reading habits of would-be presidential assassin John Hinckley, Jr. made headlines. A few cases make it to the courts. The most prominent was the Des Moines Public Library's 1970 defiance of efforts to seek out names of people reading books on satanism (see page 91).

(Continued on page 89)

blished by the ALA Intellectual Freedom Committee,
J. Dennis Day, Chairperson.

in this issue

targets of the censor

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ALA, UNESCO and NWICO

By Thomas J. Galvin, School of Library and Information Science, University of Pittsburgh, Chair, ALA International Relations Committee, and Member, United States National Commission for UNESCO.

On December 28, 1983, the United States announced its intention to withdraw from UNESCO, effective at the end of the calendar year 1984. This decision was based, according to the Department of State, on an in-depth policy review of U.S. participation in UNESCO, a summary of which was released to the public on February 27, 1984. This document concludes that "the administration has judged that it is no longer worthwhile for the U.S. to remain a member of an international organization in which negative considerations so far outweigh the technical benefits provided, whether to ourselves or to the developing world."

The decision to withdraw from UNESCO was taken contrary to the advice of the United States National Commission for UNESCO, a one hundred member citizen body created by Congress to advise the Department of State on UNESCO matters. The American Library Association is represented on that Commission, along with some sixty other non-governmental professional, educational and trade associations in the fields of education, science, culture, communications and human rights. ALA's representative voted with the majority of his fellow commissioners on December 16 to recommend against withdrawal on grounds that, despite UNESCO's shortcomings, "continued U.S. membership in UNESCO is in the national interest." At the 1984 Midwinter meeting, the ALA Council, on recommendation of the International Relations Committee, adopted a resolution calling for negotiations between the U.S. and UNESCO so as to preclude the necessity for withdrawal. The discussion surrounding that resolution made clear, however, that ALA's membership is by no means unanimous in its support of future U.S. participation in UNESCO. Some applaud the U.S. decision to withdraw, chiefly because they believe that UNESCO has become a threat to world press freedom. Others argue that, despite its acknowledged deficiencies, UNESCO continues to accomplish useful work and remains an important international forum from which the U.S., in our own national interest, ought not to absent itself.

The Department of State's policy review provides a useful framework in which to attempt a balanced appraisal of problems and accomplishments. Three considerations are presented as decisive—budget and management, politicization, and statism, this last most notably exemplified by the New World Information and Communications Order (NWICO).

Over its thirty-eight year history UNESCO has grown to a membership of 161 nations. Biennially, representatives of these member states gather in a General Conference to adopt by a two-thirds majority vote, or more commonly by consensus, the UNESCO program and budget for the next two years. UNESCO is funded by unequal contributions from its member states, with the U.S. obliged to provide twenty-five per cent of total support (about $50 million of the approximately $375 million 1984-85 budget).

The State Department points out that the majority of 108 member states required for budget approval could be made up of countries that collectively pay less than three per cent of the total. The consequence is an intolerable form of taxation without commensurate representation that is exacerbated by the U.S. perception that UNESCO's funds are neither well-managed nor consistently directed to the highest priority needs of the developing countries. UNESCO counters by citing a 1979 GAO report which characterized UNESCO's management procedures as "unique and forward looking compared to other U.N. agencies." An effort is currently being made to negotiate a GAO audit of UNESCO's accounts and a group of those member states that bear the heaviest share of the budget has proposed a new funding approach that would permit them greater fiscal influence in the future.

It is argued that UNESCO, which was intended to be apolitical, has become an arena for regular political attacks on the Western democracies. As the organization has broadened its mandate to address such politically sensitive issues as world peace, disarmament and human rights, debate has at times been characterized by stridently anti-American rhetoric. The recent emergence of the collectivist concept of "people's rights" as equal or superior to individual human rights has been a cause of genuine concern, as has been the channelling of UNESCO education and training funds to the PLO and other "liberation" movements. By contrast, however, at the operational level in such critical UNESCO programs as the Universal Copyright Convention or the highly successful Man in the Biosphere project, political considerations are reported only rarely to intrude.

In principle, UNESCO shares with the American Library Association a commitment to worldwide equality of access to information and to the free and unrestricted flow of information across national boundaries. Throughout its history, through its copyright, book development and General Information Programs, UNESCO has built an impressive record of positive accomplishment in improved access to books and other sources of information. UNESCO has been the major force in the adoption of the Beirut, Florence and Nairobi agreements to remove tarriff barriers to the import of educational books and media, while supporting IFLA's major programs of Universal Bibliographic Control and Universal Access to Publications.

Despite this substantial positive record, however, UNESCO has, over the last decade, become a focus of controversy and strong criticism as a consequence of the emergence of the concept of a New World Information and Communications Order. The fullest review of NWICO is found in *Many Voices, One World* (Unipub, 1980), the report of UNESCO's International Commission for the Study of Communications Problems, often referred to as the MacBride Commission after its Chair, Sean MacBride of Ireland. The distinguished journalist and educator, Elie Abel, represented the United States on the sixteen member Commission.

NWICO centers on the goal of achieving a free and balanced flow of information among the nations of the world. The concept of "balance" incorporates both a more equitable sharing of information and communications resources than currently obtains between the developed and the developing countries and a more positive representation of the developing nations in the Western media. NWICO embodies a recognition that both information in its several forms and the media of information dissemination constitute increasingly important sources of worldwide political, social, cultural and economic power.

The MacBride Commission report offered eighty-two specific recommendations while identifying a dozen issues needing further study. Many, perhaps most of its recommendations for action, such as encouraging national book production and a worldwide research & development program to address the shortage and escalating cost of paper, are generally non-controversial. Others, such as the recommendations that developing countries become independent of external sources for radio and television programming or that steps be taken to limit concentration of media ownership, constitute a threat to important Western commercial media interests. The suggestion that proposals to establish normative codes of ethics governing news reporting or to require that journalists be licensed by national governments merit further study is correctly regarded as directly opposed to American free press principles and values. While assuring the Congress on February 24, 1983, that "UNESCO, to date, has debated but has *not implemented* policies or procedures of an anti-free press nature," the Department of State just one year later, cited UNESCO's "endemic hostility toward the basic institutions of a free society, especially a free market and a free press" as one of three principal reasons for U.S. withdrawal. It is indeed ironic that the historic American commitment to a free press and to freedom of speech should become the justification for withdrawal of U.S. financial support from an organization simply because that organization has become a forum for the introduction by some of its members of *proposals* that we regard as distasteful. Small wonder that the rest of the world is sometimes puzzled or confused by American foreign policy pronouncements.

The decision to withdraw from UNESCO is currently under review by the Congress. Non-governmental organizations that have a concern for UNESCO programs need to be heard from by both Congress and the executive branch over the next several months. The members of ALA should make their views known both individually and collectively.

Reagan relents on secrecy pledge, polygraph tests

On February 14, President Reagan suspended key provisions of the controversial National Security Decision Directive 84 (NSDD 84) that would impose lifelong censorship on more than 128,000 government officials and greatly expand the use of lie detector tests in investigations of leaks.

"The president has decided to suspend those parts of the directive that are controversial, and where there has been a lack of understanding by Congress," White House press spokesperson Larry Speakes announced. "We are talking to Congress about ways that we could improve security without interfering with peoples' rights."

Reagan issued NSDD 84 on March 11, 1983, but in October the Senate voted 56-34 to delay implementation of the plan until April 15, 1984 (see *Newsletter,* March 1984, p. 38 and May 1983, p. 83; July 1983, pp. 101, 105; November 1983, p. 175). Sen Charles Mathias (Rep.-Maryland), who led the fight to block the order, said it would have created "a system which would allow the officials of one administration to censor the writings of their predecessors." The controversial directive would mandate lifetime prepublication review of every public statement of present and former government employees with access to classified information. In additon, it would permit the head of any federal agency to require all its employees holding security clearances to submit to lie detector tests on a random basis, whenever unauthorized disclosures of classified information were being investigated. Both these provisions were suspended, Speakes said.

The president's decision came as the Senate Judiciary Committee prepared to begin hearings on the nomination of White House counselor Edwin Meese as attorney general. Meese had been a supporter of the Reagan effort to stop alleged "leaks," and previously administration officials said they feared NSDD 84 might become an obstacle to confirmation. One official said the White House was hoping "to remove it [NSDD 84] as a sore spot, a source of controversy" in an election year. Another suggested that if the administration could not reach a compromise solution with Congress, Reagan

could reissue the order if reelected.

In light of such statements, congressional opponents of the directive continued to press for its complete elimination. A representative of Sen. Mathias' office said the senator wanted some further definitive action to "give a decent burial" to the censorship policy. Democratic opponents of the measure welcomed Speakes' announcement that the controversial provisions had been suspended, but stressed that Reagan had not committed himself to dropping the measures permanently. "I question both the motives and the sincerity" behind the announcement, said Sen. Thomas F. Eagleton (Dem.-Missouri). Eagleton said the president's motive was "to curtail a tidal wave of bad press until after the election."

Rep. Jack Brooks (Dem.-Texas), who is sponsoring a bill to impose tight, permanent restrictions on government use of censorship and polygraphs, called Speakes' announcement "only a tentative half-step. Much of the administration's polygraph and censorship scheme may still go forward," he said. Under the new approach "each agency is free to enact their own version of the president's censorship and polygraph policies quietly in the shadows, agency by agency." Reported in: *New York Times,* February 15, 17; *Washington Post,* February 16.

USIA admits blacklist of liberal speakers

It was not so extensive as the blacklists of the 1950s, but officials of the United States Information Agency (USIA) did admit in February that they had systematically excluded prominent people believed to espouse liberal views different from those of the Reagan administration from government-sponsored speaking engagements abroad. In addition, some agency staff members had recently assembled a "blacklist" of 84 prominent figures who should not be proposed as speakers. "It was like a fraternity," one former official said. "Anyone from a nonconservative persuasion was 'bonged'."

During the three years of the Reagan administration, the USIA's supposedly nonpartisan American Participation program paid speaking fees and travel expenses abroad for a growing number of administration officials and prominent Republicans and conservatives. Agency officials said dozens of other potential speakers suggested by staff members or requested by USIA offices abroad were rejected for ideological or personal reasons. One source said agency staff members were under constant pressure "to find conservatives who had worked in the Reagan campaign. If there was a perception we were sending too many Democrats through, we'd be given the ax."

The names on the blacklist included former CBS News anchor Walter Cronkite, ABC News broadcaster David Brinkley, *Washington Post* executive editor Benjamin C. Bradlee, *Post* reporter John Goshko, *New York Times* columnist Tom Wicker, economist John Kenneth Galbraith, consumer advocate Ralph Nader, civil rights activist Coretta Scott King, feminist Betty Friedan, writer Elizabeth Drew, magazine journalist James Fallows and author Frances Fitzgerald.

Among Democratic politicians, Sen. Gary Hart (Colorado), Reps. Robert Garcia (N.Y.), Thomas J. Downey (N.Y.) and Jack Brooks (Texas) were on the list, along with former Carter administration cabinet members Patricia Roberts Harris, James R. Schlesinger and Stansfield Turner. The list also included a small number of people regarded as conservative who were apparently included because some agency officials disliked them.

Among speakers sent abroad by the agency were: White House Counselor Edwin Meese, presidential speechwriter Anthony Dolan, Republican Sens. Richard Lugar (Indiana) and Alfonse D'Amato (N.Y.), members of the Republican National Committee and House Republican Conference, New York GOP gubernatorial candidate and prominent conservative businessman Lewis Lehrman, and three justices from the Supreme Court's conservative wing, Warren E. Burger, Sandra Day O'Connor and John Paul Stevens. Other speakers came from conservative "think tanks" like the American Enterprise Institute and the Heritage Foundation.

The USIA's acting deputy director, Leslie Lenkowsky, said he stopped use of the blacklist after learning about it shortly before its existence was exposed by the *Washington Post.* "I'm not going to excuse the blacklist," he said. "I ordered that killed as soon as I heard about it."

Blacklisted presidential candidate Sen. Gary Hart demanded an apology from the agency for "the slur on my patriotism and integrity." Hart told reporters that the administration "has changed the USIA from an agency designed to disseminate information about this country to one that disseminates only information that is favorable to the Reagan administration." "I think [the program] will always be criticized in any administration for being tilted one way or another," Lenkowsky responded.

Under the Carter administration, however, the American Participation program sponsored a varied assortment of academic and political speakers including both prominent Democrats and conservatives like current UN Ambassador Jeanne Kirkpatrick, authors George Will and Michael Novak and several conservative Republican congressional aides. "We leaned over backwards not to load it with political supporters," said John E. Reinhardt, USIA director under Carter. "You

don't fool the people overseas. A neutral explainer . . . would do us far more good than some out-and-out partisan."

It remained to be seen whether the agency would now seek more political diversity in the speaking program. Present USIA director Charles Z. Wick, who has also come under fire for illegally taping his telephone conversations, said: "We're supposed to be partisan to a certain extent as far as advertising what this administration is trying to do." Reported in: *Washington Post,* February 9, 10.

antiporn activist as 'scientist'

At a time when the Reagan administration has claimed to be "cutting the fat" from domestic spending while maintaining essential "safety net" social services, a Justice Department official approved a $798,531 study to determine whether *Playboy, Hustler* and other more sexually explicit materials are linked to violence by juveniles, a study which a staff memo claimed could be done for $60,000. The two-year study was approved without competitive bidding in December by Alfred S. Regnery, administrator of the Office of Juvenile Justice and Delinquency Prevention. It will be directed by Judith Reisman, a researcher who was hired by American University after receiving tentative approval for the grant.

Reisman's contract raised a number of eyebrows in Congress and elsewhere, according to a devastating critique of the grant by Larry Bush published in the *Village Voice.* One question raised was that of the researcher's qualifications. Reisman received a doctorate in speech from Case Western Reserve University in 1979 where her dissertation studied a Cleveland talk show host's effectiveness as measured by unsolicited letters arriving at the local station. Reisman's *vitae* lists four books which have never been published, although the titles were cited as "forthcoming" in her resume as long ago as 1978. Her credentials as a pornography researcher do include, however, authorship of several scripts for *The Captain Kangaroo Show.*

Reisman first emerged as a militant feminist opponent of pornography in an interview published in the feminst symposium *Take Back the Night: Women on Pornography.* In that work she argued that American mores are being shaped by a "triumvirate—Hugh Hefner, Bob Guccione, and Larry Flynt—who are every bit as dangerous as Hitler, Mussolini, and Hirohito, the political fascist triumvirate of World War II." *Playboy,* Reisman noted, "has even been funding many women's organizations and women's issues in order, ultimately, to gain control of our issues and our political organizations, three of the most important of which are NOW, ERA and abortion!"

Reisman contributed an article to the 1978-79 issue of New York University's *Review of Law and Social Change* entitled "Freedom of Speech as Mythology," in which she argued that "defense of pornography is based on the spurious notion that freedom of speech actually exists. Freedom of speech, however, does not exist . . . Once this concept has been disproven, the pornographic business community can be challenged without raising cries of censorship. Women must have the right to *the presumption that a casual relationship exists between the pornographic environment and the incidence of physical and psychological rape, unless proven otherwise."* (emphasis in original.)

All these sentiments were generally compatible with much of what other feminist critics of pornography were saying. In recent years, however, Reisman has adapted her views to new political conditions. Her application to the Reagan administration for the grant in question noted that "the women's movement is beginning to observe that the majority of American women are not prepared to embrace abortion on demand, lesbian rights, or even ERA as their mutually agreed upon rallying platform." Last summer, Reisman gained notoriety by charging that famous sex researcher Alfred Kinsey had been a child molester "involved in what amounts to vicious genital torture of hundreds of children." Under questioning, she failed to document her charges, but continued to insist on their accuracy.

Among those whose interest was sparked by Reisman's anti-Kinsey views was Regnery, son of conservative publisher Henry Regnery, whose confirmation as head of the Juvenile Justice and Delinquency bureau of the Justice Department just squeaked by after it was revealed his car bumper carried a sticker reading "Have you slugged your kid today?" Regnery was directed toward Reisman's work by the FBI, which had contracted with her to deliver antiporn lectures at its Behavior Investigation Unit.

The research proposed by Reisman and approved by Regnery aims to prove links between pornography and family violence, sexual abuse, and juvenile delinquency on the basis of "biological/neurophysiological imperatives" she expects to find in the testosterone levels of young boys who have been exposed to *Playboy* and *Penthouse.* Reisman's budget calls for 42 days of consultation with experts on "the neurophysiological processes by which pictures or words chemically act upon juvenile and adult brain hemispheres," leading to "physiologically predetermined" outbreaks of aggression and violence.

"Moreover," she explained, "our goals include the establishment of operationally functional definitions of sexually explicit media, rooted in the physiological and biological literatures. . . . Once we can operationally define what sexually explicit material *is* physiologically

and biologically, our ability to form opinions and to evaluate its innocuousness or virulence will be grounded in solid scientific law."

Reisman will not be working alone on this awesome task. Regnery has parceled out several other grants aimed at linking juvenile delinquency to biological factors. A grant of $840,854 went to the University of Pennsylvania School of Nursing to collect data showing a link between victims and victimizers in sexual abuse of children. Ann Burgess, the principal investigator, opined that "there now is the pragmatic need for a rapid identification of aggressive juvenile behavior *before* it escalates to violent criminal activity." A similar study will be conducted by the Rand Corporation, which received a more modest sum of $325,000.

But perhaps the most controversial proposal was that of Dr. Sarnoff A. Mednick, who requested $504,000 to take 2,000 nine-to-twelve-year-old boys who were "first offenders" and pay them five dollars each to cooperate in a program designed to identify characteristics that might help tag "chronic offenders" before they committed any crimes. Mednick thought he might find "a biological marker for thievery" as well as physiological tests to measure objectively whether a nine-year-old "first offender" might become a recidivist, in part by measuring whether their palms sweat when confronted with "loud noises, electric shock, insertion of hypodermic needles, and slides of horrible facial injuries." Once aired in the press, Mednick's proposals became too controversial for final approval, but much of the testing he proposed could be carried out in part under the terms of Reisman's grant.

Welcome not only to *1984*, but to *A Clockwork Orange* as well. Reported in: *Minneapolis Star & Tribune,* March 5; *Village Voice* March 20.

survey calls censorship "significant problem" in New York schools

According to a survey of school district superintendents carried out by the New York Regional Office of People for the American Way, "censoship challenges occur just as frequently in New York as they do elsewhere across the country." More than one-fifth of the school districts responding to the survey reported censorship challenges during the years 1980-1983, and one-third of such challenges were successful in limiting access to classroom and/or library materials.

A report on the survey, *Attacks on Freedom to Learn: New York (1980-1983),* was released in January. The survey was based on a questionnaire distributed in May, 1983, to all 760 public school superintendents in the state. By July, 230 responses had been received. Of those responding, more than one out of five, 22 percent, reported at least one attempt, and in some cases more than one attempt, to remove or alter instructional or library materials. Fifty districts reported a total of fifty-seven separate incidents.

The challenges came from all types of districts, with 14 percent of urban districts, 25 percent of suburban districts, and 21 percent of rural districts reporting incidents. One out of three reported that challenges resulted in some restriction of the material either by removal (12 percent), alteration (12 percent) or restrictions on use (9 percent). In 63 percent of reported incidents, no change resulted from the challenge. Four percent of the incidents reported were still undecided.

According to People for the American Way, "the challenges to materials had no philosophical, literary or educational boundaries." Among materials challenged were *Little Black Sambo* and *Huckleberry Finn* because of alleged racism, *The Grapes of Wrath* and *One Day in the Life of Ivan Denisovich* because of vulgar language, as well as Shakespeare's *Macbeth,* J. D. Salinger's *Catcher in the Rye* and Judith Guest's *Ordinary People.* Objections were also reported to science courses, health textbooks and films.

Also in New York, a survey of Nassau County school districts conducted by the Long Island School Media Association (LISMA), which represents library media specialists in the county, reported that 23 percent of county school libraries had experienced challenges to materials during the past five years. Nearly four hundred questionnaires were sent out by LISMA to individual librarians representing 48 out of 59 districts in the county. Challenges were reported by 31 individual schools.

The two items drawing the most complaints in the county survey were Judy Blume's novel *Forever,* and the film *The Lottery*, based on the short story by Shirley Jackson. While the People for the American Way study found that more than 80 percent of the responding districts reported the existence of formal selection policies, less than half the respondents in the county survey could present a board-approved policy document.

"More is at stake today than a novel removed from a library or an idea censored from a text, although either would be more than sufficient cause for alarm," the People for the American Way report concluded. "These findings constitute a threat to our public education system and our fundamental First Amendment rights. Intellectual freedom—the right to learn and think for ourselves—is critical to our right to govern ourselves as free citizens in a democracy. If today's students are denied the right to think and learn, tomorrow's citizens will just as surely be denied the right to govern themselves. Our future as a pluralistic democracy, where open debate and discussion are the rule, begins in our public schools."

in review

Dimensions of Tolerance. Herbert McClosky and Alida Brill. Russel Sage Foundation. 1983. 512 p.

It is often said that the majority of Americans would refuse to sign the Bill of Rights. *Dimensions of Tolerance: What Americans Believe About Civil Liberties* does not set out directly to confirm or refute that belief; it does attempt to find out, through a series of surveys, exactly what attitudes on civil liberties are current in our society. The surveys also aim to prove the authors' contention that more exposure to the norms of society leads to more acceptance of them. In this case, the norms are the constitutional mandates and the court decisions upholding civil liberties; the means of exposure is the greater familiarity with those norms said to be a result of civic or group leadership.

The authors view these norms as difficult to accept and requiring considerable training, as well as inherent abilities, for each individual. The fairly low rating given these rights by the general public in the surveys unfortunately tends to confirm this view.

Much of the book consists of tables and charts showing that, in fact, the groups identified variously as opinion leaders, legal elites and police elites have different responses to questions based on specific civil liberty issues than do the mass of the public questioned. Further, public acceptance of civil liberties for all groups tends to decline as the issues are made more specific (that is, more realistic). Respondents whose view it is that no one's freedom of speech should be abridged (a 'general' or 'Bill or Rights' type statement) change attitudes when asked, for instance, if the American Nazi Party has the right to appear on public television.

McClosky and Brill also differentiate between those rights that are most firmly rooted and 'emerging rights.' Even the elite groups tend to give the emerging rights, or rights about which the court has issued different opinions, less wholehearted acceptance.

Other factors than group leadership—age, religion, education, political attitudes, place of residence—are also considered as possible influences on civil liberties beliefs; for almost all of them the disparity between opinion leaders and the general public holds. As would be expected, younger, better educated, moderately liberal people in large cities tend to be most careful of civil liberties. The fact that younger people score better on the surveys than older people is one of the few hopeful notes in the survey, although McClosky and Brill also point out that this reflects changes in society as a whole. If society were to become more repressive, they suggest, those who adopt its norms would also become less tolerant.

Appendices to the book include a copy of the lengthy questionnaire which respondents filled out, in addition to a complete description of the selection and survey methods. Perusal of the questionnaire raises certain issues. Individual questions consist of general statements that can have two possible conclusions. The conclusions do not always seem mutually exclusive. Further, for some the answer that is the civil libertarian choice of the authors is one of which many civil libertarians would be wary, because it oversimplifies major and complex issues.

Disappointing to librarians, incidentally, is the fact that the profession does not appear in the categories of 'opinion leaders' whose exposure to issues is supposed to lead to greater acceptance of civil libertarian norms. Only a few of the questions on the survey form relate to library censorship issues.

The authors' general conclusion is the disquieting one that only the indolence of the bulk of citizens makes society accepting of civil liberties, even to the extent that it is. Whatever the validity of the conclusion, many readers will be reluctant to suffer the dry repetitive prose in order to consider fully the authors' argument.—*Reviewed by Susan Branch, Reference Librarian, Worthington Public Library, Worthington, Ohio.*

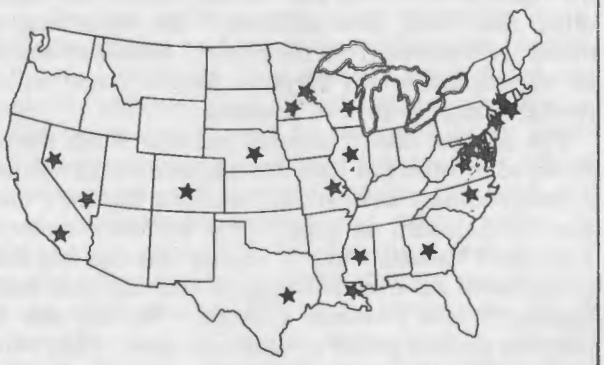
To Free the Mind. Eli M. Oboler. Libraries Unlimited, 1983. 137 p. $15.00

Throughout a long, distinguished career Eli M. Oboler championed the principles of intellectual freedom. In his final book Oboler presented concerns about various facets of the new information technologies and warned librarians to recognize the dangers as well as the benefits of utilizing high technology. In the preface the author stated his purpose succinctly: "The pages that follow are a sincere effort to face the problems inherent in converting an essentially humanistic endeavor—librarianship—into a technological pursuit . . . This is a heart-felt call to librarians to remember their professional heritage and obligations, to deal with computers and telecommunications and all their related paraphernalia as just that . . . tools . . . rather than idols whose oblations include the sacrifice of . . . humanistic ideals."

The book deals with several aspects of high technology and presents provocative issues for librarians to consider such as: (1) are librarians trading valuable library services for possibly less valuable net-

(Continued on page 80)

censorship dateline



libraries

Aurora, Colorado

A romance about the occult was well on its way in January to becoming the first book banned by the Aurora public schools. The book, *Night of Fire and Blood,* written on the second-grade reading level by Leo Kelley, had been found unsuitable for younger children by two committees which review instructional materials. The committees agreed to remove the book from elementary school libraries, although another edition of it, considered less offensive, will remain in middle and high schools. Only an appeal to the school board could save the book, but this was considered unlikely since no one had as yet risen to its defense.

Shimla Basile, chair of the Committee on Reconsideration of Instructional Materials, said her group, which includes teachers, parents and children, found the book unsuitable because it deals with "violence and self-mutilation." "If an elementary school student wants to read it, he can go to the [public] library," she said. "If that student is in fifth grade, he can wait a year and get it from the school's library when he reaches middle school."

The removal of *Night of Fire and Blood* marks the first such incident in the Aurora schools. Of about ten books reviewed in the district during the past three years, none had been removed and only one, *Our Bodies, Ourselves,* the controversial feminist health manual, was placed on a restricted shelf. Reported in: *Rocky Mountain News,* January 7.

Covington, Louisiana

School librarians and teachers in St. Tammany Parish are fighting a school board order to remove two popular young adult novels from the shelves of all public school libraries. On January 5, a staff memo from Superintendent of Schools C. J. Schoen and Assistant Superintendent Ralph Menetre ordered librarians in junior and senior high schools to remove *Edith Jackson,* by Rosa Guy, and *Then Again, Maybe I Won't,* by Judy Blume from their shelves. The memo said the books should be removed "because their treatment of immorality and voyeurism do not 'provide for the growth of desirable attitudes.' " Covington High School librarians Bonnie Bess Wood and Susan Samson fired off a letter of their widely acclaimed literary merit in dealing with the problems of adolescents." The librarians voiced concern because school administrators would not reveal who was on the committee which reviewed the books, and did not release a report explaining the ban. "Don't we have a right to know who these books' accusers are?"

The protest went unanswered, but the librarians did not back down. They took their complaint to others and gained sympathetic coverage in the local press. By March, enough support had emerged for the librarians, now backed by the St. Tammany Parish School Librarians Association, the American Civil Liberties Union, and many individual teachers and parents, to force school authorities to reveal the source of the complaint. On March 20, an appeal of the decision was granted by the school board to Dr. Walter Atkinson, a parent. The board was scheduled to hear the appeal in April.

It was revealed that the review committee was formed after a complaint filed by the mother of a seventh-grader. The committee was composed entirely of administrative personnel. In the complaint, the parents called the Guy book "nothing more than trash," a "worthless literary abomination" and "perverse garbage." *Edith Jackson* is a realistic portrait of a young black woman in Harlem and contains descriptions of child molestation, sexual harassment and a couple preparing to engage in sexual intercourse. The parents objected to the book because of its "sensationalized approach to a topic that easily lends itself to 'locker-room' levity."

The parents also objected to Judy Blume's "inappropriately treated discussions" of an adolescent boy's feelings after having a wet dream and an erection, and his practice of watching a teenage girl undress through an open window. The complaint charged that Blume was "trying to address subjects she is not qualified to address." Both the challenged books are widely recognized as meritorious works of young adult fiction.

This was not the first censorship incident in St. Tammany Parish schools. In a letter to the American Library Association, librarian Wood revealed that when

she arrived at Covington High School in 1975 she learned that novels by William Faulkner, Ernest Hemingway, John Steinbeck and James Michener, among others, had been removed and that *Time, Newsweek,* and *Look* magazines were banned in 1967 for their allegedly "communist" coverage of school integration. In 1975-76, Wood was asked to remove *Laughing Boy,* by Oliver LaFarge, and *Best Short Stories,* by Langston Hughes, and in 1980 district librarians received a memo calling for the removal of three copies of *Glamour* and *Mademoiselle.* Reported in: *St. Tammany Farmer,* March 1, 13, 22; *New Orleans Times-Picayune*, March 17, 22.

Salisbury, Maryland

It happens every year. The only question is which school library will make the news by placing restrictions on the notorious *Sports Illustrated* annual swimsuit issue. This year's "honors" go to Wicomico Senior High School librarian Frances Flory of Salisbury who, recalling that last year "the kids tore the bathing suit pictures out and caused a disturbance," removed the offending photos herself. Then someone stole the entire magazine! According to school superintendent Harold Fulton, Flory's action was her own. "It is not the policy of the school or the school board," he said, noting that all 25 schools in the district subscribe to *Sports Illustrated* and that the other 24 copies were still intact. "She's embarrassed and sorry she did it," he said. Reported in: *Washington Post,* February 18.

Rankin County, Mississippi

Led by a church pastor, a group of parents have demanded the removal of books they consider profane and objectionable from libraries in the Rankin County School District. Elder Walter Blair, pastor of the Sherwood Forest Primitive Baptist Church, told about thirty parents February 22 that he was tired of waiting for the Rankin County School Board to take action against "garbage" on library shelves.

"Now is the time to take some kind of action," he declared, "even if we have to get [school Superintendent Mike] Vinson and [McLaurin Attendance Center Principal Harlan] Stanley and the rest of them and tar and feather them like they used to do." Some parents at the meeting called for the establishment of a permanent school censorship board to screen library purchases.

The parents' objections were focused in particular on two books, *Headman*, by Kin Platt, and the anonymously written *Go Ask Alice*, which were found in the McLaurin and Florence High School libraries. In late January, David Ross Dilmore of Florence lodged a protest against *Headman,* charging that the book contained profanity and sexually-oriented language and situations. Although the district has a selection policy which states that "no parents or group of parents has the right to determine the reading matter for students other than their own children," the book was permanently removed from the library. Another book cited as objectionable was Stephen King's *Cujo*, which a teacher allegedly gave to students.

The parents mailed selected passages from the three books to members of the state legislature, the Mississippi congressional delegation, Southern Baptist Convention officials and national Moral Majority leader, the Rev. Jerry Falwell. "We're hoping that this will start a groundswell all over Mississippi and not just Rankin County," said Clarence Gilbert. "We do not have parental control in our schools any more. That's in the hands of a few kooks who sit up there drawing a salary," parent H.L. Howard added. Reported in: *Jackson News*, February 22, 23.

Holdredge, Nebraska

The Holdredge Library Board voted February 28 to move the novel *Forever,* by Judy Blume, from the public library's young adult section to the adult shelves. The vote came after the Rev. Patrick Clinton ofTrinity Evangelical Free Church requested the book's removal from the library.

Clinton, who said a mother brought the Blume book to his attention, not only asked the board to eliminate *Forever,* but to reconsider its selection policy. "The library purchases and circulates books and materials that are totally opposite to the moral law of God," Clinton said.

Library Director Paul Holland originally turned down the clergyman's appeal, declaring that "the library is here to allow a person to examine ideas and make their own decisions." He said the library's selection policy adheres to the ALA Library Bill of Rights. When informed by board members that the library as a public institution could not limit books due to belief, however, Clinton said he felt like "I'm talking to a bunch of atheists. Most people would feel this type of book is pornographic and does not promote the sanctity of life, family life."

The proposal to move the book to the adult section was carried by a vote of 8-1, although the board refused to alter its selection policy. Clinton responded that he would continue his campaign to "limit the right to read bad books" with an appeal to the Holdredge Ministerial Association. He is seeking support for a pastoral plea for censorship of library books containing references to abortion, homosexuality, sexual intercourse outside of marriage and children's rights at the expense of parental authority. Library Director Holland was also invited to discuss circulation policies with the clergy group. Reported in: *Holdredge Daily Citizen,* February 29.

Henderson, Nevada

A group of Henderson parents have won a significant victory in their battle to get a sex education book, *What's Happening to Me?*, removed from the Henderson Public Library as "too sexually explicit and unsuitable for children" (see *Newsletter*, March 1984, p. 39). On November 29, the Henderson Library Board voted unanimously to put the controversial book behind the checkout counter for two months. The book will only be available to children and other readers by special request until after "the furor has died down." Then, the board ruled, the library director can reshelve it in the adult section. The book, written for 10- to 14-year-olds, had originally been located on the children's shelves. Reported in: *Las Vegas Sun*, December 2.

Greenburgh, New York

A series of films on Russian opera and ballet sponsored by the Greenburgh Public Library, the Greenburgh Arts and Culture Committee and the Westchester Dance Council scheduled to run from March 13 to May 1 has become a target of intimidation and protest after library director Robert Trudell refused a demand by the Jewish Defense League to cancel the series.

In a February 12 letter, JDL National Director Fern Rosenblatt wrote the library that "by providing the Soviets with an opportunity to screen their films, you are unwittingly aiding the USSR in its politics of oppression. We hope you realize that if the film festival is not cancelled your library could well be the target of protests by angry Jews." Attached to the letter were copies of news clippings about demonstrations, incidents of vandalism, window-breaking and bombings which have marred similar exhibits and performances.

On February 27, vandals armed with spray paint attacked the homes of Library Director Trudell and Madeline Gutman, executive director of the Greenburgh Arts and Culture Committee. Slogans in English and Hebrew were left sprayed on the victims' homes and the sidewalks in front of them. An anonymous caller said he represented the JDL and claimed responsibility. When contacted by the press, Rosenblatt denied specific knowledge of the incidents but admitted "it's very possible that the people who did it are JDL members." He said the JDL would "wholeheartedly applaud any action" to protest the film series.

The JDL has become increasingly active in Westchester County. Earlier in February JDL members slashed the tires on cars of guests at a fund-raising party for Jesse Jackson in Mamaroneck. A week before the Greenburgh incidents, the JDL condemned the Anti-Defamation League of the B'nai B'rith for becoming involved in a legal dispute over the placement of a nativity scene in a village-owned park.

Library Director Trudell issued a statement condemning the JDL's efforts to cancel the series: "I don't believe banning Tchaikovsky or Pushkin is going to have any effect on the Soviet Union or cause it to change its policies. Ironically, censoring the art and arts of another culture does more harm to us. There is a clear difference between art and propaganda. Any time a government tries to pass off propaganda as art it simply falls of its own weight. People are smart enough to tell the difference. I have confidence in the American practice of making information, facts and ideas available to all and trust in the abilty of people to make up their own minds. I do object to any organization which has a stated policy of disrupting domestic tranquility and the censoring and suppression of free thought. It seems to me that these practices of intimidation through threats of violence makes them no less barbaric than they believe the Russians to be." Reported in: *Reporter Dispatch,* February 28, March 1.

Jericho, New York

A Long Island school librarian, waging a campaign against censorship, ironically took on the role of censor herself by removing two books from the American Library Association Office for Intellectual Freedom banned books display. Joan Jacob received the display from ALA and placed it prominently in the Jericho High School library. But before doing so she removed *Joy of Sex* and *More Joy of Sex.* "I don't think high school students are mature enough to understand these books," she explained. Reported in: *New York Post,* March 22.

Houston, Texas

According to a communication to the *Newsletter* from James C. Thompson, Associate University Librarian, the Fondren Library of Rice University was the target of censorship pressures in December. Early that month, the committee in charge of the exhibit cases put up an exhibit on the theme of George Orwell's *1984*. As an afterthought, one unused case was devoted to methods used in various cultures, past and present, to predict the future. Included were a set of Tarot cards, a fortune cookie, a Ouija board, some tea leaves, etc. According to Thompson, "we had calls and delegations every day for weeks, accusing us of practicing sorcery and demonology in the library. The exhibit was said to be 'an abomination before the Lord,' and so forth." The exhibit remained, but in February it was to be replaced by one on Julian Huxley, one of Rice's first faculty members and an outstanding popularizer of Darwinian evolutionary theory. Thompson expects the pressure to continue.

schools

Springfield, Illinois

Huck Finn is in trouble again. Offended by the language as well as the alleged racism in Mark Twain's classic novel, *The Adventures of Huckleberry Finn,* a Springfield High School teacher is fighting to keep the book from being taught in Illinois District 186 English classes. Nell Clay, a black business teacher and mother of two, objects in general to Twain's portrayal of blacks, and in particular to his use of the word "nigger."

Clay decided to file a formal complaint when several black students told her they were offended by the novel and its use of the racist epithet. "They said the conversation in class was embarassing," she explained. "They brought the book to me, and we sat down and read it. I remember when I read it [in high school], I was offended. I was offended this time. This is 1984. That term has always been derogatory, and it always will be." Reported in: *Springfield State-Journal,* February 26.

Minneapolis, Minnesota

The principal of Minneapolis' Washburn High School, Donald L. Burton, canceled the second of two performances of a student-produced play March 4 after some of the adults in the opening night audience complained about expletives in the dialogue. *Album,* set in the late 1960s with a cast of four characters aged about 13-16 years old, contains some raw language, but drama teacher Steve Phillips had worked with the student actors to "make some deletions and clean up the language."

"But apparently one or two of the cast members didn't have their lines quite down, and added some expletives of their own," Principal Burton said. He said he thought it best to cancel the final night and read the play himself. A copy of the play was also sent to central administrators. Reported in: *Minneapolis Star & Tribune,* March 10.

Pipestone, Minnesota

Pipestone High School has dropped out of the Minnesota State High School League's one-act play competition because principal George Wagner felt the school's play was too irreverent to represent the community. The play, *An Interview With God,* is a fantasy about an unbeliever who talks to God and the archangel Gabriel at the gates of heaven. By the end of the play the atheist is converted to belief and accepted into heaven.

Wagner said he was troubled by the informal portrayal of the deity. "God is put in the position of almost being a mortal and discussing himself with a human being," he said. "In one instance, God is referred to by Gabriel as 'Daddy.' I don't really think that's appropriate for our community." League rules require that a principal certify that his school's entry is consistent with community standards. Wagner's decision came too late for a substitute production to be mounted.

Jim Adams, a reading teacher who selected the play, blamed himself for not submitting it for approval earlier. But student actors were still disappointed. "I think he was very incorrect. I found nothing wrong with the play," said Cindy Marthaler, who was to play God. Matthew Stark, executive director of the Minnesota Civil Liberties Union, called the league rule "unconstitutional." He said a principal could review a program to determine if it is "educationally appropriate," for instance, to discover if it was too expensive, or too difficult for the students involved. But asking a principal to certify a play as up to community standards "meets neither educational requirements nor constitutional standards," Stark stated. "It's overly broad and vague and it's an insult to the First Amendment to the U.S. Constitution. The fact that some people in the community or all the people in the community don't like it is irrelevant." Reported in: *Minneapolis Star & Tribune,* January 31.

Mellville, Missouri

For a year and a half a teacher in Melville, a St. Louis suburb, has been trying to screen the movie *Inherit the Wind,* with Spencer Tracy and Frederic March, for his students. The 1960 film is a fictionalized account of the famous 1925 "monkey trial" in Tennessee in which another teacher, John Scopes, was arrested when he challenged a Tennessee law prohibiting the teaching of evolution.

James Dickerson, an earth science teacher at Oakville Junior High School, announced in November 1982, that he would screen the movie, based on a hit Broadway play, to 300 students in his class. But school officials refused permission because, they alleged, the film was historically inaccurate, poked fun at religious beliefs and was not appropriate for an earth science class. Dickerson said the film would supplement class material on creationism and evolution.

In January 1983, Dickerson appealed to Thomas L. Blades, the Melville Superintendent, who upheld the ban. Efforts at compromise were unsuccessful, and Dickerson took the matter to the Melville Community Teachers Association. An outside arbitrator, appointed by the American Arbitration Association, finally heard the case this February and a decision was expected in several months. District officials are not bound by the arbitrator's ruling, however. Meanwhile, a production of the stage version of *Inherit the Wind,* starring Hal Linden in the role of Clarence Darrow, played in the movie by Spencer Tracy, opened in the St. Louis area March 23. Reported in: *New York Times,* February 21.

student press

Reno, Nevada

Six honor students at Reno's McQueen High School were suspended January 27 for printing what school principal John Flynn called an "illegal, obscene publication." But students at the school, many of whom wore black armbands to protest the suspensions, charged that the suspensions were part of a series of "dictatorial" actions by school administrators.

Publication of *The Daily Fornicator,* produced in three hours by the students on a word processor and printed in an edition of twenty copies, was intended as a protest against Flynn's "totalitarian practices." Two of the students had already been reprimanded more than once by the principal—once for slipping grades and another time when both refused to say the Pledge of Allegiance. The group hoped their paper would offer political opinion as well as literary work and somewhat off-color satire. *The Daily Fornicator's* first issue proclaimed its dedication to free speech and, among other things, juxtaposed pictures of Flynn with Adolf Hitler.

With the support of the ACLU, the students, including three National Merit Scholarship semifinalists, planned to resist the suspensions, according to which they will be banned from attending all public high schools in Washoe County for the remainder of the academic year. "Students have the same constitutional rights as any other citizens to express their political opinions," said Nevada ACLU executive director Jim Shields. Reported in: *Reno Gazette-Journal,* January 28, February 3.

Madison, Wisconsin

Journalism students at Madison East High School are protesting the school principal's decision to prevent publication of a student editorial on homosexuality. "By censoring it he has caused more of a ruckus" than the article itself would have, said Jenny Cooke, editor-in-chief of the *Tower Times.* The author of the editorial, Jerry Dryer, has appealed the action of principal Milton McPike.

McPike said the editorial, which calls for tolerance of homosexuality and criticizes "homophobia," was "not positive" and "not well written enough." In an extraordinary example of extremely tortured logic, he said it might have resulted in redbuttals that might have needed censoring. "In my opinion, [it would be] a disruption of the school to spend my time censoring the newspaper," he concluded. Reported in: *Madison State Journal,* January 27.

colleges

Fredericksburg, Virginia

An unusual censorship battle has been raging on the campus of Mary Washington College since October. The case involves a painting that was removed from an alumni art exhibit on campus before the public could see it. The artist, Mary Cate Carroll of Baltimore, has exhibited throughout the country and received several awards. She is also a vigorous opponent of abortion.

One of the paintings she selected for the exhibit was "American Liberty Upside Down." It shows a father, mother, and, in red dotted lines, just the outline of a baby. In the middle of the child is a door that, when opened, reveals, curled in a jar, a 5-month male fetus, the result of a saline abortion.

The college administration insisted that removing the painting was not censorship. They claim they were compelled to act under a section of the Virginia Code concerning disposition of dead human bodies and parts thereof. As a right-to-life advocate, Carroll was eager to test this interpretation of the law in court. If the college permits studying a fetus "for its physical properties in a biology class, why is it so awful to look at it from a social and moral perspective in an art show?" Carroll asked. "After all, when it was given to me by a science professor at the college, I took it out of the biology lab where it was a specimen and made it into a human being."

Carroll and others on campus charged that the real reason for the removal was simple censorship. She says the legal argument against her painting was not presented to her until three days after she was told it had to go. In an article in the *Fredericksburg Free-Lance Star,* art department chair Barbara Meyer focused not on the law but on Carroll's "flagrant and crass exploitation of this pathetic form" and her alleged lack of reverence for life. "How far can an artist go?" she asked. "Where is the limit of license?" Reported in: *Milwaukee Journal,* January 29.

periodicals

Los Angeles, California

Gentlemen's Quarterly magazine has refused to carry advertising from Gay Housing Los Angeles '84, a licensed brokerage group arranging rentals for visitors to the Los Angeles Summer Olympics. "It was made perfectly clear by *GQ* that the word gay never appears on the pages of their magazine," said Philip Twichel, who is assisting the group in obtaining advertising space.

"They claimed they had no idea or interest in knowing if any of their readers were gay." The organization has advertised in other non-gay publications in Miami, New York, Chicago and San Francisco. "Unfortunately this kind of discrimination is still legal," said Jean O'Leary, director of National Gay Rights Advocates. Reported in: *Equal Time,* November 1983.

Washington, D.C.

A coalition of local and national women's rights groups have protested the introduction of advertising for *Penthouse* magazine on trains of the Washington Metrorail system. "*Penthouse* depicts women as objects, toys for men's titillation," coalition officials said. "Metro is legitimizing these attitudes toward women by accepting the advertising. According to the contract between the public transit system and *Penthouse,* the ads will run in 100 rail cars every other month for a year, alternating with ads for *Omni*, a science magazine also owned by *Penthouse.* The magazines paid the commuter line $29,736 for the contract.

"The right to advertise is not absolute," said one coalition member who described herself as a veteran member of the ACLU. "There's no understanding on the metro board of what *Penthouse* represents. That ad is really disturbing women. It's like being constantly told that women are for sale." Donna Medley, director of the National Coalition Against Domestic Violence, called the advertising "lethal" and "particularly damaging" to children.

"Personally, I really sympathize with the complaints," said Michael L. Noonchester, Metro's acting director of marketing, "but I have to go with the guidelines established by the board." Those guidelines say in part: "All advertising . . . should reflect a high level of good taste and decency in copy and art. . . . Items which might be objectionalbe to a substantial segment of the community . . . or which might be offensive because of racial or religious references should be avoided." Reported in: *Washington Times,* March 19.

New York, N.Y.

The Jewish Community Relations Council of New York (JCRC) has reaffirmed its determination to press newspapers and magazines that have run advertisements from the Jews For Jesus organization to desist from such advertising in the future or to print a disclaimer making clear the "intent and nature" of the advertiser. The JCRC expressed its dismay that publications like the *New York Times* on December 1 and 5, *Time* magazine on November 28, and *Newsweek* magazine on December 12 carried full-page ads by the group.

In letters to editors and publishers of the newspapers and magazines that printed the ads, the JCRC took the position that "the ad utilizes Jewish symbols but does not clearly indicate that the intent is proselytic. If 'truth in advertising' is more than a slogan and an accepted principle, then this ad should have been rejected or, at the very least, a disclaimer required that would have made clear the intent and nature of the sponsoring organization."

In a reply to the JCRC letter, Sidney Gruson, vice chair of the New York Times Company and its officer with responsibility for advertising acceptance policies, wrote, "I think the proselytic nature of all the ads placed by Jews For Jesus is clear. But even if it were not, I think the ad is acceptable as an expression of opinion that, under our rules, is entitled to be published . . . The *Times* prints a great deal of controversial or cause advertising in the belief that a policy of open advertising columns plays an important part in maintaining a free press."

According to Malcolm Hoenlein, executive director of JCRC, "Gruson's letter was certainly not a sufficient answer to the concerns we expressed. We did not say he should not run the ad at all. There are ways to run ads that we find objectionable, but which we would not [publicly] object to. Of course, we would prefer that they did not run these ads at all." Reported in: *Jewish World*, January 13-19.

Falls Church, Virginia

The nation's third largest drug store chain, Rite-Aid Corp., announced March 9 that it will permanently remove *Hustler* magazine from the shelves of its 1,147 stores. The chain said it would discontinue sales of the magazine because of the large number of complaints received from customers, but Falls Church antipornography crusader Richard J. Enrico claimed credit for the decision. "There's no question about it," Enrico, who heads Citizens Against Pornography, declared, "I'm the one that started this whole thing." Reported in: *Washington Post,* March 10.

broadcasting

New York, N.Y.

"Black Focus," produced by the *Black American* newspaper, airs twice weekly on New York's WNYC-TV, a public broadcasting station. This winter the show broadcast a two part series considering the questions, first, "Are Arabs Really Our Friends?," and then, "Are Jews Really Our Friends?" The first presentation provoked no complaints, but after the second show was broadcast there was instant flak, including criticism by New York Mayor Edward I. Koch.

(Continued on page 76)

in the spirit of intellectual freedom

On February 23, the Freedom to Read Foundation filed an *amicus curiae* brief in support of three South Dakota booksellers named in a libel suit filed by Governor William Janklow. Janklow had demanded the removal of *In the Spirit of Crazy Horse,* by Peter Matthiessen, from the stores because he believes the book libels him. When the booksellers refused to comply with Janklow's demand, he filed a $24 milion suit for damages against them, Matthiessen, and the book's publisher, Viking Press (see *Newsletter,* July 1983, p. 112; January 1984, p. 18).

In a joint memorandum filed February 6, attorneys for the three booksellers—Donna Dyer, sole owner and operator of Golden Mountain Books in Hot Springs; Janet Halligan, manager of Cover to Cover Books in Sioux Falls, a subsidiary of Dakota News, a book wholesaler; and Bonnie Rettherath, manager of B. Dalton in Rapid City—asked Circuit Judge Gene Paul Kean to dismiss the suit against them. The attorneys noted that no court has ever imposed on booksellers the duty to investigate the accuracy of books they sell. The booksellers said, moreover, that no showing had been made to prove that the passages Janklow claims defame him are libelous, or that the booksellers had actual knowledge of such libel. *In the Spirit of Crazy Horse,* which is about Leonard Peltier, imprisoned leader of the American Indian Movement, contains several unflattering references to Janklow, including an accusation that he raped an Indian girl in 1967 while serving as reservation legal aid attorney.

The case has serious implications for libraries since it threatens their very capacity to fulfill their function in the marketplace of ideas. The brief filed by FTRF noted that if Janklow's "contention were to be accepted, every bookseller, librarian, and other passive distributor of information would be confronted with a Hobson's choice: they would either have to review every potentially controversial book for factual accuracy and be prepared to defend such review in court, or accept at face value every claim made by a disgruntled reader who alleges that a particular work defames him and suppress all further distribution until such time, if ever, that the claim is resolved.

"It requires no prescience to recognize which choice must and will be made. Booksellers and librarians simply do not have the resources to undertake an in-depth review of every publication they are asked to distribute. . . . [therefore] the only way in which booksellers, librarians and other passive distributors of literary materials could minimize their risk of litigation and liability under plaintiff's theory would be to categorically reject for distribution all works which ad-

(Continued on next page)

FTRF joins challenge to Wichita ordinance

In February, the Executive Committee of the Freedom to Read Foundation approved participation in an *amicus curiae* brief filed with the U.S. Court of Appeals for the Tenth Circuit, which seeks to enjoin and have declared unconstitutional a Wichita, Kansas "harmful to minors" ordinance. Specifically, the Wichita statute prohibits display of material "harmful to minors" which minors "as a part of the invited general public, will be exposed to view such material." The ordinance says such material may be displayed only if it is "kept behind devices known as 'blinder racks' so that the lower two-thirds of the material is not exposed to view."

The Wichita law is in some respects similar to statutes in Pennsylvania and Georgia which the Foundation and many of the same plaintiffs in this case have challenged. The other plaintiffs are the American Booksellers Association, the Association of American Publishers, the Council for Periodical Distributors Association, the International Periodical Distributors Association, Inc., the National Association of College Stores, Inc., and the Kansas Civil Liberties Union.

The FTRF brief argued that by prohibiting placement in establishments to which minors are admitted, of constitutionally protected non-obscene materials, the ordinance had the practical effect of prohibiting display, and therefore restricting distribution and sales, of such materials to adults. Further, the new law, by encouraging store owners to hide books and magazines from the eyes of minors, deprives those juveniles of their First Amendment rights to view constitutionally protected material. Moreover, the brief argued, the ordinance is unconstitutionally vague in failing to define key terms rendering "compliance virtually impossible to measure."

Unfortunately, the Court of Appeals for the Tenth Circuit did not agree with these and related arguments, upholding the constitutionality of the Wichita statute in the case of *M.S. News* v. *Casado*. Although surely a setback, the decision appears to interpret the ordinance as forbidding only the display of sexually explicit covers. Thus, it did not uphold the principle behind "minors' access" legislation, which would ban the display of sexually explicit books and magazines whether their covers were explicit or not. Reported in: *OIF Memorandum,* March 1984.

(Censorship dateline . . . from page 74)

WNYC Program Manager Ruth Johannson then called Carl Offord, publisher of the *Black American,* to her office to meet with representatives of the Anti-Defamation League. Offord responded that his schedule would not permit such a meeting, but invited Johannson and League representatives to come to his office. He was then warned, he charged, that if he did not appear "Black Focus" would be cancelled.

Offord refused, and shortly thereafter the show was dropped from the station's schedule. When attorneys for the newspaper demanded that the station show cause for this action, they were told it was not pressure by the Anti-Defamation League or other critics of the show which prompted cancellation, but the fact that the *Black American* had "improperly" solicited subscriptions during the program. That the newspaper had solicited subscriptions on some five or six shows preceding the controversial segment without incident was explained by station managers as "an oversight due to staff shortages." Reported in: *Chicago Defender,* February 29.

military censorship

Fayetteville, North Carolina

Army Spec. 4 Arthur Brogden is under investigation by the 82nd Airborne Division because he gave his diary detailing drinking and looting by U.S. troops on Grenada to a *Fayetteville Times* reporter. In the published parts of the diary, Brogden described how his company entered the compound of the Cuban embassy on Grenada, looting alcohol and food. After publication, Brogden's commander called him in and "accused the boy of being a traitor, a coward, of slandering 82nd Airborne, slandering the Army, slandering his unit," Brogden's attorney said. Reported in: *CCCO News Notes,* Winter 1984.

Frankfurt, West Germany

The U.S. European Command finally lifted its ban on publication by the soldier newspaper, *Stars and Stripes,* of reports concerning the temporary dismissal of the highest ranking German officer in NATO, but insisted the original decision had been correct.

The original ban prompted angry letters to the newspaper, and Sen. William Proxmire (Dem.-Wisconsin) took up the paper's cause in Washington. Proxmire said the action "betrays a lack of respect for the democratic institutions our fighting forces are protecting in Europe."

The censorship action came in the wake of the dismissal of Gen. Guenter Kiessling by the West German government on grounds that it had received information that he consorted with homosexuals. The dismissal, and Kiessling's efforts to fight it, were front-page news in the German press for weeks, but Gen. Richard Lawson instructed *Stars and Stripes* not to use the story. "After due consideration, I decided that highly speculative and sensational news reports containing inconclusive allegations against a senior host-nation military leader, were they to appear in a newspaper widely read by U.S. personnel stationed in Germany, would serve no useful purpose and could be inimical to good relations with our host nation," he explained.

The ban was lifted only when the German government reinstated Kiessling, but even then, the newspaper was forbidden to say that he had been accused of being a homosexual. Reported in: *Editor and Publisher,* March 3.

etc.

Washington, D.C.

Some 1,300 pages of memos and documents submitted to the Federal Trade Commission by General Motors Corp. and Toyota Motor Co. in support of the two firms' plan to jointly build 200,000 cars at GM's idle Fremont, California plant were censored by GM and Toyota representatives and FTC bureaucrats before being released to the public.

(Continued on page 93)

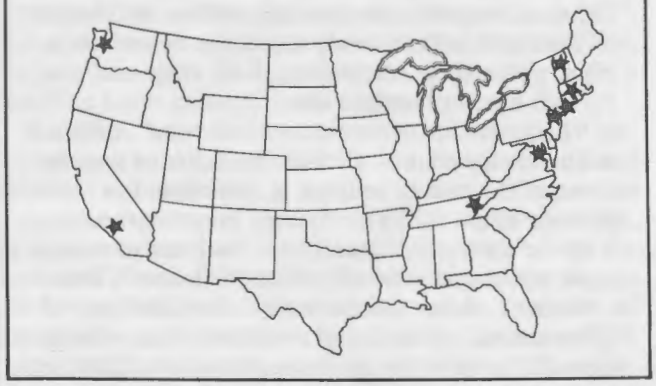
(Spirit . . . from previous page)

dress public controversy. . . .

"Plaintiff's theory of bookseller liability is not only insupportable under the First Amendment but also unconscionable in a society founded on the rule of law. . . . The hazard of self-censorship can be avoided only by equating 'responsibility' with 'authority.' The remedy for libel must rest against the person responsible for it and by whose authority it was published. . . . To hold defendant booksellers proper defendants in this case would thus render their defense of First Amendment rights the very source of their liability for libel.

"A society which permits its legal process to become an instrument of coercion cannot long preserve the rule of law. And, as Justice Brandeis noted, silence coerced by law is the argument of force in its worst form. The defense of plaintiff's name does not require the 'argument of force' he demands. The remedy for libel does not require the right to close the marketplace of ideas at will." Reported in: *OIF Memorandum,* March 1984; *Sioux Falls Argus-Leader,* February 7.

from the bench



U.S. Supreme Court

By a narrow 5-4 vote, the U.S. Supreme Court ruled March 5 that government funds may be used to pay for nativity scenes at Christmastime. In a long-awaited ruling sought by the Reagan administration, the court said a city-sponsored holiday display in Pawtucket, Rhode Island, that included a depiction of the birth of Christ did not represent an unconstitutional government preference for Christianity.

The decision in *Lynch* v. *Donnelly* was hailed by advocates of organized prayer in public schools and criticized by many First Amendment advocates. The court's ruling has implications beyond the annual controversies which erupt around the country over sponsorship of nativity scenes, or creches. It was the fourth ruling in two years suggesting that the high court is reevaluating its traditional restraints on government involvement with religion.

The display has "legitimate secular purposes," serving as a reminder of a "significant historical religious event long celebrated in the western world," Chief Justice Warren E. Burger wrote for the majority. It "engenders a friendly community spirit of good will in keeping with the season." Burger cautioned lower courts against applying an "absolutist" approach to the "wall" separating church and state.

A creche "advances religion in a sense," Burger acknowledged. "But our precedents plainly contemplate that on occasion some advancement of religion will result from government action. . . . Whatever benefit [there is] to one faith or religion or to all religions is indirect, remote and incidental," he said.

In a strongly worded dissent written by Justice William J. Brennan Jr., and endorsed by Justices Thurgood Marshall, Harry Blackmun and John Paul Stevens, the court minority declared: "For those who do not share these beliefs the symbolic reenactment of the birth of a divine being who has been miraculously incarnated as a man stands as a dramatic reminder of their differences with Christian faith. . . . To be so excluded on religious grounds by one's elected government is an insult and an injury that, until today, could not be countenanced" by the First Amendment.

Brennan noted that the ruling could foster the political divisiveness over religion the First Amendment was designed to prevent. "Jews and other non-Christian groups . . . can be expected to press government for inclusion of their symbols, and faced with such requests, government will have to become involved in accommodating the various demands."

Nativity scenes have been sponsored by numerous local governments around the country. Pawtucket sponsored one for forty years as part of a Christmas display that also included a Santa Claus house, reindeer, carolers and other seasonal symbols. Several city residents and the ACLU challenged the nativity scene and a U.S. District Court judge, later affirmed by the First Circuit Court of Appeals, struck it down in 1981.

Those courts "plainly erred by focusing almost exclusively on the creche," Burger wrote. "When viewed in the proper context of the Christmas holiday season, it is apparent that . . . there is insufficient evidence to establish that the inclusion of the creche is a purposeful or surreptitious effort to express some kind of subtle governmental advocacy of a particular religious message." It remained unclear whether the court majority would support a nativity display which stood alone, without accompaniment of more secular Christmastime symbols.

Since 1970, the court uniformly had applied a difficult test of constitutionality to virtually all church-state cases, generally invalidating government actions that do not have a "secular purpose" or that advance or inhibit religious practices or that foster "excessive entanglement" of government with religion. The court will not abandon that approach, Burger declared, but will not "be confined to any single test or criterion." In the past two years, the court also upheld Minnesota's program of tax deductions for non-public schools, Nebraska's use of a government-paid legislative chaplain and a demand by a student religious organization for access to public campus facilities.

Henry Seigman, executive director of the American Jewish Congress, called the decision "a significant departure from the Supreme Court's prior decisions. It is troubling for religious minorities and should also prove troubling for those concerned with religion, for government endorsement necessarily compromises religious messages." Charles Sims of the ACLU called the decision "a disappointment. But we do not think it's

excerpts from Supreme Court opinions on municipal creche

From the Opinion By Chief Justice Warren Burger, Joined by Justices Byron White, Lewis Powell, William Rehnquist, and Sandra Day O'Connor:

This court has explained that the purpose of the Establishment and Free Exercise Clauses of the First Amendment is "to prevent, as far as possible, the intrusion of either [the church or the state] into the precincts of the other." (*Lemon* v. *Kurtzman*, 1971).

At the same time, however, the Court has recognized that "total separation is not possible in an absolute sense. Some relationship between government and religious organizations is inevitable." (ibid.)

In every Establishment Clause case, we must reconcile the inescapable tension between the objective of preventing unnecessary intrusion of either the church or the state upon the other, and the reality that, as the Court has so often noted, total separation of the two is not possible.

The Court has sometimes described the Religion Clauses as erecting a "wall" between church and state. The concept of a "wall" of separation is a useful figure of speech probably deriving from views of Thomas Jefferson. But the metaphor itself is not a wholly accurate description of the practical aspects of the relationship that in fact exists between church and state.

No significant segment of our society and no institution within it can exist in a vacuum or in total or absolute isolation from all the other parts, much less from government. Nor does the Constitution require complete separation of church and state; it affirmatively mandates accommodation, not merely tolerance, of all religions, and forbids hostility toward any.

There is an unbroken history of official acknowledgement by all three branches of government of the role of religion in American life from at least 1789. . . . This history may help explain why the Court consistently has declined to take a rigid, absolutist view of the Establishment Clause.

Rather than mechanically invalidating all government conduct or statutes that confer benefits or give special recognition to religion in general or to one faith, as an absolutist approach would dictate, the Court has scrutinized challenged legislation or official conduct to determine whether, in reality, it establishes a religion or religious faith, or tends to do so. In each case, the inquiry calls for line-drawing; no fixed, *per se* rule can be framed.

In the line-drawing process we have often found it useful to inquire whether the challenged law or conduct has a secular purpose, whether its principal or primary effect is to advance or inhibit religion, and whether it creates an excessive entanglement of government with religion. (*Lemon*, supra.) But we have repeatedly emphasized our unwillingness to be confined to any single test or criterion in this sensitive area. . . .

Comparisons of the relative benefits to religion of different forms of governmental support are elusive and difficult to make. But to conclude that

(Continued on page 82)

Chicken Little time."

Justice Sandra Day O'Connor joined Burger's opinion, but wrote a separate opinion as well. Blackmun and Stevens, in addition to joining Brennan's dissent, wrote separately to say that by virtue of the court's decision, "the creche has been relegated to the role of a neutral harbinger of the holiday season, useful for commercial purposes, but devoid of any inherent meaning. The city has its victory—but it is a Pyrrhic one indeed." Reported in: *Washington Post,* March 6.

In two unanimous rulings, the Supreme Court on March 20 made national publications and the people who work for them easier targets for libel lawsuits. In cases involving *Hustler* magazine and two *National Enquirer* journalists, the court said people who sue any nationally distributed publication for libel may sue in the state offering the most favorable laws and filing deadlines. It also said reporters and editors may be sued, along with their employers, in distant courts.

One decision allows actress Shirley Jones to include the *National Enquirer's* editor and a reporter as defendants in her $20 million suit in California against the weekly tabloid. Jones sued over an article which called her a "crying drunk" and unable to work. The Florida-based *Enquirer* did not contest California's jurisdiction, but editor Ian Calder and reporter John South, also named in the Jones suit, did. After losing their argument in a California appeals court, they sought help from the U.S. Supreme Court.

But, in an opinion written by Justice William Rehnquist, the court ruled against the two journalists. "Their intentional and allegedly tortious actions were expressly aimed at California," he said. "An individual injured in California need not go to Florida to seek redress from persons who, though remaining in Florida, knowingly cause the injury in California."

The court's decision in the *Hustler* case was sparked by a libel suit filed by Kathy Keeton, vice president of

competing *Penthouse* magazine. Keeton, a New York resident, said she was libeled by a 1976 *Hustler* cartoon and first sued the magazine and its publisher, Larry Flynt, in Ohio, where *Hustler* was then based, in 1977. But after being told she had missed the filing deadline, she sued in New Hampshire, the only state with a deadline loose enough to allow the suit.

A federal appeals court threw out Keeton's action, saying it would be unfair to force *Hustler* to defend itself in a state where it has few ties and Keeton has none. But Rehnquist, again writing for all nine justices, said Keeton needs no contact with the state where she sues, and *Hustler's* "regular circulation of magazines in the forum state is sufficient to support an assertion of jurisdiction in a libel action based on the contents of the magazine." Reported in: *San Francisco Chronicle,* March 21.

schools

Church Hill, Tennessee

On February 25, U.S. District Court Judge Thomas Hull dismissed all but one part of a lawsuit brought by eleven fundamentalist families in Hawkins County against the county school system over the use of a series of textbooks, the *Holt Basic Readings.* Hull's decision came in response to a motion by Hawkins County attorneys that the suit be dismissed. While Hull failed to go that far, he did throw out eight of nine allegations about the controversial Holt, Rinehart and Winston reading series, including the charge that the readers "teach various humanistic values." (For a full account of the lengthy and bitter controversy surrounding these readers see *Newsletter,* March 1984, p. 40 and January 1984, p. 11.)

The nine allegations against the *Holt Basic Readings* were that they: (1) teach witchcraft and other forms of magic and occult activities; (2) teach that some values are relative and vary from sitution to situation; (3) teach attitudes, values, and concepts of disrespect and disobedience to parents; (4) depict prayer to an idol; (5) teach that one does not need to believe in God in a specific way but that any type of faith in the supernatural is an acceptable method of salvation; (6) depict a child who is disrespectful of his mother's Bible study; (7) imply that Jesus was illiterate; (8) teach that man and apes evolved from a common ancestor; and (9) teach various humanistic values.

Hull ruled that only allegation five raised a legitimate constitutional issue, and that "this would only be the case if the books appear to assert that salvation or some form of religion is necessary at all or that no religion is necessary." According to Judge Hull, "The First Amendment does not protect the plaintiffs from exposure to morally offensive value systems or from exposure to antithetical religious ideas. Only if the plaintiffs can prove that the books at issue are teaching a particular religious faith as true (rather than as a cultural phenomenon), or teaching that the students must be saved through some religious pathway, or that no salvation is required, can it be said the mere exposure to these books is a violation of free exercise rights."

Hull gave attorney Michael Farris of the Washington, D.C.-based Concerned Women of America, who is representing the eleven families filing suit, fifteen days to file affidavits including passages from the books to back up the claim of religious content in the series. Farris labeled the decision "not too bad," arguing that despite the dismissals of the overwhelming majority of the allegations, the single claim left by Hull was central to the group's opposition to the texts. Reported in: *Kingsport Times,* February 25; *Greeneville Sun,* February 25.

East Montpelier, Vermont

U.S. District Judge Albert Coffrin ruled February 22 against six East Montpelier high school students who were seeking to overturn a school board decision barring production of Elizabeth Swados' play *Runaways.* The students, from Union District 32 High School, charged that the board, by prohibiting production of the play, violated their rights under the First Amendment. *Runaways,* produced on Broadway in 1978, has been described as a musical collage that offers a stark picture of prostitution, addiction and violence in an urban setting. The school board found it inappropriate for the rural Vermont community.

John Mattera, the teacher who selected and would have directed the production, called *Runaways* "the most educationally sound play that we have ever done at U-32." But Marion Bussino, one of several residents who spoke against the project, said: "I shudder to think what effect it would have on young minds."

Leslie Pratt, lawyer for the school board, said the issue was solely "whether the taxpayers are going to have a curriculum decision made by the school board or by the students." Alan Rosenfeld, the students' lawyer, disagreed. "Just because it may be a curriculum issue doesn't take it outside the realm of the Constitution," he said. Judge Coffrin, however, agreed with Mr. Pratt. Reported in: *New York Times,* February 21, 23.

political expression

Washington, D.C.

A federal judge ruled March 22 that Washington's Metrorail rapid transit system may ban a series of anti-Reagan advertisements the transit authority considers

deceptive.

The posters, which Michael A. Lebron, a New York artist, wanted to run in Metrorail stations, juxtapose two photographs that appear to be one. At left, President Reagan and some advisers are enjoying a bountiful meal. The president appears to be pointing to and laughing at a group of indigents, mostly minorities, pictured at the right. The poster is headlined "Tired of the Jellybean Republic?"

"[Metro] did not reject Mr. Lebron's advertisement due to its political content." U.S. District Court Judge Stanley A. Harris wrote. "The decision was based on the deceptive manner in which Mr. Lebron depicted an apparently derisive confrontation which actually did not occur. The pictures admittedly were taken out of context and used to create a false representation of fact." Lebron had offered to print a disclaimer explaining that the photograph was a composite, but Judge Harris ruled this "would not effectively prevent passersby from being deceived."

The posters were the first political advertisements rejected by the Washington Metropolitan Area Transit Authority. Lebron's attorney, Donald Weightman, said the decision was "not supported by the evidence" and that Lebron would appeal. Reported in: *Washington Times,* March 23.

Paramus, New Jersey

On January 26, New Jersey Superior Court Judge Sherwin Lester ordered the Bergen Mall shopping center in Paramus to give greater access to antinuclear activists. In October, ACLU attorney Frank Askin, a Rutgers University law professor, had won a test case against the mall forcing its owners to permit free speech activities. In November, however, Askin filed suit once again, now on behalf of the Bergen Freeze Campaign, to expand access from one day a month (see *Newsletter,* January 1984, p. 18; March 1984, p. 52). "This is going to be a test case on how much control a shopping mall has over access," Askin said.

Lester's latest order came in the third pretrial hearing on the case and was seen by observers as a temporary compromise. "I will allow the plaintiffs to pass out literature at the mall on two Saturdays of their choice at two locations in February . . . and one Saturday in March at two locations," the judge ruled, "providing the mall does not have prior need for those locations on those dates." Reported in: *Hackensack Record,* January 27.

freedom of information

Los Angeles, California

A federal judge ordered the FBI March 12 to submit confidential explanations of why it censored portions of material based on surveillance of the late ex-Beatle John Lennon before releasing the data to a history professor. U.S. District Court Judge Robert Takasugi's order

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(In review . . . from page 68)

working utilities; (2) will we become so enamored of electronic data bases that we become a barrier between them and the patron and too selective regarding the information dispensed; (3) at the other extreme, will we try to ignore machinery and hide behind the traditional print medium; and (4) what changes must occur in reference service in order for it to adapt and to survive the lean financial era ahead?

Oboler expressed particular concern about the vulnerability of intellectual freedom in an era of high technology utilization. Who will control what is seen and heard on a global basis, and who will regulate? Will it be the possibly politically motivated FCC, or will the First Amendment cover the industry? We are reminded that technology can be used to free people or to enslave them. Also of concern to Oboler was the inherent danger of privacy invasion; many forms of control and intrusion are now possible which were once considered mere fantasy in *1984.*

Particularly valuable in this book are syntheses of various reports and articles dealing with the future of the profession. There is also a lengthy bibliography which includes retrospective as well as current material. The discussions of threats to intellectual freedom, copyright protection, and privacy invasion are stimulating and should be required reading for all people concerned with freedom to read, think, view, and investigate.

The foreword by Judith Krug from the ALA Office for Intellectual Freedom is a moving tribute to Oboler. A comment by Oboler in his preface seems particularly poignant, since he died in 1983 and his book was edited posthumously. After thanking several people for support he writes: " . . . a special tip of my hat to Chronos . . . that old Greek deity who managed to get me to an appropriate age for retirement . . . so that I had time to write this book just when—I believe—it needed writing."

The book is difficult reading because of its scope and vocabulary. It is, however, very thought-provoking and, I hope, will alert us in time to use technology wisely and to protect the freedoms we have enjoyed.—*Reviewed by Janis H. Bruwelheide, Associate Professor, Montana State University, Instructional Media, Bozeman, Montana.*

came after University of California at Irvine professor Jon Wiener, who is writing a book on Lennon, filed suit, contending that the FBI's claims of national security and protection of sources identified in 120 pages of documents gathered on the rock star were "vague and inadequate." Attorney Dan Marmalefsky, representing Wiener, argued that the FBI used the national security claim to delete whole pages of material. "The only reason we know it concerns John Lennon is because it came from his file," he said. Reported in: *Washington Post,* March 13.

Norwich, Connecticut

Norwich Chief Medical Examiner Catherine Galvin need not make a copy of an autopsy report available to the *Norwich Bulletin*, Connecticut Superior Court Judge Joseph Purtill ruled in January. Purtill reversed a July, 1981, ruling by the state Freedom of Information Commission ordering the medical examiner's office to release the autopsy report on a teenager fatally shot by a policeman. The shooting, termed accidental by the state's attorney, was a rallying point for local minority leaders who criticized the handling of the investigation.

Judge Purtill rejected all the reasons given by Galvin for denying the newspaper access to records in the case. The medical examiner claimed she was protected by exceptions in the Connecticut Freedom of Information Law and that the documents were private. While denying this claim, Purtill found that disclosure provisions of the Freedom of Information Law were superseded by regulations contained in another amended section of the medical records statutes. The *Norwich Bulletin* announced that it would appeal the ruling. Reported in: *Willimantic Chronicle*, January 21; *New London Day,* January 28.

film

New York, N.Y.

Theatrical and videocassette distributors have been temporarily enjoined by U.S. District Court Judge Robert J. Ward from using an R-rating designation in marketing the original 98-minute version of the movie *I Spit On Your Grave.* At issue is a trademark infringement suit by the Motion Picture Association of America aimed at defending the integrity of its Code and Rating system and "preserving public confidence in the guidance" of its letter ratings.

The MPAA said it had given the film its R-rating only after 17 minutes of the most objectionable sex and violence had been removed from the original version, entitled *Day of the Woman.* According to the complaint however, the footage was restored in the packages currently being marketed under the later title. Defendants in the suit are Jerry Gross, the Jerry Gross Organization, JGO Management Co., Wizard Video and Cinemagic Pictures. Reported in: *Variety,* February 29.

obscenity

Seattle, Washington

Washington state's 1982 obscenity law, attacked by a challenging attorney as the most punitive such statute "ever passed in the history of the country," was declared unconstitutional by the U.S. Court of Appeals for the Ninth Circuit February 6. The Washington law enacted in April, 1982, defined obscenity as "that which incites lasciviousness or lust," a construction found inconsistent with the U.S. Supreme Court's 1973 *Miller* guidelines. The statute was also found infirm because it based fines for its violation on the total sales from an establishment found to have violated the statute, not merely on that portion of sales representing the sale of unprotected material.

The majority opinion in *J-R Distributors* v. *Eikenberry* was written by Judge Steven Reinhardt, who was joined by Judge Alfred T. Goodwin. Justice J. Clifford Wallace dissented. The court found the criterion of inciting lust too broad to serve as a test of obscenity, pointing out that Webster's dictionary no longer includes the word in its definition of prurient. "Indeed," Justice Reinhardt wrote, "the word has acquired such acceptable connotations that prior to his election in 1976, President Jimmy Carter confessed in a popular national publication that he had 'looked on a lot of women with lust [and] . . . committed adultery in my heart many times.' " Reported in: *West's Federal Case News,* February 24; *Variety*, February 15.

1984 has arrived!

One of George Orwell's more chilling forecasts in his classic dystopian novel *1984* was the emergence of "doublespeak," a conscious effort to manipulate people through control over language: hate is love, death is life, etc. Now, in 1984, the United States Department of State has announced that the word "killing" will no longer be used in reports on human rights abuses. Instead, government documents will refer to the allegedly more "precise" (and conveniently less evocative) phrase "unlawful or arbitrary deprivation of life." Elliot Abrams, Assistant Secretary for Human Rights, explained: "We found the term 'killing' too broad." Reported in: *New York Times*, February 11.

(Supreme Court opinions . . . from page 78)

the primary effect of including the creche is to advance religion in violation of the Establishment Clause would require that we view it as more beneficial to and more an endorsement of religion, for example, than expenditure of large sums of public money for textbooks supplied throughout the country to students attending church-sponsored schools (*Board of Education* v. *Allen*, 1968); expenditure of public funds for transportation of students to church-sponsored schools (*Everson* v. *Board of Education*, 1947); and the tax exemptions for church properties sanctioned in *Walz* (1970).

Here, whatever benefit to one faith or religion or to all religions, is indirect, remote and incidental; display of the creche is no more an advancement or endorsement of religion than the Congressional and executive recognition of the origins of the holiday itself as "Christ's Mass," or the exhibition of literally hundreds of religious paintings in governmentally supported museums.

We are satisfied that the city has a secular purpose for including the creche, that the city has not impermissibly advanced religion, and that including the creche does not create excessive entanglement between religion and government.

Justice Brennan describes the creche as a "recreation of an event that lies at the heart of Christian faith." The creche, like a painting, is passive: admittedly it is a reminder of the origins of Christmas. Even the traditional, purely secular displays extant at Christmas, with or without a creche, would inevitably recall the religious nature of the holiday. The display engenders a friendly community spirit of good will in keeping with the season.

Of course the creche is identified with one religious faith but no more so than the examples we have set out from prior cases in which we found no conflict with the Establishment Clause. It would be ironic, however, if the inclusion of a single symbol of a particular historic religious event, as part of a celebration acknowledged in the Western world for twenty centuries, and in this country by the people, by the executive branch, by the Congress and the courts for two centuries, would so "taint" the city's exhibit as to render it violative of the Establishment Clause.

To forbid the use of this one passive symbol, the creche, at the very time people are taking note of the season with Christmas hymns and carols in public schools and other public places, and while the Congress and legislatures open sessions wtih prayers by paid chaplains would be a stilted overreaction contrary to our history and to our holdings.

The Court has acknowledged that the "fears and political problems" that gave rise to the Religion Clauses of the 18th century are of far less concern today. We are unable to perceive the Archbishop of Canterbury, the Vicar of Rome, or other powerful religious leaders behind every public acknowledgement of the religious heritage long officially recognized by the three constitutional branches of government. Any notion that these symbols pose a real danger of establishment of a state church is far-fetched indeed. . . .

From the Dissent By Justice William Brennan, Joined by Justices Thurgood Marshall, Harry Blackmun and John Paul Stevens.

The Court's decision implicitly leaves open questions concerning the constitutionality of the public display on public property of a creche standing alone, or the public display of other distinctively religious symbols such as a cross. Despite the narrow contours of the Court's opinion, our precedents in my view compel the holding that Pawtucket's inclusion of a life-sized display depicting the Biblical description of the birth of Christ as part of its annual Christmas celebration is unconstitutional. Nothing in the history of such practices or the setting in which the city's creche is presented obscures or diminishes the plain fact that Pawtucket's action amounts to an impermissible governmental endorsement of a particular faith.

I am convinced that this case appears hard not because the principles of decision are obscure, but because the Christmas holiday seems so familiar and agreeable. Although the Court's reluctance to disturb a community's chosen method of celebrating such an agreeable holiday is understandable, that cannot justify the Court's departure from controlling precedent. . . .

And it is plainly contrary to the purposes and values of the Establishment Clause to pretend, as the Court does, that the otherwise secular setting of Pawtucket's Nativity scene dilutes in some fashion the creche's singular religiosity, or that the city's annual display reflects nothing more than an "acknowledgement" of our shared national heritage. . . .

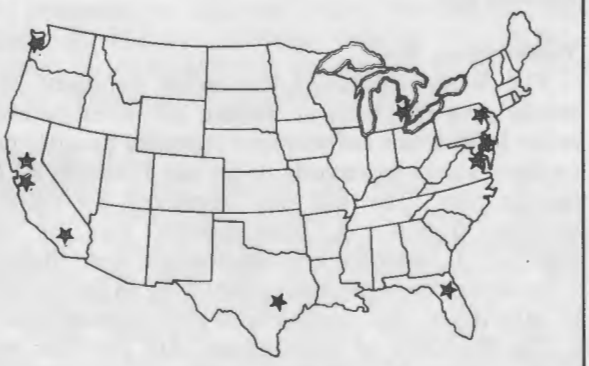
I am persuaded that the city's inclusion of the creche in its Christmas display simply does not reflect a "clearly secular purpose."

Two compelling aspects of this case indicate that our generally prudent "reluctance to attribute unconstitutional motives" to a governmental body should be overcome.

First, all of Pawtucket's "valid secular objectives" can be readily accomplished by other means. Plainly, the city's interest in celebrating the holiday and in promoting both retail sales and good will are fully served by the elaborate display of Santa Claus, reindeer and wishing wells that are already a part of Pawtucket's an-

(Continued on page 89)

is it legal?



libraries

Kitsap, Washington

A strict interpretation of federal copyright law has prevented residents of the Cypress Gardens Retirement Home from borrowing videocassettes from the Kitsap Regional Library, which routinely loans such cassettes to library patrons. The library has refused to allow the home's activity director to check out the cassettes because, Media Librarian Elliot Swanson explained, the tapes are to be used for home viewing only, which precludes the loan of cassettes when the library is aware they will be used for a group showing. "I know this is a real problem," Swanson said, "but we have to follow the law."

Pat Beauchamp, Cypress Gardens administrator, said she believes the library's interpretation of the coypright warning on each cassette is too conservative. "When we first requested the cassettes, they told us we were a profit-making organization," she said. "But then so is an apartment building. Anyone with a driver's license can go in and check out those cassettes but we can't." Swanson said Cypress Gardens was not the first group to be turned down.

Pursuant to court decisions, the library and video rental outlets are allowed to loan or rent tapes "without further financial returns to the manufacturer," Swanson explained. "The actual use of the content of the tape is another matter. The manufacturer, by licensing, has a legal right to determine under what circumstances their product may be used. The 'home use only' limitation is fully backed up by the court system."

"We aren't policemen and we don't ask people what they are going to do with the cassettes when they come in and check them out," Swanson continued. "In this case, we were responding to a specific question from Cypress Gardens. They wanted to know if their activity director could come in and pick up the tapes. We said no, because we believe that showing them to a group would violate those copyright laws." Swanson said the library had not consulted an attorney on the subject. Reported in: *Bremerton Sun,* February 2.

evolution and creation

Austin, Texas

In a ruling that could affect the format of textbooks nationally, the Texas Attorney General declared March 13 that state rules restricting the teaching of evolution were unconstitutional. The finding by the official, Jim Mattox, is not binding on the State Board of Education which adopted the rules in 1974, but means that state attorneys will not defend lawsuits filed against the state to overturn the regulations.

The rules require textbooks to present evolution "as only one of several explanations of the origins of humankind in a manner not detrimental to other theories of origin" and to describe evolution as "theoretical rather than factually verifiable."

"The inference is inescapable that a concern for religious sensibilities rather than a dedication to scientific truth, was the real motivation for the rules," Mattox declared. He said the rules stand in violation of the First and Fourteenth Amendments and were adopted "only as a response to pressure from creationists."

The opinion was requested by state Sen. Oscar Mauzy (Dem.-Dallas), who said the 1974 rules, amended slightly in 1983, violated the constitutional separation of church and state and represented a concession to textbook critics Mel and Norma Gabler of Longview. Mel Gabler called Mattox's opinion "totally unfair." He charged that "there's a great deal of scientific evidence against evolution, and with this ruling, that will be locked out of the classroom."

Michael Hudson, Texas coordinator for People for the American Way, which opposed the regulations, called the opinion "a truly significant national victory for science education, religious liberty and the First Amendment." Attempts to provide more ways for textbooks to discuss evolution failed to gain the support of the Board of Education in mid-January, receiving just five favorable votes, and critics of board policy had called that defeat a step backward (see *Newsletter*, March 1984, p. 52). Reported in: *Austin American-Statesman,* March 14; *New York Times,* March 14.

government secrets

Los Angeles, California

The U.S. Air Force attempted to prevent a political scientist from delivering a paper on arms control to a conference at the University of California at Los Angeles in January, threatening criminal prosecution for what it claimed would be the divulging of classified information. After a two-hour delay, during which two Air Force officers made a personal appeal to the speaker, Jeffrey T. Richelson, assistant professor of government and public administration at American University, and to the conference chair, the paper was presented.

Both UCLA and Professor Richelson, who consulted with the ACLU before proceeding, maintained that all material in the paper came from unclassified sources and is therefore unclassified. The Air Force contended that unclassified materials can be put together into a classified whole.

In the paper delivered January 26. Richelson gave details of sattellite systems for verifying arms control agreements, including photographic satellites, eavesdropping satellites and land-based radar. "The data," Richelson explained, "comes from open sources and from interviews. I did not take any information from classified sources. The Soviets can get the same material. Anything that I can put together from open sources they can put together as well."

According to Richelson, Air Force officers Richard Schaad and Lt. Col. Bruce Weaver of the Office of Special Investigations reminded him of the secrecy agreement he had signed when he worked for a Defense Department think tank, Analytical Assessments Corp., from 1977 to 1981. They also told him that unclassified pieces of information could be assembled into a "classified picture."

"Mr. Richelson was advised by the ACLU that there was no basis for that argument," said William C. Potter, who chaired the conference, "Verification and Arms Control," on behalf of UCLA's Center for International and Strategic Affairs, of which he is associate director. "Under no circumstances would we pull our speaker because there was some concern about what he might say," he asserted.

Speaking on behalf of the university, Vice Chancellor for Institutional Relations Elwin V. Svenson, who was consulted by Richelson and Potter before the decision to present the paper was made, said: "The university's position is very simple. We don't deal in classified material, and we don't invite people to present papers that are based on classified material. That was the case, and that was conveyed to the people in the Air Force and the paper went forward. When people get things out of printed material that you can buy off the street, it's not classified." Reported in: *Los Angeles Times,* January 27.

Washington, D.C.

The Senate approved legislation February 29 that would give the Federal Bureau of Investigation and other federal law enforcement agencies broader powers to deny access to records under the Freedom of Information Act. The bill was approved by voice vote without dissent. A spokesperson for the Senate Judiciary Committee said the changes were dictated by "the abuses by organized crime trying to get the identity of informants and confidential investigation records."

The Freedom of Information Act provides exemptions to protect confidential informers and investigations. But the committee, in its report, said small pieces of information, not significant by themselves, pieced together with other bits and the personal knowledge of the person requesting the files "can complete a whole and accurate picture of information that should be confidential and protected, such as an informant's identity." Reported in: *New York Times,* March 1.

broadcasting

Washington, D.C.

The Justice Department urged the U.S. Supreme Court January 16 to uphold a law prohibiting editorializing by the hundreds of public television and radio stations that receive taxpayer funds from the Corporation for Public Broadcasting. During a hearing before the high court, a department attorney said the law ensures that public broadcasting will not be used for partisan purposes. "It would be unfair if public money were used to subsidize a private point of view," Assistant Solicitor General Samuel A. Alito Jr. said.

Congress adopted the ban on editorials, along with a prohibition on political endorsements, when it established the Corporation for Public Broadcasting in 1967. The law is being challenged by the Pacifica Foundation, which runs five non-profit radio stations; the League of Women Voters of California; and Rep. Henry A. Waxman (Dem.-Calif.). Reported in: *Greensboro Daily News,* January 17.

Washington, D.C.

The general counsel of the Federal Communications Commission has drafted a proposal calling on the agency to review the legal basis for the "fairness doctrine," a rule requiring broadcasters to air both sides of controversial issues. The plan asks the commissioners

to examine whether the agency has the authority to abolish the doctrine or modify it, according to an FCC official. FCC Chair Mark Fowler has made unsuccessful proposals to Congress asking that the doctrine be abolished. The new proposal suggests the commission could do away with the doctrine on its own. Reported in: *Washington Post,* February 23.

Washington, D.C.

Broadcasters aren't required by federal law to air obscene or indecent material as part of political advertising, a staff analysis by the Federal Communications Commission has said. The document represents the commission's position on an issue which arose when Larry Flynt, publisher of *Hustler* magazine and a declared candidate for the Republican presidential nomination, showed tapes of his ads to some broadcasters. The station owners and some members of Congress asked the FCC whether the stations were legally bound to use the material.

The Communications Act prohibits station licensees from censorsing ads by legally qualified candidates for public office, but it also says they can't broadcast obscenities. In a letter to Rep. Thomas Luken (Dem.-Ohio), FCC Chair Mark Fowler said the commission was unlikely to vote on the matter unless presented with a specific dispute. The staff analysis, however, found no evidence in the legislative history of the Communications Act that Congress intended the censorship prohibition to override the rule against airing obscenities.

"Because the purpose of fostering political debate is untainted by subjecting broadcasters to the prohibitions against obscenity and indecency (which by definition lack serious political value), it is concluded that it would be unreasonable to exempt broadcasters from (the law's) criminal prohibitions," Fowler said in his letter to Rep. Luken. Reported in: *Wall Street Journal,* January 25.

student rights

Lower Merion, Pennsylvania

A student group at Lower Merion High School filed suit in U.S. District Court February 29 charging that the Lower Merion School District violated the First Amendment when it refused to let the group use district athletic facilities to hold a peace rally. The suit, filed on behalf of the Student Coalition for Peace, alleges that the students' rights to free speech and assembly were violated by the board's refusal February 27 to let them use three outdoor facilities or the high school boys' gymnasium for their April 28 "Peace Fair." The board had upheld previous refusals by Superintendent of Schools James B. Pugh and Lower Merion principal Robert M. Ruoff.

The board did, however, vote to lend the students the school auditorium, but this alternative had already been rejected by the peace group, which said the facility is too small and would prevent interaction among participants in the fair. A similar request was denied last year and the coalition held its rally on the grounds of a nearby private school.

In a letter to the Student Coalition, board president Paul C. Heintz wrote, "We do not think it is appropriate for our outdoor facilities to be used for any kind of political rallies—whether or not organized by students—where the general public is invited or encouraged to attend." Lower Merion playing fields and the boys' gymnasium, however, have been used in the past for such events as a Volleyball Marathon for World Hunger, the Lower Merion Bike Hike for Retarded Children, the Main Line Special Olympics and Memorial Day celebrations. Reported in: *Philadelphia Inquirer,* March 1.

shopping malls

Montgomery County, Maryland

The American Civil Liberties Union filed a lawsuit February 16 accusing the Wheaton Plaza shopping mall and the Montgomery County government of violating the First Amendment rights of members of the Gray Panthers when they were expelled from a Senior Citizens Week program at the mall last May. The suit charges the group was ejected because of the political content of the literature they were distributing.

The suit asks $1,000 in damages from Wheaton Plaza, the Wheaton Plaza Merchants' Association, Montgomery County and County Executive Charles W. Gilchrist. It also asks for $10,000 in punitive damages against the county, and that the shopping mall be forbidden from interfering with the Gray Panthers' free speech rights. "Courts in several states have ruled that public areas of large shopping malls are effectively public forums," ACLU attorney Art Spitzer said. "They serve the same purpose as the public streets and public squares in traditional towns, even though they are private property." Spitzer said the lawsuit has the potential of opening up shopping plazas throughout Maryland to free speech activities. Reported in: *Montgomery Journal,* February 17.

sex education

Detroit, Michigan

Fearing a boycott of their annual cookie sale by an anti-abortion group, Girl Scout leaders in the Detroit area revised a proposed program on teenage sexuality so that it no longer mentions birth control or abortion. Officials of the Michigan Metropolitan Girl Scout Council said February 16 that Scout troops had threatened to cancel orders for about 450 cases of cookies.

At issue is a proposed program for troops in Wayne County, which includes Detroit, and the southern part of adjoining Oakland County, originally called "Teenage Pregnancy Prevention and Intervention Project." The program was criticized by Right to Life-Lifespan Inc., an anti-abortion group in suburban Royal Oak, whose newsletter, mailed to 9,000 subscribers, charged that it would promote use of birth control and abortion. Threats of cancellation of the cookie orders followed shortly thereafter.

Penny Bailer, executive director of the Scout Council, called the project's original title "an unfortunate choice of words," and said it had been changed to "Human Sexuality: A Shared Concern." Bailer said the revised program, which would be instituted only in a few areas as a pilot project and only with the formal approval of the entire council, made no mention of either birth control or abortion.

Under the revised program, individual troop leaders would be given the option of telling Girl Scouts when and where sexuality workshops would be held. Parental permission would be required for Scouts to attend. A Scout official said no advocacy position would be taken "except to show girls that they can say no." Reported in: *New York Times,* February 17.

etc.

Berkeley, California

The agency that administers federal job training funds in Alameda County acted wrongly in denying Berkeley a voice in the program, a letter from K. R. Kiddoo, director of the California Employment Development Department, said March 22. In December, the Alameda County Training and Employment Board barred Berkeley from direct participation in its decision-making process to punish the Berkeley City Council for its refusal to reinstate the pledge of allegiance at its weekly meetings (see *Newsletter*, March 1984, p. 52). Kiddoo said the agency failed to comply with federal law because the joint powers agreement it submitted to the state was not endorsed by Berkeley. He gave the agency until March 30 to comply.

The Training and Employment Board decides what job-training programs in the county are to be given state and federal funds. Berkeley's interests on the board were "represented" by County Supervisor Charles Santana, one of the supervisors who originally raised the pledge issue and argued vigorously for punishing the city. "I think they don't know what the hell they're doing in Sacramento," Santana said when informed of Kiddoo's letter. "We say there's no need for Berkeley to sign the joint powers agreement." Reported in: *San Francisco Chronicle,* March 23.

Fremont, California

The union representing maintenance workers at Ohlone Community College in Fremont has asked for a federal investigation into a policy that prohibits them from having sexually explicit magazines on campus but allows some such magazines to be sold in the school bookstore. Renee Lee, business representative of United Public Employees Local 390-400, said March 21 that the union had asked the Equal Employment Opportunity Commission to look into the policy.

Chuck Boggs, speaking for the maintenance workers, said two memos were issued to only maintenance workers forbidding "all pornography or any material that could be offensive to any member of the community" in "any areas of the college." Boggs charged that this meant maintenance workers were denied the same freedom that students or other college employees have to buy *Playboy* or *Playgirl* in the college bookstore and carry them on campus.

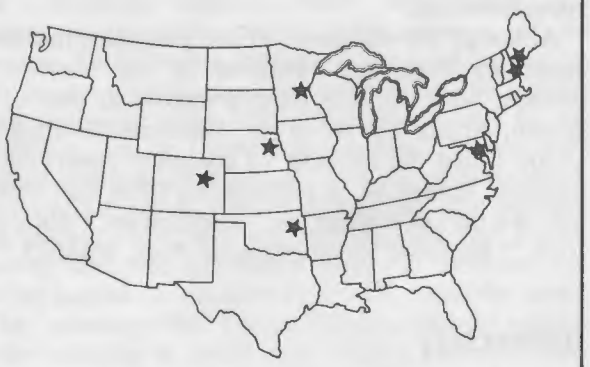
School officials said the ban was designed to make sure no forms of sexual harassment were taking place at the college. Ohlone president Peter Bromerley said the issue was first joined two years ago when a maintenance supervisor discovered sexually explicit literature in the break room, where maintenance personnel eat lunch and take coffee breaks, and banned the materials from campus. Bromerley said the order was addressed to maintenance workers "because that's where the material was found," although it applied to workers throughout the campus. He also said there was a complaint from a female worker in the maintenance department. Reported in: *San Francisco Chronicle,* March 22.

Putnam County, Florida

Any public activity while nude or nearly so in unincorporated areas of Putnam County could cost an individual up to a $1,000 fine and a year in jail, according to a new county ordinance approved January 25. The

(Continued on page 88)

success stories



libraries

Widefield, Colorado

The Widefield School District 3 Board of Education refused February 17 to ban a book from the high school library that one parent challenged as immoral. Board members denied a request from parent Mary Spradlin to reconsider support for a recommendation of the Reconsideration of Instructional Materials Committee to retain *Give Me One Good Reason,* by Norma Klein, in district high school libraries.

Spradlin charged that the book is "filled with promiscuity, homosexuality, abortion and profanity" and called the decision "a farce." The mother of a high school sophomore, she was the only district parent to object to the book. Reported in: *Colorado Springs Gazette-Telegraph,* February 17.

Lincoln, Nebraska

The Lincoln City Libraries will continue to subscribe to *Playboy* magazine despite a request that the subscription be discontinued and back issues destroyed. Library Director Carol Connor told Library Board members January 12 that the board's administrative committee had voted to retain the subscription after reviewing the complaint filed by Gordon Anderson. Anderson, who was aroused to protest by an encounter at the Gere Branch Library with a group of young boys ogling an issue of the magazine, had called the publication "pure pornography" (see *Newsletter,* March 1984, p. 39). Reported in: *Lincoln Journal,* January 12.

Miami, Oklahoma

After more than an hour of discussion, debate and legal advice, the Miami Board of Education voted 3-2 February 6 to dismiss a parent's complaint against a school library book. The controversy centered on a one-act play, "The Toilet," included in the anthology *Best American Plays; Sixth Series, 1963-67.* Written by noted black poet and dramatist Leroi Jones (now Amiri Baraka) and first produced in 1964, the play deals with a racial confrontation in the boys' restroom of an inner-city high school and its dialogue is liberally laced with obscenities.

Emma Garoutte presented the board with a formal complaint seeking the book's removal from the Miami High School library, citing the play's "profanity and filthy words." "I don't understand how they can punish a child for talking that way when they put it in the school for them to read," she said. Mrs. Garoutte said she had suggested removing the pages of the play from the volume, but that this idea had been rejected during a previous meeting with school administrators.

"We feel that one individual or any group of individuals cannot judge for others what is appropriate for them to read," English Department chair Peggy Johnson told the board. Librarian Gloria Holt explained that the anthology, edited by John Gassner and Clive Barnes, was one of a highly-rated series of volumes reprinting the best American drama. "We're not talking about giving this type of book to elementary students or junior high students," she noted. "Books may be shut, if they offend you, but if you shut minds, they can never be opened again," Holt concluded. Reported in: *Miami News Record,* February 8.

schools

Brunswick, Maine

Joellen Stanton's photograph in the 1984 Brunswick High School yearbook, *Dragon,* will be accompanied by a graphic description of what happens when a person is executed, an expression of the student's opposition to capital punishment. Publication of the yearbook had been suspended by U.S. District Judge Gene Carter in January after Stanton filed suit to force reluctant school officials to include the passage. The school board said it would fight to the U.S. Supreme Court if necessary, but on March 1 it accepted a compromise allowing inclusion of the description but with its source and a sentence of explanation enclosed in parentheses.

The description, which originally appeared in *Time* magazine, reads: "The executioner will pull this lever four times. Each time 2,000 volts will course through your body, making your eyeballs first bulge, then burst, and then broiling your brains." Reported in: *New York Times,* March 5.

Minneapolis council upholds porn veto

The Minneapolis City Council voted January 14 not to override Mayor Donald Fraser's veto of a controversial anti-pornography ordinance, but agreed to set up a task force to look into alternatives for regulating pornography in the city. The council, which had passed the anti-pornography ordinance by a vote of 7-6 in December, found the issue back in its lap after Fraser vetoed the statute as vague and unenforceable. The ordinance would have banned pornographic publications on the grounds that they interfered with the civil rights of women (see *Newsletter,* March 1984, p. 37).

Gray, Maine

When Gray-New Gloucester High School English teacher Paul Janeczko hung anti-nuclear posters in his classroom, school principal Carl Hill asked him to remove them since the district had "a policy relating to presenting two sides of an issue in the classroom." Janeczko complied, but when Hill also asked him to remove an anti-nuclear lapel button he wore regularly, the teacher contacted the Maine Teachers Association for legal assistance. District superintendent Graham Nye also consulted legal counsel and was told the issue "is still hazy." School board attorney Hugh MacMahon advised that Janeczko can be allowed to wear the button. The school board approved the recommendation, but referred the underlying issue to its policy committee. Reported in: *Portland Press-Herald,* January 4.

Bethesda, Maryland

After winning an appeal to the Montgomery County school board to publish controversial student advertisements referring to beer and cocaine, editors of the Walter Johnson High School yearbook, *The Windup,* announced March 2 that one ad which particularly offended school officials would be deleted. The full-page ad, which originally featured four mock tombstones and a border of beer cans, will be replaced by photograph of four yearbook sponsors and the text, "This space is hereby dedicated to the defenders of the First Amendment."

The school board, which had agreed to hear the appeal March 1 before a scheduled court appearance the following day, deliberated for more than two hours before reluctantly agreeing to permit publication of all the questioned ads. The board described the material, however, as "in poor taste and [reflecting] unlawful behavior," and urged the yearbook staff to exercise editorial discretion. But the board conceded that the administration's editorial guidelines were so vague that the ads could not be excluded as demanded by the school superintendent.

Although the vagueness of the guidelines had been a secondary argument advanced by the students' attorneys, who cast the issue primarily as one of free speech, Arthur Spitzer of the American Civil Liberties Union called the decision "a complete victory for our position. It may be an unfortunate thing that drinking beer is a part of student life," said Spitzer, "but it is the truth." Reported in: *Washington Post,* March 3.

university

Minneapolis, Minnesota

The University of Minnesota has agreed to help establish a First Amendment fund to educate faculty, students and staff about freedom of the press as part of its settlement of a lawsuit won by its student newspaper. The suit, triggered by a controversial "humor issue" of the *Minnesota Daily* in 1979 which led to the withdrawal of funds from the paper by the university, was won on appeal by the student editors (see *Newsletter,* January 1984, p. 18).

Under the settlement, announced February 14, the university agreed to refrain from appealing to the U.S. Supreme Court. It will abide by an order to pay legal fees of $185,000 and restore the system under which the *Daily* received mandatory fee money. In addition, the university will contribute $5,000 to the First Amendment fund, the *Daily* will contribute $10,000, and the law firm of Tanick and Heins, which defended the newspaper, will contribute $5,000. In a statement to the press, university president C. Peter Magrath said he still believed that "no wrong was committed," but added that "there comes a time when such matters should be put to rest." Reported in: *Minneapolis Star & Tribune,* February 14.

(Is it legal? . . . from page 86)

new statute prohibits nudity in any business establishment. Violaters, including those business owners permitting nudity, would be subject to conviction of a first degree misdemeanor and loss of an occupational license. The ordinance is similar to one enacted by nearby Leon County, which has already stood court tests. The Leon ordinance, however, is limited to places where alcoholic beverages are sold or dispensed. Reported in: *Palatka News,* January 25.

(Supreme Court opinions . . . from page 82)

nual Christmas display. More importantly, the Nativity scene, unlike every other element of the Hodgson Park display, reflects a sectarian exclusivity that the avowed purposes of celebrating the holiday season and promoting retail commerce simply do not encompass. To be found constitutional, Pawtucket's seasonal celebration must at least be nondenominational and not serve to promote religion. The inclusion of a distinctively religious element like the creche, however, demonstrates that a narrower sectarian purpose lay behind the decision to include a Nativity scene.

The "primary effect" of including a Nativity scene in the city's display is, as the district court found, to place the government's imprimatur of approval on the particular religious beliefs exemplified by the creche. Those who believe in the message of the Nativity receive the unique and exclusive benefit of public recognition and approval of their views. The effect on minority religious groups, as well as on those who may reject all religion, is to convey the message that their views are not similarly worthy of public recognition nor entitled to public support. It was precisely this sort of religious chauvinism that the Establishment Clause was intended forever to prohibit.

Finally, and most importantly, even in the context of Pawtucket's seasonal celebration, the creche retains specifically Christian religious meaning. I refuse to accept the notion implicit in today's decision that non-Christians would find that the religious content of the creche is eliminated by the fact that it appears as part of the city's otherwise secular celebration of the Christmas holiday.

The Court also attempts to justify the creche by entertaining a beguilingly simple, yet faulty syllogism. The Court begins by noting that government may recognize Christmas Day as a public holiday; the Court then asserts that the creche is nothing more than a traditional element of Christmas celebrations; and it concludes that the inclusion of a creche as part of a government's annual Christmas celebration is constitutionally permissible. The Court apparently believes that once it finds that the designation of Christmas as a public holiday is constitutionally acceptable, it is then free to conclude that virtually every form of governmental association with the celebration of the holiday is also constitutional.

The vice of this dangerously superficial argument is that it overlooks the fact that the Christmas holiday in our national culture contains both secular and sectarian elements. To say that government may recognize the holiday's traditional, secular elements of gift-giving, public festivities and community spirit, does not mean that government may indiscriminately embrace the distinctively sectarian aspects of the holiday.

Contrary to the Court's suggestion, the creche is far from a mere representation of a "particular historic religious event." It is, instead, best understood as a mystical re-creation of an event that lies at the heart of Christian faith. To suggest, as the Court does, that such a symbol is merely "traditional" and therefore no different from Santa's house or reindeer is not only offensive to those for whom the creche has profound significance, but insulting to those who insist for religious or personal reasons that the story of Christ is in no sense a part of "history" nor an unavoidable element of our national "heritage."

(Confidentiality . . . from page 61)

To date, some 23 states have statutes protecting library circulation records from seizure without proper court action (some states have wisely included the borrower's lists in this protection). In New York, the law was signed in late 1982, just in time so that Marie Bruce, Director of the Huntington Public Library at Oneonta, New York, could emerge as a personality who took the principle to heart and stood firm in demanding legal due process before she would allow access to library circulation records.

Marie Bruce, a former teacher, has been working in and for libraries for over a decade. In 1975, she took on the one room operation at tiny Ripley, New York (pop. 3000+) that called itself a library but was little more than a small circulating depository collection from the regional system. She began to make it work. By 1981, she enrolled as a part-time student in the librarianship program at the University of Buffalo (a two-hour commute). By the time she received her M.L.S. in 1983, Ms. Bruce had performed miracles in Ripley. She managed to find a foundation to put up a challenge grant so that the community was inspired to raise enough money to convert an empty church into a warm and inviting library. She increased services and opened the eyes of the community to the enrichment available from a well-run and supported library. When she announced she was leaving to accept a position at Oneonta, it was as if the community went into mourning. Testimonials, farewell dinners, teas and socials sprang up everywhere and were topped off by a big Citizen of the Year Award ceremony put on by the local Grange.

It was a seasoned and obviously principled librarian who took over the operation of the Huntington

MPAA to revise film ratings

Jack Valenti, president of the Motion Picture Association of America, has approved perhaps the most sweeping alteration in the motion picture classification and rating system since it was introduced November 1, 1968. Valenti has endorsed a plan by the National Association of Theatre Owners to give the public detailed information about the degree of sex, violence and/or profanity in PG and R rated features.

The MPAA executive gave his approval to the proposal after several years of delay and despite his earlier insistence that results of an extended test of informational film ratings in two midwestern states were inconclusive. Valenti indicated that implementation of the change depends only on his ability to schedule consultations with members of the Classification and Rating Administration.

The National Association of Theatre Owners has also proposed to MPAA a reduction from 17 to 16 in the age at which young people would be free to attend R-rated films without accompaniment by an adult. Reported in: *Variety,* February 1.

Memorial Library in the central New York college town of Oneonta at mid-1983. The dust of the move had hardly settled in late November when a marginal note was discovered in a newly returned book. It was a threat against the life of the President. Ms. Bruce called the Federal Bureau of Investigation in Albany. They, in turn, notified the Secret Service at the Federal Office Building in Syracuse about 100 miles from Oneonta. That happened on Friday. The following Monday, while the Board of Trustees was having its regular meeting, the agent showed up asking for Ms. Bruce. She showed him the book with the note. He confiscated it, gave her a receipt, and then asked for a list of the names of all the borrowers of the book. The library is still on a manual system and that would have been possible. However, Ms. Bruce was aware of the recent statute protecting such information and she informed the agent that she couldn't supply him with any names without a court order or subpoena. In the animated and confrontational conversation that followed, it was determined that there was only one name connected to the book, which had recently been added to the collection. The federal agent was astounded that he was being defied. He became abusive and used considerable hyperbole to try to intimidate this small town librarian. He ranted and raved about federal concerns transcending a "silly little" state law.

Annoyed, he declared that he would have to drive back to Syracuse to get such an order and called her uncooperative. But his tactics were all wrong; Ms. Bruce became even more firm and adamant in wanting due process before she would turn over the name. He demanded that she sign a statement taking all responsibility for the death of the President should he be shot while the subpoena was being sought and served. Ms. Bruce was further incensed at such harassment. She called the President of the Board into the discussion and as a trustee and a lawyer he backed Ms. Bruce all the way, as did the entire Board when they later heard the demand.

The agent left to seek assistance in his attempt to get the name and found it in the Personnel Officer for the city of Oneonta. The Personnel Officer paid a call on Ms. Bruce to try to get her to capitulate. The agent succeeded in winning the Chief of Police to his side. But, with the Board's firm backing, Ms. Bruce refused to violate the state statute.

By Wednesday the agent gave in and appeared at 2:00 p.m. with a subpoena from the Federal Grand Jury in Syracuse demanding Ms. Bruce's presence to turn over the name of the user of the book containing the threat against the President. When the agent first appeared, Ms. Bruce contacted her friend and advisor, Dr. John Ellison, at the State University of Buffalo School of Information and Library Studies for counseling, who in turn, saw to it that she was put in touch with the New York Library Association's Intellectual Freedom Committee and the American Library Association's Office for Intellectual Freedom. Through the National Coalition Against Censorship a contact was made with the ACLU. Thus, on the day Ms. Bruce went to Syracuse to face the Grand Jury she was accompanied by a member of her Board, and met by an A.C.L.U. attorney; Dan Braveman, Dean of the Syracuse University Law School; James McPhee, Chair of the NYLA IFDPC; and Gerald Shields, immediate past president of NYLA. After complying with the Grand Jury's demands, Ms. Bruce, under the guidance of Braveman and in the presence of McPhee, filed a deposition on the conduct of the Federal agent. Her action was considered justified by the A.C.L.U. advisor, but it was summarily dismissed ini a letter sent to her dated January 11, 1984, which promised that the agent would act in a more "courteous manner" in the future. Meanwhile, the user of the book was apprehended and readily admitted to authoring the threat.

It is important to know this much about the event in order to understand that we are talking about human values, stresses and emotions when we discuss the confidentiality of library records. This librarian does not belong to a large library agency. She is the only professional on the staff. Although she has been working in libraries for over ten years, she had never been confronted with a case calling on her to put her principles on the line. Yet, there can be no doubt that she is a professional and has been for some time. Her strength and acumen put the Ripley library on the map and galvanized its citizens into an enthusiasm and support for infor-

mation services at a time when many librarians and their libraries were quietly being depleted of energy and resources.

It is easy to be brave and principled when you feel certain that you have the support of your peers and your employers. In censorship cases there is a growing precedence for support from both peers and employers and even a few courts. But, such has not been the picture in the establishment of the concept of confidentiality. It is true that, through example and statements of principle, the American Library Association has helped to get some 23 states to put statutes on the books which seek to respect confidentiality. At the same time, however, the concept has not been well established in the courts. The New York law simply states in one sentence: "Records related to the circulation of library materials which contain names or other personally identifying details regarding the users of public, free association, school, college and university libraries and library systems of this state shall not be disclosed except that such records may be disclosed to the extent necessary for the proper operation of the library and shall be disclosed upon request or consent of the user or pursuant to subpoena, court order or where otherwise required by the state." New York librarians need to know more about the significance of that statute, as do those in the other 22 states with similar laws.

The figure of Marie Bruce firmly and clearly defying the harassment of a powerful Federal agency has not escaped the attention of the media. The Oneonta paper

confidentiality update

Add Massachusetts to the list of states with legislation protecting the confidentiality of library circulation records. In November 1983, the state legislature filed a new public records statute listing eleven exemptions, including "that part of the registration or circulation records of every public library which reveals the identity of a borrower." Although an amendment has since been offered to change the location of the statute in the state code, affecting to some degree libraries' discretion to participate in automated circulation networks, the Massachusetts Library Association is cooperating with legislators in this endeavor.

Massachusetts joins California, Colorado, Connecticut, Delaware, Florida, Illinois, Iowa, Indiana, Louisiana, Maine, Maryland, Michigan, Minnesota, Nebraska, Nevada, New York, Oregon, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin in granting statutory protection for the confidentiality of circulation records.

The statute protecting confidentiality of library circulation records in Iowa, which proved not to be strong enough to prevent prosecutors investigating a series of cattle mutilations from obtaining lists of all borrowers who had checked out books carrying any of sixteen call numbers (see *Newsletter,* March 1983), p. 43; September 1983, p. 145), has been strengthened. The statute now includes the following: "The records shall be released to a criminal justice agency only pursuant to an investigation of a particular person or organization suspected of committing a known crime. The records shall be released only upon a judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling."

One of the few groups which have often opposed state confidentiality legislation are journalists, normally allies of librarians on intellectual freedom issues. It was, therefore, encouraging to encounter a strong editorial endorsement of the library confiendtiality principle in the *Washington Post* of February 20. The *Post* editorial read in part:

"If you go to the public library and take out a book on how to deal with head lice, improve your sex life or form a new political party, do you want the whole world to know about it? Shouldn't you be allowed to check out a racy novel or the biography of Karl Marx without having to explain your motives to anyone? The American Library Association thinks so and has taken a strong stand against releasing book circulation records. Twenty-two states . . . have adopted legislation specifically protecting these records. . . .

"Did you even think this was a problem? Well, it is. . . . Persons claiming to be investigators have sought to obtain information on the reading habits of suspected individuals. And, it should be noted, writers and reporters occasionally find items of interest on these lists. In fact, the ALA says that the only people who consistently oppose library privacy legislation in the states are journalists. It isn't right. . . .

"It will be argued that circulation lists are public records and that they ought to be made available to any interested member of the public. Not so. They are only public in the sense that medical records kept by the city hospital are public because they are created and kept by a public institution. While most data about the operation of a publicly funded service should be available—information about administration, operations and budget, for example—other files, such as health records or income tax returns, are personal and should be protected. An individual's choice of reading material falls into this category. Librarians and state legislatures that have adopted protective policies and laws have correctly drawn the fine line between the public's right to public information and the individual's right to read in peace."

Thank you, *Washington Post.* Just 27 states to go!

made it clear to its readers that Ms. Bruce's respect for the confidentiality of materials and information was not only praiseworthy but comforting in an age of shrinking privacy. National Public Radio and the Cable News Network featured Ms. Bruce in a serious discussion of the confidentiality issue. It is surely a case of a personality and an event coming together at the right time and offering a new look and a fresh incentive for a professional concept in library service.

The Intellectual Freedom and Due Process Committee of NYLA has begun to address some of the questions which still need clarification if a proper advisory is to be compiled for the librarians in the state. Here are some possible questions concerning confidentiality that any library group might want answered.

1. In a sampling of existing state statutes there seems to be no indication of the penalty involved for failure to comply with the law. What does this mean? Librarians being asked to support this law or feeling inclined to let it slip past should have the benfit of knowing what consequence their choice could have in the courts.

2. Can a library be sued for allowing names to be revealed? By its very existence the law implies that there is a damage in connecting the name of an individual with materials used in a library. If a library does not maintain a secure system, or a system which purges that connection as soon as the circulation transaction is complete, can they be sued for damages? Are there any precedents in law for such action?

3. There are housekeeping matters to be considered. If, under court action, the library is to allow a search of its circulation records or borrower's lists, who foots the bill? Does the court pay the costs or do they provide the personnel and the library the workplace? Is it best that libraries maintain control of the records and only provide certified copies? Again, who pays for the costs?

4. When names are about to be identified, can the library notify those users that the library is under court order? Is the library *allowed* to take such action to alert their users? If there is no precedent for this action, which is best for the library to take: turn over the names without public comment or take some kind of public stance that draws attention to the action being taken by the courts?

5. What is the state of the art in automated circulation systems for the purging of names from the circulation record? Is the current software designed to meet this need? If *batching* is used in the purging of records what is the recommended length of time that records should be held for this purpose? Is it better to purge during the processing of the returned item?

6. Are we seeking the right and sound way to protect the confidentiality of library records of users and the materials they personnally select? Is it possible that we could trigger an unfavorable reaction to our stand? Just for clarification of this concern, consider what might have happened had the President been shot while the hassle over the court order was under way. Would the library and Marie Bruce have been supported by her peers as quickly and as strongly? Would the media have been so laudatory? Or might we have seen and heard comments about "common sense" and "misguided liberalism?" There seem to be the beginnings of case law indicating that the fourteenth amendment is particularly applicable to our stand on confidentiality. Should we explore this direction and maybe revise how we word those statutes to better protect the library and also to provide for clarification?

7. Maybe the best question has been saved for the last: can the record of transactions that exists in the mind of the librarian be ransacked by a government agency for information? This, of course, goes back to Zoia Horn and her personal stand. That grand jury was not asking for library records. They were asking for information she had through personal contact with library users. This could have happened to Marie Bruce. Instead of getting a court order to turn over the record, the Grand Jury could have called her in and asked her under oath to tell them who was the user of that particular book. The name was in the mind of Ms. Bruce. Even in the short time she had been at the library she was already beginning to know the habits of some of the "regulars". If Ms. Bruce refused to reveal the name she might have taken the same route as did Ms. Horn and sat in a jail cell until that particular jury was disbanded. On the other hand . . . What if there are some twenty names connected with the circulation of that book. On receiving those names, federal marshals might have swooped down upon the Town of Oneonta and carted twenty people off for questioning. Such an event would not go unnoticed; no matter the outcome a fair number of people would feel that their social stature had been diminished and their reputations sullied because they took a book out of a library and that library failed to purge the transaction once it was complete. Is this grounds for a suit for damages against the librarian and the library board? We don't know, but we should.

The liability and protection of the librarian in cases of this type, as well as those in which jobs are lost because of defiance of censorship, has not been addressed by any of us with the proper sense of urgency. Others who write about our struggles with pressure groups et. al. say we lack the resources and perhaps the courage to do so. It could be. But if you look back through the last decade of library intellectual freedom activity you will find a growing sense of worth and purpose in the defense of access to ideas without fear of penalty or public scorn. Marie Bruce is only the latest in a list of names to inspire us to continue to define our principles and give our professionals every possible tool for making sound, logical and effective decisions.

(Censorship Dateline . . . from page 76)

FTC representative Neal Friedman said the commission "doesn't consider this censorship, and we don't think it was excessive." But commission members Michael Pertschuk and Patricia Bailey, both of whom voted against the joint venture when the commission tentatively approved the deal by a 3-2 vote in December, charged the public's ability to judge whether the FTC was right had been impaired by the deletions made in the documents. Bailey even had her dissenting opinion censored, when the commission staff refused to allow her to cite data to support her views.

The FTC's censorship has "taken virtually all of the factual material submitted by the two companies to the commission out of the documents released to the public," complained Edward Dorreia, an attorney for Pertschuk. "The public can't make as good a judgment about this case as it could have if more had been released," he said. Chrysler Corp., which has sued GM and Toyota to block the venture, has also asked the FTC to release more of the data it used in its review. Reported in: *Detroit Free Press,* January 27.

Washington, D.C.

Pressure from antiabortion and Roman Catholic leaders has led the Giant Food supermarket chain's medical hotline, Tel-Med, to scrap informational tapes on abortion, homosexuality, masturbation and birth control, including two describing birth control methods approved by the church. The Rev. William A. Ryan, associate pastor of Our Lady Queen of Peace church in Anacostia, said that Catholic and "pro-life" leaders requested removal of the tapes because they "were dealing with controversial issues and they were coming down on the extremist side."

Giant's consumer adviser Odonna Mathews acknowledged that all tapes on sexually related topics were withdrawn after a meeting with antiabortion leaders in February. "We felt that certain tapes were maybe not the idea of what a food store should offer," she said. "We didn't want to be controversial."

Giant launched the call-in health education program in February, the first profit-making institution in the country to do so, according to Ken Steele, executive director of the Tel-Med firm. The service provides tape-recorded information on over 200 topics, from brain cancer to bad breath. Steele characterized each of the three-minute tapes as containing "facts from the medical standpoint," presented so they could be understood by someone with an eighth grade education.

Rev. Ryan, who chairs the "pro-life committee" of the Washington archdiocese, complained that "any teenager could have called in. They [the tapes] talk about multiple sex partners and how you've got to be careful. They lend an air of acceptability to any kind of sexual behavior, as long as you take precautions" against pregnancy.

Steele expressed disappointment at the removals. "If anybody in the population needs help in that area it's the very young, who are too embarrassed to talk to anybody," he said. Steele said that Tel-Med had received similar complaints in other areas, but noted that the problems had usually been resolved through negotiation or "by giving the 'right-to-life' people the opportunity to include alternative tapes" expressing their point of view. Reported in: *Washington Post,* March 7.

Macon, Georgia

The management of a shopping mall has decided the winning paintings in its art show can't be shown to the public, because they depict nudes. The two paintings by Beth Stephens of Atlanta won first place for oil paintings in the Middle Georgia Art Association show held at the Macon Mall but were excluded from the exhibition as "a courtesy to mall customers," according to mall representative Jan Klein. Artist Stephens said the paintings were inoffensive. "I was really disappointed," she said. "There's nothing wrong with a child seeing the paintings . . . . Michelangelo painted nudes." Reported in: *Oak Ridger,* January 30.

foreign

Buenos Aires, Argentina

As part of his general reform program, newly elected Argentine president Alfonsin has sent to the Argentine Congress a proposal to end formal film censorship via a new law with three basic provisions. These are: annulment of the film censorship statute passed in 1968 by former military dictator Juan Carlos Ongania; creation within the National Film Institute of a Film Classification Board, formed by delegates from the education ministry, the culture secretariat, the protection of minors secretariat and some private associations, which will be entrusted with setting restrictions for age groups, apparently in a manner similar to that of the American MPAA ratings; and, dissolution of the Ente de Calificacion Cinematografica (ECC), the body created by the censorship law to oversee film censorship.

As most of the ECC members had resigned, the government appointed film critic and historian Jorge Miguel Couselo as executor of the censorship legislation until the new law is officially enacted. But Couselo made it clear his enforcement "will be consistent with constitutional principles, especially the one guaranteeing freedom of expression without prior censorship." Afterward, Couselo will be responsible for the dismantling of the ECC. Reported in: *Variety,* March 7.

Toronto, Canada

The Ontario Censor Board's power to ban or censor films was found to be in violation of the Canadian Charter of Rights, and, therefore, unconstitutional, by the Ontario Court of Appeals. In a February ruling, the court upheld the findings of a lower court last March which ruled that the board can only classify, but not cut or ban pictures. The province, however, has appealed to the Supreme Court and has been granted a stay on the ruling, permitting the board to maintain censorship until the high court makes a decision.

Meanwhile, the board extended its powers to the rating of rock music videos. As of April 1, record companies must comply with the Ontario Theaters Act and submit the videos to the board for ratings if they intend to show them in high schools, bars or theaters. Reported in: *Variety,* February 8, 15.

Cairo, Egypt

Egypt has banned all movies produced or distributed by Columbia Pictures because of its objections to *Sadat,* a Columbia television miniseries about the life of Egypt's assassinated leader that appeared on American television. Abdel Hamid Radwan, Egyptian Minister of Culture, announced the ban January 26 after reviewing the docudrama, which starred Louis Gossett, Jr. as the late President Anwar el-Sadat. Radwan said the film contained "historical errors that distort the accomplishments of the Egyptian people." The ministry declined to explain the decision to ban all Columbia-produced or distributed films. Reported in: *New York Times,* February 2.

Jerusalem, Israel

Dr. Najwa Makhoul, an Israeli citizen of Palestinian descent and an internationally recognized researcher in public health, was denied a license to publish a scientific journal and refused any explanation of why, according to civil liberties activist Nat Hentoff writing in the *Village Voice.* In 1981, Dr. Makhoul applied for a license "to publish an Arab-language journal concerned with problems of science and technology and their relations to social and economic issues." In 1982, the Supreme Court of Israel denied her appeal without explanation.

"I was left," she wrote, "with no way of knowing whether the request [for a license to print] has been denied because I am a woman, an Arab, or because I am a scientist. Or is it the subject matter of the journal, or its language of publication which are the underlying pretext for this rejection? Or is it simply in order not to expose incompetent informers and their misleading methods?"

"Had I not been a Palestinian Arab scientist and woman, and the license had not been for a scientific publication in Arabic, I would probably not have been denied the right to publish. These are the only features which actually distinguish my project from ones which were granted licenses," Dr. Makhoul wrote in a letter to supporters. "Security risk claims were mobilized precisely to stop me from exercising my right to publish. [The real aim] is not to permit Palestinian Arab scientists to create forms of meaningful existence here and consequently to [get] them to leave the country and discourage those abroad from returning home. Perhaps it is [the presence] and the return of Palestinian Arab intellectuals who are citizens of the Jewish state that constitutes in itself a security risk."

A broad array of scientists from many countries have come to the defense of Dr. Makhoul, who received a Ph.D. from M.I.T. in 1978, was one of the few Palestinian faculty members of Hebrew University at the time of her application to publish, and is now a Harvard University Research Associate in Jerusalem. In a letter to Israeli officials, an international group of scientists wrote: "As academics and researchers to whom intellectual freedoms are sacred we cannot remain silent in the face of this grave violation of human rights. We deplore this decision by the Israeli authorities and urge its immediate reversal."

The scientists received a response from the Israeli Attorney General which noted that "Freedom of the press is highly valued in Israel. It is protected not only by a tradition of respect, but also by statutory, administrative and judicial safeguards." But in this case, the letter noted, the Israeli Supreme Court, "which is renowned for its integrity, objectivity and fairness," decided that "state security reasons outweighed freedom of the press, and the secret nature of the security evidence upon which the District Commissioner based his decision justified him in not revealing the specific basis for the denial of a permit." A second support letter from the prestigious American Association for the Advancement of Science dated January 30, 1984, was unanswered as of mid-March.

After a second bid to publish a journal was summarily rejected in September 1983, Dr. Makhoul and her supporters turned to the political process for relief. The Association for Civil Rights in Israel has submitted a bill that would repeal the press licensing provisions which were established under the British Palestine Mandate in 1945 and which prohibit publication of all documents "containing matter of political significance" unless "a permit has first been obtained." Reported in: *Village Voice,* March 20.

Bologna, Italy

About 800 high school students marched through downtown Bologna February 7 to protest cancellation of a sex education lecture by a prostitute in their school at nearby Castelmaggiore. Teachers had invited the pro-

stitute to speak on "relations between men and women in today's society," but were overruled by local authorities. Reported in: *New York News*, February 8.

Lagos, Nigeria

Maj. Gen. Muhammadu Buhari, who seized power in a New Year's Eve coup, has threatened to curb Nigeria's press freedoms because of what he says are excesses which endanger stability. In an interview published February 16 in a Lagos newspaper, Buhari said provisions of the suspended federal constitution guaranteeing press freedom would be revised. "I am going to tamper with that," he was quoted as saying. "It's because I know Nigerians very well." He also said Nigeria's press was capable of abusing its freedoms and thereby endangering the country's stability. Nigeria has more than a dozen daily newspapers, many of which are often critical of the government in a manner unusual for present-day Africa. Reported in: *Des Moines Register,* February 17.

Lisbon, Portugal

Portuguese journalists have expressed strong opposition to a proposed new press law, calling it "the most violent attack on the freedom of the press" since the 1974 revolution which overthrew fascism. The Union of Journalists said a draft text of the law would impose severe restrictions on what can be printed and provide prison sentences for violaters. Parts of the bill, a union statement charged, were even worse than the "former fascist laws."

Still in a formative stage, the bill was drawn up by Antonio de Almeida Santos, the Minister of State and a top adviser to Prime Minister Mario Soares, who called the opposition "more sentimental than anything else." He said some changes might be possible, but defended the basic document as enhancing journalists' rights. Others were not so sanguine, however. Virtually all newspapers, right-wing, official government and pro-Communist, have attacked the proposal. "I don't know of a single reporter or politician—left, right or center—in favor of this bill," said Manuel Beca Murias, editor of the weekly *O Jornal.* "It's nothing but trouble."

Some objections center on a series of provisions that are intended to define under what circumstances journalists may keep sources secret. Other sections of the draft set limits on access to certain kinds of information. They include secret legal proceedings, classified state or military documents, and "facts or documents" that are qualified as confidential by the legislature.

Still another section prohibits publication of a wide range of information, including material about legal proceedings not explicitly authorized, identification of victims of sexual crimes or suicides, the workings or findings of any parliamentary committees of inquiry, and documents or decisions from various councils of magistrates and public prosecutors beyond what may be contained in an official communique. The journalists' union asserts that all this adds up to "a drastic limitation of the rights and guarantees indispensable to the production of free news." Reported in: *New York Times,* March 4.

Moscow, U.S.S.R.

Yuri Liubimov, widely regarded as one of the world's most innovative and accomplished theatrical directors, has been dismissed from his position as director of Moscow's celebrated Taganka Theater for failing to return from an eight-month trip to the West. Vladimir Shadrin, head of the city's Main Cultural Board who is responsible for overseeing Moscow's theaters, announced the dismissal at an angry meeting at the theatre in early March. Several of the Soviet Union's best-known stage actors were said to have expressed outrage at the decision and demanded its revocation.

As cause for Liubimov's dismissal, officials cited his failure to give a "respectable reason for failing to return to his duties" at the Taganka after a trip to London to stage a widely-praised production of Dostoyevsky's *Crime and Punishment.* Liubimov, who was thought to be in Italy at the time of the dismissal, said he remained in the West to seek medical treatment.

In recent years, Liubimov gained exceptional notoriety not only for his artistic daring, but for his adventurous testing of the limits of Soviet censorship. Before leaving for England, Liubimov wrote a letter to Yuri Andropov, then the Soviet leader, saying he would resign unless restraints were eased. From London, he carried on a verbal sparring match with Moscow authorities through a series of newspaper interviews. He told *The Times* of London that he could not "allow myself to be trampled underfoot," that he was a Christian despite belonging to the Communist Party for thirty years, and that he despaired of ever achieving an understanding with the bureaucrats who controlled the arts.

Liubimov repeatedly stressed that he intended to return to Moscow to continue fighting for "a culture that will be worthy of my native land," but reports circulated that he was held back by the anxieties of his Hungarian-born second wife and their four-year-old son. Reported in: *New York Times,* March 6.

intellectual freedom bibliography

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