

newsletter
on
intellectual
freedom



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CLA cancels 'Holocaust hoax' publisher

Responding to a storm of protest, the California Library Association, on November 16, issued a letter of cancellation to a publisher who claims that the Nazi Holocaust against the Jews is a myth. CLA executive director Stefan Moses said that he and other association officials decided to cancel a contract for exhibit space and meeting time with David McCalden, former director of the Institute for Historical Review and currently director of Truth Missions. McCalden's check and application to become an exhibitor at CLA's annual meeting had been accepted earlier in the year and, therefore, he was entitled to display materials as a small publisher in the exhibit area throughout the three-day convention.

Vendors at CLA meetings are also offered the opportunity to obtain meeting space through CLA to present programs which then are listed chronologically in the general conference programs. McCalden's application for a meeting room was approved; his topic for his program was revisionist history: "an overview, from several speakers of the severe censorship and intellectual terrorism which inhibits any objective, open discussion of this controversial subject."

"It's all over. We caved in," said Moses, himself a Jewish refugee from the Nazis. "We have agreed to cancel both the program and Mr. McCalden's right to exhibit his materials." Moses said the association made its decision after hearing strenuous objections from California Assembly Speaker Willie Brown, Los Angeles Mayor Tom Bradley and the Los Angeles City Council. Acting on a motion by council members Zev Yaroslavsky and David Cunningham, the city council voted unanimously November 16 to direct the Los Angeles Public Library to withdraw from CLA if the contract to exhibit and speak was not rescinded.

Moses also said he was worried about his safety after a Los Angeles Police Department official told him that members of a militant Jewish organization planned to be at the December 2 event. "The police said that now that my picture had been in the paper, it made me a marked man," Moses said.

According to Moses, McCalden's presence as a conference exhibitor was first suggested in late spring by Jeffrey Selth, a librarian at the University of California, Riverside, and chair of the Southern California Coalition for Intellectual Freedom.

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Indianapolis porn statute struck down

In a major victory for the First Amendment, the Indianapolis ordinance which defined pornography as sexual discrimination against women, permitting civil rights suits against producers and distributors of objectionable materials (see *Newsletter*, July 1984, p. 119), was declared unconstitutional November 19 by a federal court judge who said it violated the right of free speech. The Freedom to Read Foundation had filed an *amicus curiae* brief on behalf of the Indiana Library Association and the Indiana Library Trustee Association in opposition to the ordinance (see *Newsletter*, November 1984, p. 176). City-county council members who backed the statute said they would appeal to the U.S. Court of Appeals for the Seventh Circuit.

U.S. District Judge Sarah Evans Barker of Indianapolis said that while she agreed with the council's efforts to protect the rights of women, the ordinance specifically restricted the sale and distribution of pornography and thus violated First Amendment protections. "The city-county council, in defining and outlawing 'pornography' as the graphically depicted subordination of women, which it then characterizes as sex discrimination, has sought to regulate expression, that is, to suppress speech."

The judge was asked by the city to find that pornography, defined in the law as "the sexually explicit subordination of women, graphically depicted, whether in pictures or in words," should be exempted from First Amendment protection, much as the Supreme Court has ruled that libel, obscenity and child pornography are not constitutionally protected.

But in a 58-page decision, Judge Barker said there was no need for a special First Amendment exception for women: "To permit every interest group, especially those who claim to be victimized by unfair expression, their own legislative exceptions to the First Amendment so long as they succeed in obtaining a majority of legislative votes in their favor demonstrates the potentially predatory nature of what defendants seek through this ordinance and defend in this lawsuit."

Judge Barker urged that the city and "all others who would support such a legislative initiative" remember that "in terms of altering sociological patterns—much as alteration may be necessary and desirable—free speech, rather than being the enemy, is a long-tested and worthy ally. To deny free speech in order to engineer social change in the name of accomplishing a greater good for one sector of our society erodes the freedoms of all and, as such, threatens tyranny and injustice for those subjected to the rule of such laws."

"It fails all constitutional tests," said Michael Lee Gradison, executive director of the Indiana Civil Liberties Union, of the statute. "In addition to finding for the plaintiffs on every single constitutional point we raised, [Barker] says, in effect, that going back to the drawing board for the authors of the ordinance will be a waste of time."

Beulah A. Coughenour, who sponsored the measure, was undaunted. "I think it's the first quarter of the football game," she said. "We'll go all the way with them as far as they want to take this thing," responded Gradison.

The ruling did not stem the debate over similar proposals in other areas. The prototype for the Indianapolis law was one passed by the Minneapolis City Council but vetoed twice by Mayor Donald M. Fraser (see *Newsletter*, March 1984, p. 37). Although Fraser continued to express doubt about the constitutionality and workability of the civil rights approach to pornography, he said that Minneapolis would probably file a brief supporting Indianapolis on appeal.

In Los Angeles, City Council member Ernani Bernardi said he expected committee debate to begin in December on an antipornography bill based on the Indianapolis law. "We have no intention of repealing the First Amendment," he said, "but there are certain types of pornography being depicted that framers of the First Amendment did not intend to protect."

In Suffolk County, New York, the sponsor of a similar measure, County Legislator Michael D'Andre, said he wanted to study the ruling. "It just stops our timing," he said. "We will proceed with our bill and make the necessary changes. We're not going to stop in our quest to address this problem. The need is there." Reported in: *Chicago Tribune*, November 20; *New York Times*, November 21.

national endowment for the humanities funds tour of censorship exhibition

The Office for Intellectual Freedom has received a \$123,000 grant from the National Endowment for the Humanities. The money will underwrite a national tour of *Censorship and Libraries*, a part of the New York Public Library's highly acclaimed 1984 censorship exhibition. The display will travel to approximately 16 host libraries in cities throughout the United States over a two and a half year period, beginning in the spring of 1985.

Confirmed dates for the tour, as of press time, include the Chicago Public Library during July and August, 1985. The exhibition will be one of the

highlights of the American Library Association's 1985 annual meeting (July 5-10) and the International Federation of Library Associations and Institutions Conference (August 18 to 24), both meeting in Chicago. The next stop on the tour, in time for Banned Books Week 1985, will be Minneapolis, Minnesota.

The tour has been conceived as a means to build popular understanding of the nature and importance of intellectual freedom. Through the use of graphic panels, books and audio-visual materials, the exhibition focuses on key censorship problems in American libraries during the past two decades. The show features information and images concerning censorship in school, university and public libraries and examines both internal and external restrictions on access to books and materials. Accompanying the exhibition is a nine-minute videotape history of censorship, narrated by Walter Cronkite.

Special programs will be developed to encourage community members to participate in discussions, examine issues and learn more about the realities and threats of censorship in our society.

Fairbanks update

By June Pinnell-Stephens, Chair, Alaska Library Association (AKLA) Intellectual Freedom Committee. On July 3, an attempt to remove A Way of Love, A Way of Life: A Young Person's Introduction to What it Means to be Gay, by Francis Hanckel and John Cunningham, from Fairbanks North Star Borough School District libraries was narrowly defeated on a 3-3 tie vote of the school board (see Newsletter, September 1984, pp. 133, 137). The following is a report on events since the tumultuous all-night meeting at which that vote occurred.

It will probably be no surprise that the attack on Hanckel and Cunningham's *Way of Love, Way of Life* in Fairbanks did not end with the 12-hour school board meeting on July 3 and 4. On August 7, after a month of predictably outraged letters to the editor in our daily newspaper and anonymous threats on the lives of the superintendent, the board members and their families, the board voted not to reconsider July's tie vote which left the book on the shelves of two high school libraries. That vote limited further public comment to the hour provided for discussion of any topic not on the agenda and prompted two board members to storm out of the meeting in protest.

Unable to accept the board's decision, Parents in Action, a group formed "to get rid of this book and others like it," began a campaign to recall the members who voted to retain the book. The circulated a petition which demanded recall on the grounds that the one vote

"constituted misconduct in office, incompetence, and failure to perform prescribed duties" and collected the 1700 signatures required to place the measure on the ballot. In the course of this campaign, they maintained a booth at the Tanana Valley Fair, where their copy of *Way of Love* was stolen.

Approximately two weeks after the petition appeared, a mixture of AkLA and ACLU folks, as well as general citizens concerned about abuse of the recall procedure and censorship, formed a group named Citizens for Responsible Government. The group immediately began raising money for legal work and planning strategy for the recall election, while AkLA began developing a community education project to try to put censorship in a broader historical and political perspective. AkLA collected radio and video material for ads from ALA and program material (including an extremely helpful speaker's manual) from Washington State Coalition Against Censorship. The Association then sponsored a series of newspaper ads which an employee of the paper tried to censor, a number of people demanded be retracted, and a member of the local public library commission unofficially claimed would ruin the reputation of libraries and the library association.

Officially, the library commission voted not to allow a display for Banned Books Week because, according to the original minutes, it would be too controversial and inappropriate at this time; according to the amended minutes, because the material was not available at that time. One commissioner thought the display would be just fine, until someone explained they were discussing BANNED books, not BAND books.

Four days before the local election, which included three school board seats, things began to move quickly. On Friday, the borough clerk refused to certify the petition for recall, citing insufficient grounds. On Saturday, the paper did an about face on orders from the publisher and ran an editorial supporting removal of the book, agreeing with a local attorney that the schools were waging "cultural warfare" against conservative and religious parents by leaving offensive materials on school library shelves. On Tuesday, over 30% of the registered voters elected two strong anti-censorship candidates and returned by 150 votes one member who voted to remove the book. The other pro-censorship board member who ran for re-election was the only incumbent on the ballot not returned to office.

Success is sweet, but not necessarily secure. Parents in Action has begun meeting again; there are excerpts of Judy Blume's *Forever* circulating and the newspaper appears poised for a campaign to purge the school libraries. But I guess if they're ready for round two, then so are we.

in review

The First Freedom Today. edited by Robert B. Downs and Ralph McCoy. American Library Association, 1984. 340 p. \$40.00

Almost 200 years after adoption of the Bill of Rights, the First Amendment remains a controversial subject. Attacks on First Amendment freedoms continue to increase and expand into new areas. *The First Freedom Today* reviews the debate over the scope and nature of freedom of speech, the press, and access to information.

The editors state that the basic questions regarding censorship have changed little since the 1960 edition of this book was published. However, issues confronting librarians, educators, students, editors, authors, the citizenry, general readers and television viewers have changed and perhaps expanded in the last twenty years.

According to the Modern Language Association, "censorship is everywhere—left, right, and center" and it is international. With this thought in mind, the editors acknowledge a bias. Their collection of articles "reflects the liberal view as opposed to the advocates of censorship." The bias, however, is a strength. *The First Freedom Today* is a marvelous collection of articles containing opinions of many primary advocates of First Amendment rights and intellectual freedom. Issues covered are varied. Anyone interested in promoting intellectual freedom will find the collection useful and informative.

There are eight chapters. Included in each chapter are several articles related to the topic under discussion. The first chapter, Historical Background, provides readers with broad background information regarding the freedoms of speech and press as well as recent issues about these concepts. Chapter two contains new views of the First Amendment. School censorship issues including textbook banning comprise chapter three. "Librarians Fight Back" is the subject of chapter four. The creationism controversy is covered in chapter five. "A New Bogyman, Secular Humanism" is the focal point of chapter six. Chapters seven and eight deal at length with the nature of obscenity and the freedoms of press, television, and radio.

This reviewer particularly enjoyed the historical section (remember Anthony Comstock?) and the readable material on secular humanism. The latter is very useful since this "philosophy" is currently under attack from various fronts and people are looking for clear, explanatory information. Since the majority of articles are from sources other than library professional periodicals the reader will likely find a potpourri of fresh viewpoints which might otherwise have been missed. Among the contributors are Art Buchwald, Louis Nizer, Arthur R. Miller, Paul Kurtz, Harriet Pilpel, Wendy Kaminer,

Thomas I. Emerson, Nat Hentoff, Tom Wicker, Malcolm Cowley, Robert M. O'Neil, William R. Overton and People for the American Way.

Both editors have had notable careers in librarianship and have long been active in promotion of First Amendment rights and intellectual freedom. Downs and McCoy have both published extensively. This experience must account for the smooth blend of selected material and diverse writing styles. Each chapter has an introduction which pulls together the articles within it.

The only criticism by this reviewer relates to a comment found in the introduction: "With rare exceptions, the banners and burners of books have not been highly literate folk." Some of these individuals, especially today, are highly literate, persuasive, powerful, and well-supported financially. We must not dismiss their importance and their influence.

This readable, informative book is definitely a must for library purchase.—Reviewed by Janis H. Bruwheide, Associate Professor, Secondary Education & Foundations, Montana State University, Bozeman.

Times' publisher concerned for free press in second Reagan term

The press has reason for concern about its First Amendment rights and access to government information under the second Reagan administration, the publisher of the *New York Times* said November 9. Arthur Ochs Sulzberger suggested that in the next four years reporters might be confronted with further restrictions on information made available to the press, as they encountered in covering the invasion of Grenada. He also cautioned the press to be wary of a Supreme Court with a more conservative interpretation of the First Amendment.

"If Mr. Reagan has his way, I fear for how a new and truly conservative Supreme Court will interpret the First Amendment," Sulzberger told the annual banquet of the *Yale Daily News*. "The disdain toward the press displayed in the Grenada action was part of a frightening information policy by the administration that has gone largely overlooked by the general public," he continued.

"The administration has, in its first term, sharply limited the overall availability of information to the press. During the next four years it is going to be very important how the press handles itself, for I fear that there is a continuing move afoot to cast the American press as untrustworthy and indeed somewhat un-American." Reported in: *New York Times*, November 11.

mailbag

To the editor:

I have just finished reading the interpretation of the *Library Bill of Rights* as it pertains to the circulation of motion pictures and video productions, and I find that I must respectfully disagree (see *Newsletter*, September 1984, p. 132). This is an unusual position for me, as I consider myself to be a strong and vigorous supporter of intellectual freedom.

The position expressed in the interpretation ignores several truths. First, for better or worse, parents are accustomed to making viewing decisions for their children based on the MPAA rating of motion pictures. They may permit their 10 or 12-year old children to see PG or PG-13 films, but refuse them permission to see either on cable television or in theaters those films which are rated R or X. It seems perverse for libraries to circulate to minors materials which their parents otherwise directly forbid them from seeing. (I have no problem whatsoever with use of R or X-rated films by minors when parental permission has been given, and I would insist that a means by which such permission may be given should be set up in any library which does choose to limit its circulation of films and/or videotapes based on MPAA ratings.)

Second, the interpretation ignores the reality that the videotapes which libraries buy are already labelled, usually on the box, the cassette shell, and on the tape itself. Catalog copy sometimes has the MPAA rating, and sometimes not. This interpretation would seem to require that any MPAA rating be removed from any place it appears, including the tape itself. There are obvious problems in attempting to do this, not the least of which is cost. Third, the kind of labeling which takes place with MPAA ratings is not that which we usually face in intellectual freedom cases. Makers of films willingly (more or less) submit their works to this association for evaluation, and, indeed, they alter them in order to attain a rating which they think enhances the impose the rating; rather, the film maker has accepted it.

Note that I deal only with MPAA ratings. I see no justification for libraries to create ratings where none are present, although I will admit that it gives me some pause to think that a minor may be restricted from checking out an R-rated film yet able to check out an unrated item which could well be "worse" in content.

Nevertheless, I think that to suggest that the solution to the problem is to make any and all materials fully accessible to minors flies in the face of common sense. It is a proposition which furnishes the opponents of libraries

and of intellectual freedom with ammunition they do not need. They will rightly point out that if librarians cannot see a valid basis for distinguishing between circulating *The Muppet Movie* and *Cruising* to a 12-year old, then there are probably a number of other questions which librarians can't handle rationally.

I see no valid reason why librarians acting in good faith cannot make circulation decisions based on a rating system that is widely accepted as a basis for making other kinds of viewing decisions. I do not argue or believe that MPAA ratings have the force of law (they don't) or that they always accurately measure the content of a film in terms of its appropriateness for particular ages (the ratings are often marginal). I do argue that it is no affront to principles of intellectual freedom for libraries and librarians to respond to the reasonable concerns of their constituents over the content of materials which are already, in effect, labelled, especially when the so-called "labeling" system is one which has a good deal of public acceptance. Somehow the kind of intellectual freedom which rather carefully evades the good faith efforts of parents to monitor their children's viewing habits seems rather empty and not much worth defending. Intellectual freedom means nothing if it exists only as an ideal concept. We must shape our view of intellectual freedom based on the realities of the world, and one reality is that intellectual freedom, as is the case with other freedoms, is not the same for children and adults.

Richard N. Shaw
Sewanee, Tennessee

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— censorship dateline



libraries

Concord, Arkansas

Restricted access to two books in the Concord School library constitutes "censorship, albeit a subtle form," Betty Fowler Kerns, president of the Arkansas Library Association, told the Concord School Board November 8. The Board had appointed a five-member special committee to examine all the books used by the school system for "objectionable content." The committee's report, which recommended that two sex education books be placed in a "parents only" section, was given to the board in October.

The report urged the board to set up a committee under guidelines provided by the state Education Department to screen library material; set up classes separated according to sex when sex education is discussed; and place the books, *Facts About Sex: A Basic Guide*, by Dr. Sol Gordon, and *Single and Pregnant*, by Ruth I. Pierce, in a parents only section of the school library's reserve room and that students be required to obtain parental permission to read the books.

The committee charged that the books were inappropriate for adolescents, that Dr. Gordon used vulgar language to describe human sexual behavior, and that Pierce had "little to say that would discourage premarital sex."

During the two months the committee worked, it was the target of criticism from parents and teachers. Some believed the committee's appointment was part of a move by the conservative group called Family Life America God (FLAG), to which two committee

members belonged, to stop sex education and censor school books. At the October board meeting, a group called Voters for Quality Education presented a petition to the board with about 230 signatures opposing the committee.

The board did not act on the committee recommendations at the November meeting, but did approve a motion to retain a lawyer to draft proposed guidelines for a committee to examine new library books. Reported in: *Arkansas Gazette*, September 20, 30, November 9; *Arkansas Democrat*, October 16.

Turlock, California

The victory in a fight to retain the controversial sex education manual *Show Me!* in the Stanislaus County library, which ended in a September 18 decision by county supervisors to retain the book, (see *Newsletter*, November 1984, p. 195) was short-lived. Less than two weeks later, the copy of the book belonging to the Turlock branch was reported lost by a borrower. In the interest of maintaining the confidentiality of library circulation records, County Librarian Judy West would not disclose the name of the person who reported the book missing, but the Turlock Action Committee (TAC), which organized the movement to ban the book, acknowledged that the borrower was one of its members.

The Defenders of the First Amendment, which supported the library in the controversy, charged that the book had been purposefully stolen by a self-appointed censor. They noted that at an August TAC planning session a proposal had been made to repeatedly remove the book until county officials realized repurchasing would be too expensive. TAC leaders said, however, that the book had been passed around among various church leaders and the borrower had simply lost track of it. "There is always the possibility that it was legitimately lost, so to say somebody did it on purpose is not fair to those people," librarian West stated.

Show Me! is out of print and cannot be replaced. It had been thought that the Turlock copy was the only remaining copy of five originally purchased by the library system. Another copy recently surfaced at the Modesto central library, however. A copy belonging to the library at California State University at Stanislaus was also checked out to a TAC member. It was scheduled to be returned by December 14. Reported in *Turlock Journal*, October 5; *Modesto Bee*, October 5.

Fort Lauderdale, Florida

For three months, Broward County Main Library withstood pressure to remove *Playboy* magazine from the open shelves from a petition drive, an influential

local minister, an elected official and a man claiming to represent Jesus Christ (see *Newsletter*, November 1984, p. 183). On September 17, however, the library was compelled to place the magazine behind the counter, available only by written request.

The decision was taken reluctantly "after all existing copies of the magazine were stolen," said Sam Morrison, assistant library director. "I'm taking an internal action to protect a periodical," he explained. "This is not an uncommon situation. If we hadn't had all the publicity we would never have had this problem. I don't know what good it is to have it on the shelf if it's [going to be stolen] and not available." Reported in: *Fort Lauderdale News*, September 21.

Peoria, Illinois

Three books by award-winning children's author Judy Blume were banned in early November from school libraries in Peoria School District 150 because of their sexual content, strong language and alleged lack of social or literary value. Earl Robertson, director of libraries, said that he ordered the books, *Then Again Maybe I Won't*, *Deenie*, and *Blubber*, removed from grade school access after two review committees recommended the action. Because school libraries are open to all pupils, however, the books were removed completely.

Dennis Gainey, associate superintendent, said he and Robertson decided to have a committee review Blume's books even though no one had filed a formal complaint. "Did we have to do it? No," Gainey said. "Do we think it is the prudent thing to do? Yes." This was the first time Peoria's public school system had banned a book since 1966.

"It's just the most incredible story," said Blume when informed of the ban. "I've never heard of anything like this." Although her books are frequent targets of censorship efforts, Blume said that to her knowledge this was the first time her books had been banished without a formal complaint. Sherry Mermis, a parent who complained earlier in the Fall when the books were first removed and got them temporarily returned to the shelves, said she disagreed with the district action. "The story content of those books has a lot to say to children," she said. Reported in: *New York Times* November 11; *Chicago Tribune*, November 10; *Peoria Journal Star*, November 18.

Des Moines, Iowa

Anti-abortionists complained to Des Moines school officials in late September about a policy permitting district librarians to purchase books at a sale sponsored

by Planned Parenthood. The objectors charged the librarians with spending tax money to support abortions.

Superintendent William Anderson and Assistant Superintendent James Bowman said they received about a half dozen calls but had no intention of changing the policy. "It's kind of an informal thing," Bowman explained. "We've always done it. We haven't told people to go, but we haven't told them not to. We buy a lot of stuff from vendors [and] we don't know what their religion or politics are. We just see this as an opportunity to save some money and get good books for the students." Anti-abortion groups announced plans to picket the sale. Reported in: *Des Moines Register*, September 28.

Rankin County, Mississippi

A library commission created by the Rankin County School District in June to compile a list of books suitable for school libraries went into operation in September. The school board's decision to create the commission, using a little-known state law, came in response to a parents' group organized by a church pastor in southern Rankin County which demanded the banning of books it considered objectionable, including *Headman* by Kin Platt, the anonymously written *Go Ask Alice*, and *Cujo* by Stephen King (see *Newsletter*, May 1984, p. 70).

The commission has the authority to govern the use of libraries or make recommendations on existing policies. It will also have the power to name a manager of each library to report annually on all books purchased during the year, the money on hand at the time of the report and the amount spent on the library.

The protesting group of nearly thirty parents said they would meet with the commission. "We would like to meet them and find out how they think and whether they are liberals or conservatives or what," said Clarence Gilbert of McLaurin. "If they are conservative and concerned about moral values, then very little monitoring will be required. If they are ultra-liberal, then that will be a horse of a different color. We certainly are going to be monitoring it and looking at it and hopefully everything will work out for the good of the children."

Jan Lewis, state director of the ACLU, said the school board's solution to the censorship crisis seemed appropriate since it gives librarians support by having other educators help determine which books are suitable. "That puts it in the hands of professionals, which is where it ought to be," she said. Reported in: *Jackson Clarion-Ledger*, September 2.

Minot, North Dakota

The book review committee that Minot Public School Board member Zoanne Flickinger said she would organize is in action (see *Newsletter*, November 1984, p. 185). As of late September, the self-appointed group had checked out seventeen books from the Minot High School Magic City campus. "We're not only looking for bad books, we're looking for good books," said Judy Hovde, a member of the group.

Board member Stuart Summers stressed that "Mrs. Flickinger does not represent the board on the committee. She is acting as a private citizen. It is not the school board that is involved in this." He also declared, "I would personally like to reaffirm my trust in the administration, librarians and instructors."

Flickinger complained that an administration rule that adults can only check out one book at a time and only for overnight made the reviewing process difficult. Superintendent R. Edward Mundy said the rule may have been in force before the announcement that a committee had been formed. It was, however, made a district-wide rule after the announcement to ensure that library materials would be available for student use.

Three women who volunteered for the committee, Harriet Epstein, Joan Folkert, and Mary Elizabeth Holland, said they did not think such a group should exist, but felt there should be varied viewpoints. "I'm not going in to throw books out. I'm just concerned with what Zoanne is doing," Holland said. Folkert later complained, however, that she was never notified of committee meetings or given instructions on how to proceed. Reported in: *Minot Daily News*, September 13, 14, 28.

Hanover, Pennsylvania

Six books removed in June from the Hanover Public School District's elementary and middle school libraries were placed on a "restricted shelf" at the middle school by the board of directors November 14. The books will be accessible to students only with written parental permission. The affected titles are *Honey of a Chimpanzee*, by Norma Klein, and five Judy Blume novels, *Starring Sally J. Freedman as Herself*, *Deenie*, *Blubber*, *Tiger Eyes*, and *It's Not the End of the World*.

The original removal of the books came in a closed session of the school board June 13. The order came after a study of the books by a committee composed of three district administrators and an elementary school librarian. The committee was formed after parent Jeffrey Hoffheins complained about the Klein book which he charged contained "strong sexual content,

bias to liberal values and morals, and indecent language. [The] material condones certain values, attitudes and behaviors." At the bottom of the complaint form, Hoffheins wrote "recommend reviewing all Judy Blume books for similar content."

"I found the book indecent and inappropriate," Hoffheins later told a reporter. "We have to have values. I was willing to let the school board or the committee make the decision. I can't say anything about Judy Blume, I've never read her. I filed one complaint about one elementary level book. I didn't say pull the book from the shelves. All I said was 'Here is a book I find offensive. What do you think?'"

The district did not follow its own procedures in forming the committee, which resulted in a grievance being filed by middle school librarian Elyse Clark with the Pennsylvania State Education Association. No middle school committee examined the books and the elementary committee was not composed of school staff as provided by district policy. Most important, the final decision was taken by the school board in closed session.

In April, when the Blume books were pulled from the elementary school library shelves for examination, 115 Washington Elementary students signed a petition which read: "We understand there has been some book banning in the Hanover Public School District and we would like to protest this action. Most of the Judy Blume books have been taken out of the library and we feel people should be able to read her books or those of any other author. We would like to have these books put back. Book banning seems to be the opposite of the purpose of education."

The November reconsideration was prompted by a complaint filed by the Hanover Education Association. A week earlier the board, meeting in closed session, had appointed a middle school review committee. The majority of that committee voted to retain and not restrict the Blume titles. The Klein book was not in the middle school library. No decision was made about the final resolution of the elementary school situation.

HEA President Paul Hentz expressed approval of the board's action. "It was gutsy as far as the middle school is concerned," he said. "The board has done it's homework and come up with an open, honest, fair-minded decision. It is a community-based, parents-based decision."

But librarian Clark was less sanguine. She complained that a report she had filed on the books had not been read at the board meeting. She noted that no complaint on any of the books had been received from a middle school parent, which, according to school policy, is a requirement for a book to be removed or restricted. "The way I see it, the books are still censored," she concluded.

ed. "When we deny access, we are practicing censorship. It is a constitutional issue. Everyone is protected by the Bill of Rights." Reported in: *Hanover Evening Sun*, October 8, 11, November 15.

West Milwaukee, Wisconsin

A review committee considering a request to remove the novel *Vision Quest*, by Terry Davis, from the West Milwaukee High School library (see *Newsletter*, November 1984, p. 186), decided to keep the book but was unable to agree on whether it should be restricted to students under the age of 16. The vote to keep the book was 6-0, but the group split 3-3 on the question of restricted access. A district committee was empowered to review the controversy again. Ernest Terrien, vice president of the school board, who originally filed a protest against the book expressed disappointment. "I am disappointed that these people do not recognize the evil of the book. We are not talking about censorship." Terrien complained that the book contains references to incest, fornication and homosexuality. Reported in: *Milwaukee Journal* October 16.

schools

Montgomery, Alabama

Twenty-five members of Eagle Forum called on the Alabama state Textbook Committee at a day-long public hearing September 25 to ban textbooks that teach abortion as a suitable way to end an unwanted pregnancy, homosexuality as an alternative lifestyle, "house husbands" and working wives as an acceptable family unit and the questioning of parental authority. Most of the comments concerned health and home economics textbooks.

Jan Bolla said her group objected to about 25 of the 560 books up for selection. "We are opposed to homemaking not being a choice," she said. "When they say that women can't fulfill their potential as a homemaker, that's just disgusting to full-time mothers."

Married and Single Life, a home economics text, received much of the criticism. "This book is a tool for the feminist movement to influence young women to reject marriage and motherhood," said Betty Bostwick, an Eagle Forum member and former Textbook Committee member. "Those are presented as non-rewarding jobs."

Mark J. Brezina, a Birmingham-area coach, told the committee he was not interested in reviewing textbooks when his wife first mentioned it to him. "But after reading one of these books, it has almost become a crusade for me." Brezina said *Married and Single Life* undermines traditional values. He said that he did not want information about contraception provided in the book available to his daughter. Reported in: *Birmingham News*, September 26, 30.

Lake Havasu City, Arizona

At a packed school board meeting September 25, acting board president Ray Wagner blasted city teachers and denied that the board had violated constitutional rights by banning *The Chocolate War*, by Robert Cormier, from high school classes. An expected showdown on the issue did not take place, however, as teachers said they considered a confrontation with the board "politically unwise."

Wagner, one of three members of the Lake Havasu Unified School District board to vote in August to remove *The Chocolate War* from a freshman reading list, charged Havasu teachers with failing to set good examples for students, fostering disrespect in the classroom and failing to support the board. "The teacher that has to resort to profanity to get a message across in the classroom is not a good teacher," he said.

Doug Kilgore of the Arizona Education Association said there was almost unanimous agreement among district teachers that the board action was a threat to academic freedom. "He has no respect for teachers—none," charged Diane McCarthy, president of the Lake Havasu City Education Association. McCarthy said the teachers were silent so as not to become offensive in what she said would be a campaign to oust Wagner and his supporters Art Menichiello and George Kants from office. Reported in: *Arizona Republic*, September 27.

Atlanta, Georgia

Jo Williamson, an English teacher at suburban South Cobb High School, was teaching about Nathaniel Hawthorne's classic novel *The Scarlet Letter* when she halted, suddenly unnerved. "I thought, 'Oh, my gosh. Here I have this child, and I'm doing witchcraft and religion,'" she said.

Her concern was created by a memorandum from county school administrators outlining the banning or restriction of nine topics in Cobb County classrooms. Among the restricted subjects are witchcraft and religion, issues considered in Hawthorne's tale of morality and guilt in colonial New England.

The October memo was drafted after a parent complained about materials used in her daughter's sixth grade class. It identified as subjects banned from the classroom "alternative sexual behavior," such as homosexuality and "other aberrant sexual behavior," and abortion as a topic in sex education. The memo also said discussion of seven other topics was to be restricted to material provided in the official county curriculum. They are evolution, abortion as a political or social issue, communism, religion, witchcraft, personal inquiries and "valuing"—instructional activities designed to promote student decision-making and value selection.

The Georgia Association of Educators denounced classroom censorship and launched an investigation into the memo. The National Education Association called it "ridiculous . . . an outrageous overreaction." Students at one Cobb County high school threatened a boycott to protest the memo.

The controversy began when Kathy Trock, a member of Phyllis Schlafly's Eagle Forum, examined the curriculum guide for sixth grade substance abuse program at her daughter's middle school and saw exercises that seemed to have little to do with instruction on drug abuse. These dealt with decision-making skills and Trock saw in their form and content the influence of "secular humanist" thinking.

Curriculum chief Stanley Wrinkle defended the manual, but later wrote the memorandum with the goal of forestalling future incidents. "It was a preventive piece of correspondence," he explained. Reported in: *Los Angeles Times*, November 11.

Charlotte, North Carolina

Three mothers and two junior high school students complained to the Charlotte-Mecklenburg school board October 9 about what they called offensive teaching of sex and values in the classroom. The allegations sparked heated exchanges as board members told one mother she was reading materials out of context.

Martha Dellinger read to the school board examples of what she claimed were students' written classwork describing sexual intercourse, homosexuality and masturbation. Dellinger, whose children attend private school, also accused the public schools of teaching students to rebel against their parents and "express feelings that are none of the school's or the state's business." She asked two teenagers to leave the room so she could read passages from two books recommended by the Charlotte-Mecklenburg Public Library System for National Family Sexuality Week. Dellinger charged that the school board endorsed the books because it had endorsed the week.

Later, Ashlie McIntosh, a former ninth grader at Sedgefield Junior High, told the board she was forced to watch a movie about two children rebelling against their parents. At the end, she claimed, the two children watched as lions devoured their parents. "I think it's gross," she said, starting to sob. "I was supposed to do a report on that and I think it's a shame. It's teaching kids to rebel against your parents."

"I heard many things tonight that, based on the way they were presented, I have concerns about," responded Superintendent Jay Robinson. "I don't want to in any way be a part of having materials taught to children that are inappropriate. But I think if [the school board] ever gets into a situation where you try to censor the curriculum before complaints have been heard or dealt with in a legitimate process, you're getting into a very hazardous and dangerous situation."

Robinson and board Chair Carrie Winter encouraged Dellinger and other parents to bring specific complaints to local school committees according to established procedures for challenging course content and instructional materials. Reported in: *Charlotte Observer*, October 10.

Chambersburg, Pennsylvania

The Chambersburg Area Taxpayers Association wants to ban a textbook used in a Chambersburg Area Senior High School health class. The association claims that *Understanding Your Sexuality*, by Candace O. Purdy and Stan Kendzierski, teaches immorality. The book has been used in tenth grade health classes for several years.

Association vice president Donald Slaybaugh said the group is generally opposed to sex education books. "The Christian child must go to school and be subjected to immoral teachings of this book" he said. Slaybaugh said the book is similar to other sex education texts which "promote a whatever-feels-good-do-it attitude."

"We learned about reproduction in our biology class," Slaybaugh said. "I think that was sufficient. I don't think we have to go beyond that." Slaybaugh said he does not believe subjects such as homosexuality, contraception, masturbation and abortion should be discussed in public schools.

School board members disagreed. Board president Gordon Lambert said he did not find "anything offensive about the contents of the book." District superintendent George A. Tjattas said the book "gives factual information about human growth and unbiased information about human sexuality."

"I don't have any problems with it," said board member Cheryl S. Plummer. "I think it presents everything in a very factual way. Frankly, I was very pleased with it." Plummer said the authors repeatedly emphasized that students should talk to their parents

and adhere to their religious beliefs when dealing with sexual questions.

Slaybaugh said parents should read the book themselves. "Everybody should take the opportunity to go through that book and see what we're talking about," he said. Reported in: *Chambersburg Public Opinion*, August 25.

State College, Pennsylvania

Adoption of the human sexuality curriculum by the State College Area School District was delayed for a month after the choice of textbooks for the fifth and sixth grades and the eleventh grade came under fire in September. The school district received two written responses and eight to ten phone calls about the curriculum, Assistant Supervisor Robert Curtis said.

The concerns involved the textbooks *The Human Story: Facts on Birth, Growth and Reproduction*, to be used in the fifth and sixth grades, and *Understanding Your Sexuality*, scheduled for use in the eleventh grade. Complaints on the eleventh grade text included teaching controversial subject areas such as homosexuality, abortion and birth control. At the school board meeting which decided to postpone adoption of the curriculum, board member Chuck Rider, III, said he would not vote for the elementary school text because he thought the information was being given to children who were still too young. Reported in: *State College Centre Times*, September 24.

universities

Middletown, Connecticut

A proposal to invite controversial Black Muslim minister Louis Farrakhan to speak at Wesleyan University prompted a flurry of threatening phone calls to students, officials and groups at the school. *The Middletown Press* also received a call October 10 by someone identifying himself as Dove Grunner, who said a group of 100 "radical Jews" would kill Farrakhan and Wesleyan president Colin Campbell if the Nation of Islam leader appeared.

Two weeks earlier a black student group, Ujamaa, proposed inviting Farrakhan in April. After much debate, the student assembly agreed to give Ujamaa \$2,000 for an honorarium, provided at least \$1,000 was returned from ticket receipts. At the time of the threats the group had yet to extend a formal invitation to the speaker, but "reaffirmed their intent to invite him."

"These calls have no effect on the administration's position regarding a possible Farrakhan visit," a university spokesman said. Reported in: *The Middletown Press*, October 11.

Bloomington, Indiana

The dean of students at Indiana University announced a moratorium September 28 on the showing of X-rated movies on campus. The decision to ban the films came in the wake of a controversy over the showing of *Deep Throat* at the Wright Quadrangle dormitory. The fund-raising showing came the same night that the National Organization for Women was engaged in annual "Take Back the Night" protests. NOW condemned the showing.

On October 9, the board of governors at Wright Quadrangle voted to defy the ban. The Presidents' Council of the Residence Halls Association voted to support Wright.

"One thing I'd like to emphasize is that we're not interested in showing an X-rated movie as much as we're interested in having the moratorium lifted," explained Shane Albright, president of the Wright Quad. Other groups, too, called for the moratorium to be lifted because they opposed university censorship. According to Albright, plans called for showing *Last Tango in Paris* if the ban was not ended. Reported in: *Bloomington Herald-Telephone*, September 28, October 10.

periodicals

Boulder, Colorado

After reading that *Penthouse* magazine will make more than \$10 million from nude photos of dethroned Miss America Vanessa Williams, Tom Cruff, trade book department manager for the University Book Center at the University of Colorado, decided to remove *Penthouse*, *Playboy*, *Blueboy*, *Penthouse Forum*, *Playgirl*, *Torso* and *Players' Girl* magazines from bookstore shelves.

Initially, Cruff said he decided to remove the magazines "because they are not really all that interesting and appealing for an academic atmosphere." Later, however, he admitted that the Miss America incident was "the straw that broke the camel's back. I object to the way naked bodies are depicted in these magazines." Asked if he would refuse to sell a textbook with a political point of view he objected to, Cruff said, "I wouldn't remove it for its political content."

The removal won support from student government leaders. "We're delighted," said Jill Hanauer, one of three student council executives. Hanauer admitted,

however, that "one person making a decision is scary."

John Guldaman, an outspoken campus conservative said the decision "raises an interesting censorship question." He vehemently objects to some books being sold in the store for political and personal reasons. But, he asked, "once you begin to take off *Penthouse* and *Playboy*, should you take those books off too? It's a fuzzy area. I think it's probably a good move that isn't going to lead to other issues of censorship. Censorship brings together strange bedfellows, like the religious right and radical feminists," Guldaman observed. Reported in: *Boulder Daily Camera*, August 16.

Cleveland, Ohio

In the generally quiet Cleveland neighborhood of Old Brooklyn, a group of ministers have begun a war on astrology. The controversy began when the Rev. James R. Zinkowich of the Unity Lutheran Church decided to protest the astrology column in the *Old Brooklyn News*. "Horoscopes do a disservice to Old Brooklyn because anti-Jewish," he wrote in a letter to the editor. "Horoscopes to a disservice to Old Brooklyn because they are against God and present a very low view of mankind." He added that his church would not distribute the free monthly publication until the horoscope was removed.

Zinkowich then brought his letter to the Greater Brooklyn Ministerial Association and got the support of other clergy. The Association is the second biggest advertiser in the paper. The paper's publisher, the Old Brooklyn Community Development Corporation, decided to kill the column.

More than 100 people wrote letters to the paper supporting or criticizing the ministers. "People are more concerned about the censorship than the astrology," said editor Sandra Watkins. "They don't want to see the *Old Brooklyn News* turned into a church paper. We let bars advertise. Many churches are against drinking. They don't say anything about that. I'm upset they are censoring the paper. We've been publishing the column for years. What took so long for them to decide it was offending the public?" Reported in: *Cleveland Plain Dealer*, June 14.

Chambersburg, Pennsylvania

When a group of anti-pornography picketers arrived at convenience stores they had targeted for action October 27 they found they had already succeeded in their goal. Sheetz stores in Chambersburg were ordered by their regional manager to pull controversial adult magazines from their racks after the protest was announced the day before. The Rev. Paul D. Marsden, chair of the Franklin County Citizens for Decency

Through Law, said that local 7-Eleven stores had also halted sales.

"From the immediate results, it was a good day," Marsden said. "I don't know if that's a temporary policy. Hopefully, if they keep them off the shelves, we are thankful indeed." Marsden said the CDL would continue to monitor the stores to see if the magazines, including *Playboy*, *Penthouse*, and *Forum*, returned. Reported in: *Hagerstown Herald*, October 28.

Salt Lake City, Utah

The *Deseret News* refused to print three days of *Doonesbury* in early October because the comic strip joked that God was part of President Reagan's reelection campaign. Editor Bill Smart said that the paper pulled the strips because he thought they would offend readers.

"The *Deseret News* is pleased that after 21 months of absence, Garry Trudeau resumes his *Doonesbury* comic strip this week," the *News* said in an October 1 note to its readers. "The first three strips of the new *Doonesbury* will not be published in the *Deseret News*, however. They portray God as an active participant in the Reagan campaign, and we find it offensive to trivialize the deity in this way," the statement added. The paper is owned by the Mormon Church.

Several other newspapers removed *Doonesbury* strips during the election campaign over their highly controversial treatment of the Reagan reelection bid. In West Virginia, the *Intelligencer* of Wheeling pulled the strip because of its "blatantly partisan political nature" and *The Evening Journal* of Martinsburg pulled it because of its treatment of Reagan and blacks. Diane Galante of Universal Syndicate, which distributes the strip, said, "It's the right of every newspaper to run or not to run *Doonesbury*. It's certainly Garry's right to poke fun at political candidates." Reported in: *Philadelphia Inquirer*, October 5; *USA Today*, October 19.

publishing

Downer's Grove, Illinois

InterVarsity Press, which publishes evangelical books, has withdrawn from its list D. Gareth Jones's *Brave New People*, which concerns "ethical issues at the commencement of life," because of heavy pressure from antiabortionists. More than 250 letters were received by the publisher complaining about the book's contention that therapeutic abortion may sometimes be

"the least tragic of a number of tragic options" and that when considering the issue of abortion, Christians should "take serious account of the good of the fetus, the spiritual and human resources of the parents and the help provided by society." The author contends that there is no "biblical warrant" to automatically classify all abortions as murder.

James McLeish, president of Inter-Varsity Christian Fellowship, said he withdrew the book "because it caused confusion." Noting that the book was "being perceived by the Christian public" as supporting abortion, he said he took the action "rather than detract from the campus ministry of reaching students for Jesus Christ to which Inter-Varsity is called." McLeish said it was the first time in the publisher's 43 year history that a book had been withdrawn.

The book's author is professor of anatomy at Otago University in New Zealand and an active evangelical. The book discussed the ethical implications of in vitro fertilization, embryo transfer, genetic engineering and other medical breakthroughs. Though disapproving of most abortions, Jones wrote that some situations involving extreme genetic defects create "appalling dilemmas [that] may be resolvable only by therapeutic abortion. For myself abortion is always a last resort."

Franky Schaeffer, a Christian author and film producer, stated in an open letter to InterVarsity Press that "some might defend such a book by saying that 'all points of view deserve a hearing.' But for Christians who believe in the truth, there is a point beyond which we should not go. There are points of view which should not be heard when wrapped in the pious blanket of so-called evangelical publishing." Reported in: *Christian Century*, October 1984; *Moral Majority Report*, October 1984.

bookstores

Philadelphia, Pennsylvania

A gay bookstore, Giovanni's Room, has become a target of threats and harassment as the result of actions by a group of lesbian feminists critical of a pamphlet stocked by the store. The controversy began when the group began to circulate a petition demanding that Giovanni's Room "not carry any titles that are in contradiction to the fundamental tenets of our community." But when a member of the group gave the pamphlet, which deals with pedophilia, to City Council member Joan Specter, the stakes were raised considerably.

Specter went to the press, demanding the store be investigated for possible criminal violations. Giovanni's

Room then received death threats and hundreds of obscene phone calls. A local radio station organized a demonstration against gays at the store. A rock was hurled through the store's window. The pamphlet's publisher, David Sonenschein, a former researcher at the Kinsey Institute, was fired from his job and charged with obscenity for selling the book.

A group called Lesbians & Gays Against Censorship was formed to defend the bookstore and the principle of free speech. In a leaflet, the group declared: "Our desires are not identical. Intergenerational sex, the topic of the controversial pamphlet, is one of many different sexualities within gay life. Women have a painful history around childhood sexuality and are the overwhelming victims of sexual abuse and force within and outside the family. But all lesbian feminists as well as gay men have a vital stake in protecting and supporting debate about our various sexual histories and feelings.

"Open access to material for critical discussion among us remains essential. But some members of our community want to control and censor what is available to the rest of us. . . . No one part of our community can afford to decide for the rest of us what is really 'lesbian feminist' and what is not. . . .

"With this attack, we in the larger gay community become vulnerable too. The basic issues of freedom of speech and press are central to our lives. To most of America, there is little difference between pedophilia and lesbianism. . . . We cannot become our own censors, or draw the state or the New Right into debates that must continue among us as gay people. Our civil liberties are delicate, and must be safeguarded." Reported by Lesbians & Gays Against Censorship.

art

San Diego, California

One of 120 drawings scheduled for display in a Women's Opportunities Week exhibition at the San Diego County Administration Building was withheld from the exhibit because of an unwritten policy banning exhibition of nudes in the building. Bonnie Rundle's charcoal drawing "Nude Study for Painting" had been awarded an honorable mention in the show.

Calling the policy "a rather foolish idea," the artist, a court clerk, said, "Some of the world's greatest art is nudes, but apparently they don't really see it that way." The self-censorship policy went into effect in 1983 after Supervisor Paul Fordem objected to art displayed on the fourth floor of the county building. Reported in: *Chula Vista Star News*, October 18.

Belleville, Illinois

An exhibit by eight artists at Belleville National Bank came to an abrupt close in November because a bank official removed a sketch of a nude considered too explicit for the area's tastes. The removal of the sketch by Douglas Eskra prompted the seven other artists in the exhibit to remove all their works in protest. As a result, the show shut down the day after it opened. "As far as I know, there were no adverse comments, but they were anticipated," Roger Scherck, chair of the Belleville Arts Commission, said November 12. Reported in: *Chicago Tribune*, November 14.

Chicago, Illinois

Complaints by business tenants about oil paintings containing nudity caused a hasty removal of an art exhibit from the lobby of the Three Illinois Center building on Wacker Drive in downtown Chicago. The banned artist, Dan Gustin, an instructor at the School of the Art Institute, said he showed up to photograph his newly hung exhibit and found it dismantled.

"It's amazing they struck that much of a chord," Gustin said. "There's nudity in them, but you wouldn't call them overtly sexual at all."

Eileen Moss of Illinois Center Realty, who worked with curator Dennis Adrian to select art for the building, called the paintings "fantastic," but she said the complaining tenants thought they were "inappropriate" for an office building "and we were in agreement with them." Reported in: *Chicago Sun-Times*, September 28.

Lincoln, Illinois

The Lincoln city council invoked an obscenity ordinance to outlaw public display of a van with life-sized paintings of nude women on its side panels. David Rexroat, the artist and van owner, said he would place magnetic bikinis on the paintings while within city limits.

"I'm proud of what I did and not ashamed of the art or resentful of the council," Rexroat said. "The council's intentions were good, but so were mine. If this had been in another town the paintings wouldn't have gotten this reaction."

City attorney Gerry Dehner said the council took the action September 25 because "the display is inappropriate. So he has been asked to keep the van out of the city or keep it clothed. We're not saying it isn't art, but that it's inappropriate." The city ordinance states something has to be deemed inappropriate or lack artistic value to be obscene. Reported in: *Chicago Tribune*, September 29.

record burnings

Bowie, Maryland

"I'm the father of four," said pastor Ken Bertram, looking at the crowd gathered at the Cornerstone Assembly of God Church in Bowie October 17. "And I'm not going to sit around and watch my children take into their bodies and minds something poison and not make some kind of drastic effort to stop this."

With that, Bertram helped ignite a small pile of record album covers, pamphlets, books and posters brought by those who had heard his plans for a burning, for a "public commitment to Christ." The burning was inspired by the visit of minister Jerry Peters, whose traveling anti-rock seminars have triggered numerous such incidents throughout the country.

Albums by Peters' main target the previous evening, popular rock musician Prince, were missing from the flames, however. Instead, it was mostly old albums by the likes of Jethro Tull, Iron Butterfly, Elton John, Buck Owens, Hank Williams, George Jones, Elvis, the Beatles and Barbara Striesand. Also heaped on the fire were Engelbert Humperdinck, Tom Jones, Dean Martin and even Donny and Marie Osmond. Among the books destroyed were volumes by Philip Roth, John Hersey and Tom Wolfe.

"I am just a Christian," explained Paul Dafenbaugh, who assisted at the burning and claimed to be unaware of the kinds of materials fed to the fire. "Basically, we're just going to ignite all of this garbage," he explained.

Frank Bogazzyk, age 12, and his friend, Paul Swick, age 13, both church members, also paid little attention to the titles of the record albums. "The records stand for wrong things," Bogazzyk said. "They all stand for wrong things. All records that are not Christian records, that are rock, are wrong." Reported in: *Washington Post*, October 18.

foreign

Calgary, Canada

The Hoax of the Twentieth Century, by Arthur R. Butz, published by the Institute for Historical Review (see page 1), which claims that the Nazi "Holocaust" against the Jews never happened, was removed from the shelves of the University of Calgary library by the Royal Canadian Mounted Police in August. Import of the book was banned, after the university bought its copy, under a Canadian law barring import of materials considered seditious, treasonable, immoral or indecent. The

seizure came after a complaint was filed by B'nai B'rith.

Alan McDonald, director of libraries at Calgary, appealed for the book's return in the name of intellectual freedom and "the responsibility of the university and other educational institutions to make available all materials of an intellectual nature regardless of their viewpoint." The Library Association of Alberta also condemned the seizure. Reported in: *Library Hotline*, October 1.

Ottawa, Canada

The Canadian government banned imports of additional copies of *Penthouse* magazine's December issue because it contained material that government officials called "immoral and indecent." The government objected to a ten-page pictorial depicting women bound tightly with thick ropes and hanging from trees. The issue had previously been permitted entry, but that decision was reviewed when complaints were received about the pictures. Police departments in various Canadian cities asked stores to remove from their shelves copies of the issue imported before the ban was announced.

In a related development, the censorship of imported sex magazines was extended to lesbian and gay publications. The magazines *Torso* and *First Hand* reportedly had their Canadian editions published with the word "censored" running across blank pages which would have featured stories and advertising copy. The Canadian Prohibited Importations Unit said the content was "just individuals expressing sexual adventures" with no "redeeming value." Reported in: *Wall Street Journal*, November 13; *Equal Time News*, October 17.

Toronto, Canada

For the second time in a year, a court ruled that actions by the Ontario Censor Board violated Canada's new constitution. Ontario Country Court Judge Douglas Bernstein ruled October 11 that seizures by censor board inspectors of two British art videos from Toronto's A Space Gallery violated constitutional guarantees of freedom from illegal search and seizure.

Earlier in the year, both the Ontario Supreme Court and the Ontario Court of Appeals said that while the censor board is legal, its "community standards guidelines" violate provisions added to the constitution two years ago.

Various art galleries had been protesting censor board actions which assumed responsibility for viewing art videos. Some galleries had refused to submit the videos for approval and these were subsequently seized from screenings. Bernstein said that while it is permissible for the board to obtain search warrants in advance, the board should have "a more rigorous test of reasonableness." Reported in: *Variety*, October 17.

Santiago, Chile

Chilean military ruler Augusto Pinochet Ugarte shut down the opposition press and imposed prior censorship November 7 as one part of an official state of siege announced the preceding day. About twelve hours after the censorship was declared, squads of police went from newsstand to newsstand in Santiago confiscating issues of *Analisis*, one of six publications which was immediately shut down indefinitely. Among the magazines which were closed were some of the most popular in Chile, including the largest circulating periodical, *Cauce*.

Under the provisions, any news that could be deemed political had to be submitted for review before publication or broadcast. Reporters said the tough measures would make it difficult for Chileans to receive anything but news approved by the government. "This is a government that is afraid of what the people are thinking and feeling," said Pablo Portales, president of the Metropolitan Council of the College of Journalists.

After coming to power in 1973 military coup against the elected government of Salvador Allende, Pinochet tightly reined in the press. Television stations and major newspapers have adhered closely to government thinking and editors have frequently been jailed for subversion, but in recent years the press had begun to operate with a somewhat greater measure of freedom. When protests against military rule began last year, Pinochet eased up on the media, but as the press became more aggressive, the government again turned to censorship. Reported in: *Christian Science Monitor*, November 9.

London, England

On October 8, HM Customs & Excise, the British customs office, served 16 seizure notices, covering 132 titles and 2,265 volumes, on Gay's the Word bookstore in London. It was the third seizure notice of the year since the shop itself and the homes of its directors were raided by customs agents in the so-called "Operation Tiger" on April 10. Consignments under seizure notice were valued at over £10,000. In addition, it was reported that customs officers seized "indecent or obscene" books, especially on gay or lesbian subjects, at ports of entry, including imported titles freely published and sold in the United Kingdom.

Among the titles seized in October were: *Iolous: An Anthology of Friendship*, by Socialist pioneer and open homosexual Edward Carpenter, which was not suppressed when first published in London in 1902; *A Thirsty Evil*, by Gore Vidal; *Ryder*, by Djuna Barnes, originally published in the 1930s; *Saint Genet*, Jean-

(Continued on page 26)

from the bench



U.S. Supreme Court

The Supreme Court, which in its last session ruled that a city may have a religious Christmas display if it wants one (see *Newsletter*, May 1984, pp. 77-9), on October 15 accepted a related case. The court agreed to decide whether a city that chooses to bar a nativity scene from public property may nonetheless be required to permit one.

The Scarsdale, N. Y., Village Board asked the justices to overturn a ruling by a federal appeals court that the village, in keeping with the constitutional right to free speech, had to allow a group of residents and churches to put up a creche in a downtown park for two weeks of the Christmas season.

The Scarsdale Village Board had permitted the private group to erect the nativity scene in the park for twenty-five years. In the face of mounting controversy over the religious symbol, however, the board voted in 1981 to withdraw permission. The group sued and lost in federal District Court in Manhattan. Several months later, the Supreme Court ruled in *Lynch v. Donnelly* that a creche displayed by the city of Pawtucket, Rhode Island, was not an unconstitutional "establishment" of religion. Applying that ruling, the U.S. Court of Appeals for the Second Circuit overturned the district court's decision (see *Newsletter*, September 1984, p. 149).

The appeal of the case, *Board of Trustees v. McCreary*, requires the court to examine the constitutional dimensions not only of symbolic religious expression, but of symbolic speech generally. The court may also have to further explain its decision in the Pawtucket case and to say whether some key factual distinctions

between the two cases should make any difference. In Pawtucket, the court found that the display had not caused community divisiveness, while in Scarsdale the creche was the subject of an increasingly bitter debate. Reported in: *New York Times*, October 16.

political expression

Washington, D.C.

A federal appeals court held October 26 that "the security of the President and the esthetics of the White House view" justified federal regulations limiting demonstrations on the sidewalk in front of the White House. Reversing a lower court ruling that the regulations violated protestors' First Amendment rights, the three-judge panel upheld some rules as reasonable precautions against bombings and terrorist attacks. It said others helped prevent obstruction of the view of the White House seen by tourists and television cameras.

The regulations restrict the size of the signs used on the sidewalk. They prohibit using large plywood signs, leaning signs against the White House fence and leaving packages unattended on the sidewalk. They also require demonstrators in the central twenty yards of the sidewalk to keep moving with their signs.

The majority opinion, written by Judge Malcolm R. Wilkey and joined by Judge Kenneth Starr, said these were permissible restrictions on "the time, place and manner" in which protestors could exercise their rights to speak and assemble. Judge Patricia M. Wald, dissenting in part, said that most of the regulations were constitutional but that some went beyond what was necessary for security. She said the regulation to keep the central sidewalk free of stationary signs was invalid because it smacked of an effort to suppress the speech of "vociferous demonstrators at the very gates of the White House."

The National Park Service regulations that were upheld by the court had been in effect for more than a year. Earlier, the appeals body stayed federal District Judge William B. Bryant's April decision which found them unconstitutional. Judge Bryant said the demonstrators' activities posed no direct threat to the president's safety (see *Newsletter*, July 1984, p. 114).

Arthur B. Spitzer of the Washington ACLU, which sued to invalidate the regulations on behalf of individual demonstrators and organizations, said an appeal would be considered. "Our view is that these regulations were enacted to make it difficult to demonstrate in front of the White House and to clear away 'undesirable' demonstrators, and do not truly

serve any security purpose at all," Spitzer said.

Judge Wilkey, however, said the regulations "leave unaffected a multitude of possibilities for meaningful protest on the sidewalk and within a few yards in adjoining areas," while serving the goals of making it more difficult to use signs or parcels as weapons, to scale the fence or to conceal weapons. Wilkey also cited a Supreme Court decision in June upholding a ban against sleeping in tents in Lafayette Park, across the street from the White House, and on the Mall.

"The government's interest in preserving a relatively unobstructed view of the White House for tourists and passers-by constitutes a legitimate esthetic goal which is not outweighed by the insubstantial infringement on the demonstrators' ability to engage in expressive activities," Judge Wilkey further noted. Reported in: *New York Times*, October 27.

Boston, Massachusetts

Controversial actress Vanessa Redgrave won \$100,000 November 9 in her breach of contract suit against the Boston Symphony Orchestra. The federal grand jury which made the award, however, rejected her claim that the orchestra had violated her civil rights by canceling her scheduled performances as narrator of Igor Stravinsky's *Oedipus Rex*. Both Redgrave and the orchestra claimed victory in the decision. "If the jury had found for the Boston Symphony Orchestra, no job would be safe," Redgrave said.

The jury found that Redgrave's firing had damaged her career, but that the orchestra management had acted because of community pressure and not because of Redgrave's political beliefs, although the pressure came as a result of the actress' politics. Redgrave, an avowed Trotskyist, is widely known as a supporter of the Palestine Liberation Organization.

Redgrave testified that her political views had never adversely affected her career until the orchestra canceled her \$31,000 contract to narrate *Oedipus Rex* in April, 1982. She told the court that she couldn't get work and earned no money as an actress for fourteen months after the cancellation. Although she admitted to receiving numerous death threats and to hiring a bodyguard in 1978 and again from 1980 to 1983, the actress stated that she had never appeared in a theatrical performance that was disturbed by political agitation.

At the trial, Peter Sellars, hired by the orchestra to stage *Oedipus Rex*, testified that while silence is desirable as a backdrop for music, audible audience protest is "not lethal." He said that had police been needed to keep order, he might even have worked them into the production and that this might even make the opera "more life-like."

"Across the course of musical history there is a rich history of disruption," Sellars testified. He also described the dangers to artistic freedom that might result if a major cultural organization such as the Boston Symphony Orchestra canceled a performance because part of the audience disagreed with the political beliefs of an artist involved. "Canceling performances is a dangerous precedent," he said. "If the Boston Symphony acts this way, no artist is safe"

Sellars testified that Thomas W. Morris, orchestra general manager, asked him if he would agree to stage the opera with a different narrator. He said that at first he agreed, but later the same day changed his mind and told Morris, he testified, that it would be morally wrong to remove Redgrave because of her political beliefs. Reported in: *Variety*, October 31, November 7, 14.

Newark, New Jersey

A federal judge in Newark refused September 21 to overturn laws against nighttime canvassing in 23 Bergen, Passaic and Morris county communities. The action was sought by environmentalists to campaign against officeholders whose policies they opposed.

U.S. District Court Judge Harold Ackerman told an attorney for New Jersey Citizens Action that he would schedule another hearing on the matter, but he added, "I can say that your probability of success in this case is extremely slight." The group sought emergency action to temporarily overturn curfews in the three counties. "The ruling is a travesty for the First Amendment and for the citizens of New Jersey," said Richard Kirsch, codirector of the organization.

The group argued that it should be able to canvass door to door at night because it depends on contributions and most people are not home during the day. The solicitation laws, which often include a provision that canvassers be fingerprinted and photographed by local police, violate the First Amendment, the group asserted.

In an earlier hearing on a related case, Judge Ackerman temporarily suspended curfews in two towns, calling the laws "unduly burdensome." But Ackerman said that he had no choice but to follow a higher court opinion of September 10, holding that similar restrictions in four Pennsylvania communities were constitutional. "I might not agree with the court's logic, but I have to go along with it," the judge explained.

That opinion, by a three-judge panel of the U.S. Court of Appeals for the Third Circuit, stemmed from a suit filed by the Pennsylvania Alliance for Jobs and Energy against the towns of McCandless, Moon, Munhall and Richland. The appeals court held that the curfews were constitutional as long as they were applied evenly and the group had other means—such as daytime canvassing—of getting its message across.

Frank Askin of the New Jersey ACLU said the hearing was to have been a prelude to a class action suit against 80 New Jersey towns with nighttime canvassing bans. But he said the suit will not be filed until an appeal of the Pennsylvania ruling is decided. Reported in: *Hackensack Record*, September 23.

Buffalo, New York

State University of Buffalo law students, hoping to protest President Reagan's policies, won a last-minute order in U.S. District Court September 12 allowing them to display picket signs on sticks in the area where the president made a campaign appearance. Earlier, law enforcement agencies informed the students they could only carry banners, not picket signs on poles.

U.S. District Judge John R. Elfvin ruled that the U.S. Secret Service may not prohibit "sticks" on a blanket basis, but could restrict their proximity to the president. Ellen Yacknin of the National Lawyers Guild, who argued the First Amendment question on behalf of the students, then drafted a formal written order for his signature. Judge Elfvin, a Republican, said the Secret Service could prevent the use of signs on sticks only within a limited cordoned off area. Reported in: *Buffalo News*, September 12.

freedom of information

Washington, D.C.

U.S. District Court Judge June L. Green has ordered the Central Intelligence Agency to make public fifteen classified documents dealing with the origins and planning of the Reagan administration's program supporting the "contra" rebels in Nicaragua. In a decision made October 16, Green said administration officials had publicly acknowledged the officially secret program in ways that "are sufficiently 'deliberate' and 'conscious' to bring the requested information in the public domain." The CIA, which argued that disclosure would reveal the program, was permitted by the ruling to withhold employees' names and titles in the documents.

If the ruling is not appealed, it would make public papers which "described or authorized CIA 'covert operations in Central America which were approved by President Reagan between August 6, 1981 and August 6, 1982.'"

"This is the first time the CIA has ever been ordered to release documents on a current covert operation," said Jay Peterzell, attorney for the Center for National

Security Studies. The center won the ruling under the Freedom of Information Act. "The ruling establishes the principle that documents about current covert operations, if they're being talked about on the record by senior officials, are subject to the FOIA," Peterzell said.

Green first ruled in favor of the CIA last April, finding that newspaper articles and official administration statements did not constitute an "official acknowledgement" of the various programs. The judge agreed to reconsider her ruling on fifteen documents pertaining to Nicaragua when the center submitted evidence that the administration had publicly admitted the program's existence on eighteen occasions since her April verdict. These included statements in the Congressional Record, excerpts from a Reagan news conference, and statements by CIA Director William Casey and Reagan press representative Larry Speakes.

"The administration has been having it both ways on Nicaragua," Peterzell said. "On the one hand it refuses to answer pointed questions on the purpose of the operations and whether what is going on is consistent with those purposes, saying they can't talk about covert operations. But when it's of political benefit, they talk about it."

Green held, however, that "publicly known information cannot 'reasonably' be expected to damage national security." Reported in: *Washington Post*, October 20.

Oceanside, California

The California Court of Appeal for the 4th District ruled September 24 that an Oceanside newspaper could see an edited version of an Oceanside Police Department report about a high school principal's alleged failure to report a child sexual abuse incident. In reversing Superior Court Judge Lawrence Kapiloff, the appellate court ruled unanimously that Kapiloff should examine the report before turning over an edited version to the *Oceanside Blade-Tribune*. In refusing to release the report, Kapiloff had ruled it was legally protected from disclosure. The original complaint in the case came from a minor concerning sexual activity by a high school band director with female students. Reported in: *San Diego Union*, September 26.

privacy

Washington, D.C.

The Supreme Court "has listed as illustrative of the right to privacy such matters as activities relating to marriage, procreation, contraception, family relation-

ships, and child rearing and education. It need hardly be said that none of these covers a right to homosexual conduct." So ruled two justices of the U.S. Court of Appeals for the District of Columbia August 17 in the case of *Dronenburg v. Zech*. The court upheld the discharge of a Navy petty officer for homosexual activity.

"The penumbral right [to privacy] has no life of its own as a right independent of its relationship to a First Amendment freedom," wrote Justice Robert Bork. "Where that relationship does not exist, the penumbral right evaporates." Referring to the high court's 1973 decision on a right to privacy protecting abortions, Bork said, "Though the Court gave an illustrative list of privacy rights, it also denied that the right was as broad as the right to do as one pleases with one's body."

Bork's decision was joined by Judge Antonio Scalia, a former University of Chicago professor who served in the Ford administration and was appointed to the bench by President Reagan. Bork, a former Yale scholar who was Solicitor General under President Nixon and also a Reagan appointee, has been widely considered a possible candidate for appointment to the Supreme Court should a vacancy on the high court become available during the second term of the Reagan presidency. Reported in: *Privacy Journal*, September 1984.

prisoners' rights

Jackson, Michigan

Because homosexual inmates praying together could be identified by violent, predatory prisoners and that would undermine discipline, prison officials can ban their congregational worship, the U.S. Court of Appeals for the Sixth Circuit ruled September 11. The decision arose from a 1977 suit by Jackson State Prison inmates who belonged to the Metropolitan Community Church, a Christian denomination with special outreach to homosexuals.

Prison officials recognized the church in 1976 and allowed its ministers to meet with inmates and mail them religious literature. But congregational worship was banned because it would identify targets for stronger, predatory prisoners who use homosexual assault to maintain the inmate hierarchy, officials testified. Prisoners claimed the ban violated their First Amendment right to religious freedom and their Fourteenth Amendment right to equal protection because inmates of other faiths and their churches, which were not supportive of the spiritual needs of homosexual inmates, had congregational worship.

"It's complete and total balderdash and evidence of a paranoid fear of homosexuality," said John Wahl, San Francisco attorney for the gay inmates, in response to the ruling. "We're going to the Supreme Court of the United States." Wahl said the inmates themselves were not afraid of being singled out. Reported in: *Cincinnati Enquirer*, September 12.

shopping malls

Paramus, New Jersey

Ruling that shopping malls have become the town square for suburban communities, Superior Court Judge Paul Huot ordered the Bergen Mall to allow nuclear freeze advocates to distribute literature to shoppers. "The shopping center is the functional equivalent of a town center," Huot wrote in a decision released October 15. "As such, the public has an interest in preserving its freedom of speech and association, subject to reasonable regulation."

Huot noted that the New Jersey Supreme Court and the state Constitution guarantee individual free speech rights "with exceptional vitality" that is more sweeping than even the First Amendment. He ruled that the managers of the Bergen Mall had failed to justify the need for restrictions they had placed on when, where, and how often leaflets could be distributed in the mall.

In his decision, Huot pointed out that the Bergen Mall contains stores, theaters, a bowling alley, banks, barbershops, a post office and a Roman Catholic chapel. He also noted that the mall hosts promotional events and community activities, such as a college fair.

The case began in November 1983, when the ACLU filed suit on behalf of two nuclear freeze activists. Mall officials had told them they could distribute materials only once a month and only in a spot by one entrance. In January, Superior Court Judge Sherwin Lester altered the restrictions slightly (see *Newsletter*, January 1984, p. 18; March 1984, p. 52; May 1984, p. 80). Reported in: *Hackensack Record*, October 16.

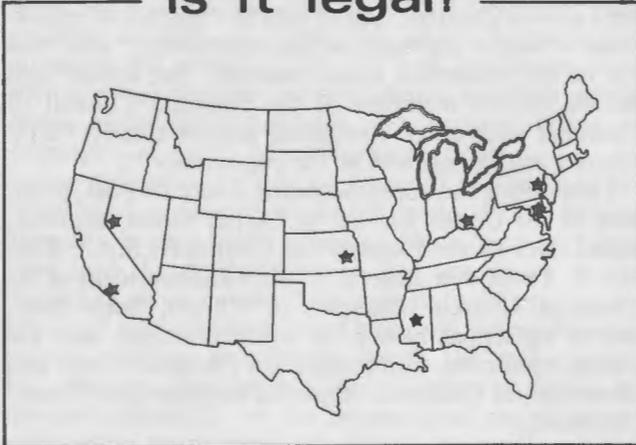
signs

Cobb County, Georgia

A Cobb County law that severely restricted the use of portable signs because they are unsightly was struck down in U.S. District Court August 21 as unconstitutional. Federal Judge Charles A. Moye granted a per-

(Continued on page 29)

is it legal?



new technology

Los Angeles, California

On May 16, police raided the Los Angeles home of Thomas G. Tcimpidis and seized his personal computer data storage devices. The resulting case has ignited a national debate that could influence the future of computer-aided communication and electronic publishing.

Tcimpidis was using his home computer as a high technology version of the supermarket bulletin board. Other computer operators could connect their computers to his over the telephone at no charge and post messages or read those left by others. But at least one message contained telephone credit card numbers that had been obtained without authorization. Tcimpidis was charged with "knowingly and willfully publishing" the numbers with the intent they be used to avoid telephone charges.

Tcimpidis, who entered a plea of not guilty November 6, contended that the numbers were entered on the bulletin board by someone else, and that he did not knowingly publish them. Many operators and users of such computer services are rallying to Tcimpidis' defense, convinced that if he is held responsible for what others typed on his board, it will have a chilling effect on a new and unique means of communication.

"I see the Tcimpidis case as a very important case of national interest," said Paul Bernstein, a Chicago lawyer and bulletin board operator. "The technology is so new, why do we stop innovation, creativity and

free speech so early in the game?"

Those who argue that computer bulletin boards should be as free of censorship as possible stress the unique power of the medium. Electronic bulletin boards are already giving rise to a cottage industry of electronic publishers, people who produce homespun newsletters, opinions or creative writing which they distribute electronically. "We have the opportunity to have a new kind of freedom of speech," said Richard M. Neustadt, a communications lawyer and author of a book on the legal aspects of electronic publishing. "This technology has recreated the days of the pamphlets."

A major question raised by the Tcimpidis case is who is responsible if information provided by such electronic distribution is libelous, criminal or obscene. That depends to some degree on whether electronic publishing is to be governed by the laws covering newspapers, or the laws covering phone service, or different laws altogether. If bulletin boards are merely distributors of information, like the phone companies, then an operator cannot be responsible for the content of the messages. But if the board is a publication, then its owner would be responsible, just as a newspaper is responsible, for what it prints.

The Supreme Court has already agreed to hear a somewhat similar case involving the Dun & Bradstreet Co., which publishes data on the creditworthiness of companies. Dun & Bradstreet was sued for libel by a Vermont company after it erroneously reported on its computer bulletin service that the company had filed for bankruptcy. In another case which has not come to court, a neo-Nazi group is using a computer bulletin board in Idaho to distribute its literature in Canada. Such literature cannot be imported or sold in Canada in printed form, but it is unclear whether the authorities can act against the same material transmitted electronically.

The Knight-Ridder Corporation, which includes a bulletin board as part of its Viewtron videotext service in south Florida, considers itself responsible for everything on its system, just as it is responsible for everything in the newspapers it publishes. The company screens all messages, deleting not only obscene ones, but also those judged to be in "bad taste." But some subscribers are accusing the company of censorship. Other computer information services with message boards, like Compuserve, the Source and the Times-Mirror Company's Gateway service, do not screen messages in advance but will remove ones against which complaints have been made.

The Tcimpidis case is already having an effect on computer bulletin boards around the country. Tcimpidis' own board now presents anyone logging on with a warning that "illegal, obscene or abusive messages on our files will not be tolerated." He will soon start charg-

ing a fee and limit access to approved subscribers. "Unfortunately, because of the abuses that are taking place, it looks like that may be the way people are going to have to go," he said. "It will have a chilling effect. It already has." Reported in: *New York Times*, November 12.

fairness doctrine

Washington, D.C.

A decision by the Federal Communications Commission denying church officials time to reply to accusations made by a CBS *60 Minutes* telecast is being challenged in federal court by leaders and agencies from five major churches. The FCC denied a petition by the five in which they sought air time under the commission's personal attack rules and the "fairness doctrine." In its ruling, the FCC said the show was not about "a controversial issue of public importance" and thus not subject to the right of reply under the rules.

The five churches said the program, "The Gospel According to Whom?," attacked their honesty and integrity by asserting that their denominations were supporting revolutionary groups in the third world. During the program, unnamed church leaders were accused of "telling lies" about church programs and the use of church money, and it was suggested that the church councils and leaders supported international communism by using contributions of unsuspecting members to purchase guns for African revolutionaries.

The appeal, however, was not based on these statements, but on CBS's and the FCC's decision that the program did not concern a controversial issue of public importance. In a 37-page brief filed with the U.S. Court of Appeals for the District of Columbia, the church leaders said the subject of religion and politics is so controversial that it dwarfed other issues in the presidential election. The church leaders cited the FCC's 1974 Fairness Report definition of importance, which included "the degree of attention paid to issues by government officials, community leaders and the media."

The brief quoted both President Reagan and Walter Mondale on the importance and controversial nature of the issue in challenging the FCC's assumption. Also demonstrating significant public controversy, the plaintiffs said, is the fact that the activities criticized by *60 Minutes* had been discussed in congressional hearings and were debated in the secular press and in churches throughout the country.

They also sought to rebut the FCC's statement that the Fairness Doctrine applies only to "matters of importance to major segments of the community," and thus not to the concerned denominations. The appeal said the 40 million members of the National Council of Churches and other concerned groups clearly "constitute a major segment of the community."

Those filing the appeal included Avery D. Post, president of the United Church of Christ; James Andrews, stated clerk of the Presbyterian Church (U.S.A.); Kenneth L. Teegarden, general minister and president of the Christian Church (Disciples of Christ); John Burt, retired Episcopal bishop of southern Ohio; and the United Methodist Commission on Christian Unity and Interreligious Concerns. Reported in: *New York Times*, October 2.

obscenity and pornography

Washington, D.C.

A U.S. Senate bill introduced just before Congress adjourned would provide federal sanctions for civil cause of action for anyone claiming personal injury as a result of having been coerced or duped into performing in pornographic films or in modeling for pornographic still photos published in sex magazines. The measure was introduced by Sen. Arlen Specter (Rep.-Pa.), chair of the Subcommittee on Juvenile Justice of the Senate Judiciary Committee.

Under the Specter bill, for example, if dethroned Miss America Vanessa Williams had contended she was coerced into posing for the pictures later published in *Penthouse*, she would be permitted to institute a damage suit in federal court on the basis of claimed personal injury. The same cause of action would be open for anyone alleging that he or she engaged unwillingly in sexual acts for pornographic feature films.

The proposal drew early opposition on constitutional grounds from the Adult Film Association of America and the American Civil Liberties Union. Reported in: *Variety*, October 31.

Jackson, Mississippi

With appropriate irony, the Jackson City Council chose Banned Books Week to announce a proposed new obscenity ordinance. By a unanimous vote, the council approved the measure September 25. It was scheduled to go into effect in thirty days, but a court challenge was expected to delay enforcement.

A similar ordinance was proposed by the City Council three years earlier, but after protests from library and museum officials no action was taken. Libraries and museums are exempt under the new ordinance along with schools, churches, medical clinics, hospitals, physicians, government agencies and persons acting as employees or agents of such organizations.

The ordinance defines the crime of obscenity as the intentional exposure of certain parts of the human anatomy in any public place or place open to public view and the participation in live sex shows or the display of sexual conduct that appeals to the prurient interests of average persons and lacks any serious literary, artistic, political or scientific value. The measure forbids the sale, distribution, advertisement or display of obscene materials, or the preparation, manufacture, publication or printing of obscene material and the solicitation or enticement of an unmarried person under 17 years of age to commit any prohibited act.

Dewey Edwards, owner of Fernwood Books and Video, said he would challenge the ordinance. His attorney, Robert Brantley, said, "We are proceeding to federal court with all deliberate speed seeking an injunction against the ordinance. We plan on having it heard prior to the ordinance going into effect.

"We haven't finalized our attacks on the ordinance. It has a number of what we perceive to be constitutional difficulties. We will be addressing all or a number of them. We are not going to commit ourselves on which particular issue until we finalize the proceedings."

Several other Jackson booksellers expressed "concern about the eventual application of the ordinance," calling it "a vague law that if somebody wanted to find something obscene they could find it." "I personally don't believe in censorship," said John Evans of Lemuria Book Store. "Anytime you pass something like this, I think you open yourself up to vigilante committees."

The ordinance was also opposed by the American Civil Liberties Union of Mississippi, which said: "While the ACLU condemns the sexual exploitation of women and children for commercial purposes, it must oppose the Jackson ordinance as establishing censorship of controversial materials which are protected by the First Amendment. This broadly drawn ordinance permits official censorship of controversial materials with sexual content by the city of Jackson in violation of the First Amendment rights of free speech and free expression."

To the south, the Hattiesburg City Council approved another anti-obscenity ordinance September 4 after a theater there showed *Bolero*, the sexually explicit movie starring Bo Derek. Reported in: *Jackson Clarion-Ledger*, September 26.

Tupelo, Mississippi

According to a Tupelo city ordinance passed in 1955, most motion pictures being made today cannot be shown in the city. It shall be unlawful, explains the ordinance, for any person to sell, exhibit or give away anything in which there is featured an act of crime. "Historical accounts" and newspapers are exempt.

The ordinance explains in detail the crimes which are illegal to depict. They include assault, rape, murder, kidnapping and malicious mischief. Also included in the ordinance are things "calculated to create in the minds of readers or hearers disgusting, obscene, lewd, lascivious, filthy or indecent thoughts and conclusions in any manner associated with lust and crime." Violators are subject to a fine of not less than \$50 and not more than \$100 and jail terms of no more than thirty days. Reported in: *Tupelo Daily Journal*, September 19.

libel

Reno, Nevada

The McClatchy newspaper chain, which includes the Sacramento, Fresno and Modesto, California, *Bee* papers, filed suit in federal court in Reno October 15 asking \$6 million from Senator Paul Laxalt (Rep.-Nevada) in a counterclaim against the senator's libel action against the newspaper chain. The newspaper chain charges that the Laxalt libel suit was filed with the intention of limiting discussion about him, not as a real attempt to gain damages. This is an infringement of the constitutional rights of those the senator sued, the counterclaim says.

The senator's suit was filed September 21 in state court in Carson City, Nevada, but was transferred to federal court in Reno on a motion by the McClatchy lawyers on the basis of diversity of state citizenship. Laxalt charged that he had been libeled by reports in the McClatchy papers of his alleged ties with organized crime. Reported in: *New York Times*, October 16.

publishing

Philadelphia, Pennsylvania

A federal grand jury investigation of Antoni Gronowicz, author of a book about Pope John Paul II that was withdrawn by its publisher as fraudulent, is an encroachment on free expression, the Philadelphia ACLU and the Authors League of America have charged. The two groups issued a joint statement November 13 protesting a subpoena issued for

Gronowicz and documents and photographs used in producing his book, *God's Broker*. "It is not the function of the U.S. government or its grand juries to investigate the accuracy of books or other media of expression," the statement said.

Gronowicz claims the book is based on interviews with the pope. Vatican officials deny the interviews took place. *God's Broker* was recalled in August by its publisher, Richardson & Snyder, four months after it went on the market. The publisher called the book "fraudulent" and said it contained quotations that were not genuine.

The grand jury is considering mail fraud allegations against Gronowicz. The author refused to produce the subpoenaed documents and the U.S. attorney's office in Philadelphia moved October 31 to have him held in contempt of court.

The Authors League and the ACLU called the investigation an "inquisition . . . one of the most deplorable efforts at thought control ever attempted in the United States. A grand jury inquiry into the truth or falsity of statements made by an author in a published work is an act of censorship that flouts the spirit and letter of the First Amendment." The groups said an order requiring authors to turn over materials "to satisfy the jury and the prosecutor that the books are accurate . . . is bound to have a chilling effect on freedom of expression."

Barry Steinhardt, executive director of the Philadelphia ACLU, said the groups took no position on whether *God's Broker* is accurate. "If it can be mail fraud to distribute a book which may contain inaccuracies, then no author will be exempt from investigation and every author will have to live in fear of the heavy hand of federal government censors," he said. Reported in: *Washington Post*, November 14.

political expression

Cincinnati, Ohio

Eleven Cincinnatians whose protest signs were seized at a Reagan-Bush campaign rally August 20 dropped a request for an injunction October 10 when Justice Department officials pledged that similar signs would be permitted at future rallies. The plaintiffs, however, did not drop demands for damages for the sign confiscations.

Nine days after the signs were taken, presidential press secretary Larry Speakes confirmed that the removal order originated in the White House. Speakes said there were two reasons for the confiscation of all

signs—pro- and anti-Reagan—not previously approved by rally organizers. First was a Secret Service decision to remove poles or sticks that could be used as weapons or hurled. The second was a White House decision that since the campaign had obtained a permit for the rally it was not a violation of First Amendment rights to banish unapproved signs. City and police officials, however, branded the action wrong and, perhaps, criminal. Reported in: *Cincinnati Enquirer*, August 23, 29, October 11; *Cincinnati Post*, August 23, 24, 29, October 11.

access to information

Washington, D.C.

The Open Government Project of Public Citizen, Inc., a citizen watchdog group founded by consumer advocate Ralph Nader, published a 70-page report in August criticizing Secretary of Agriculture John Block for crippling his department's nutrition information programs. The report charged that Block abolished the Human Nutrition Center, a central agency that linked research to the development of education programs; cancelled funding for the distribution of free publications; failed to fill the position of Nutrition Coordinator; and stacked advisory committees in favor of the food industry while excluding public representatives

Public Citizen President Joan Claybrook said, "Block has stocked the USDA with meat industry employees and he has kow-towed to the meat, egg and dairy industries by deleting most references to cholesterol and fat from the USDA's publications and education and training programs." The USDA does not even distribute its own research-based dietary guidelines any more, Claybrook added.

Block responded by stating that nutrition information remained available, but that his department now charges for the information to make the government "a little more cost-effective." Block claimed that nutrition information is being made available to the "right people . . . but we are just not indiscriminately passing it out to anyone that wants some of the information." Reported in: *Public Citizen*, Fall 1984.

newspapers

Olathe, Kansas

A dispute over the placement of one newspaper vending box on a street corner has led to a court battle over the constitutionality of an Olathe ordinance

banning the boxes from all city property. The Kansas City Star Co., publisher of the *Kansas City Star* and *Times*, was told by the city of Olathe, a Kansas City suburb of about 43,000 that it had to move its vending box, chained to a stop sign on a street corner, because it obstructed vehicular and pedestrian traffic.

The company replied that it would consider relocating the box at that site so it would no longer pose a danger to safety, but negotiations broke down when the city demanded that the box be removed entirely. "We've always been willing to live with reasonable restrictions that typically involve how many feet from the curb boxes should be or that they can't block intersections," commented *Star* counsel Scott Whiteside. "We do not accept a complete ban. Distribution of newspapers is a First Amendment protected act."

Olathe city prosecutor Steve Zieber maintained that the Olathe ordinance completely banning boxes from "public street rights-of-way" and "any city property" such as public parks and "in front of the library," is a "reasonable restriction" in the interest of public safety. Reported in: *Editor & Publisher*, September 8.

advertising

Walnut, California

A controversy over a Mt. San Antonio College policy which bans advertising of tobacco and alcoholic products in the school newspaper intensified November 1 when a college journalism instructor, two journalism students and a private citizen filed suit in Los Angeles Superior Court against college president John Randall and the college's board of trustees. The suit charged that the advertising policy severely restricted the revenues that the campus newspaper, the *Mountaineer Weekly*, can earn, thus violating the staff's and the student body's constitutional rights of freedom of speech and of the press.

"We would like to make clear that we are not advocating the use of" tobacco or alcoholic products by students, said Antonette Cordero, a law student who drafted the suit under the supervision of an ACLU attorney. "What we are arguing is that the district does not have the right to restrict ads in the paper. It has other means at its disposal to express its point of view. It can run its own ads, or sponsor educational programs" against tobacco and alcoholic beverages.

The suit continues a dispute that became public in August when a newspaper staff member wrote an

editorial urging Randall to resign. Earlier, Randall had suggested that the staff resign if they found the school's journalistic canons oppressive. The staff took its case to the board of trustees, which supported the president and refused to alter the advertising prohibitions. Reported in: *Los Angeles Times*, November 7.

Montgomery County, Maryland

In a suit filed in U.S. District Court November 8, Right to Life of Maryland Education Fund charged Montgomery County officials with violating the fund's constitutional rights by repeatedly refusing it free advertising space on the county's Ride-On bus system, even though other nonprofit public service organizations were allowed free space. The Washington area chapter of the ACLU, a frequent adversary of right-to-life groups in the legal battle over abortion, joined the lawsuit.

According to the suit, when the fund first contacted the county in February about free public service advertising, it was told it qualified because it was a nonprofit public service group. Then, in March, when the fund brought the county the proposed advertisement it was told the advertisement was "political" and would not be approved. By contrast, in April, fund representatives charged, they found the county had previously allowed the Nuclear Arms Freeze Task Force to run a free advertisement. Later, Right to Life was told county policy allowed free space for certain organizations, like the Red Cross, but not for others that "agitate for change."

By November, Montgomery County had ended its policy of allowing nonprofit community groups free advertising space. Instead, only county government messages will be allowed. Paul A. McGuckian, county attorney, said the change did not arise from the dispute with Right to Life, but because the ad program was losing money.

ACLU attorney Arthur B. Spitzer explained his organization's support of a group whose work it generally opposed: "There's no contradiction in our position. We disagree with what Right to Life says, but we will defend their right to say it." Reported in: *Baltimore Sun*, November 10.

(censorship dateline . . . from page 16)

Paul Sartre's biography of playwright Jean Genet; *There Must Be a Pony*, by Jim Kirkwood, a young adult novel first published in London in 1961; and 1880s novel, *Teleny*, attributed to Oscar Wilde. Seized on June 6 were *Common Lives/Lesbian Lives*, *The Joy of Lesbian Sex*, *One for the Gods*, *Below the Belt* and eighteen other titles.

The action was the latest in a series of attacks on imported gay and lesbian literature by the British government. In November, 1983, Customs & Excise seized a shipment of materials destined for the Lavender Menace bookstore in Edinburgh. A second shipment to the Scottish store was "detained" last August. On June 14, Customs & Excise seized twelve titles belonging to Balham Food and Book Cooperative in London. The books included *Sapphistry*, *The Book of Lesbian Sexuality*, *The Joy of Gay Sex*, *My Deep Dark Pain is Love*, and *Now the Volcano*. Balham could not afford to challenge the seizure within the required thirty days and the books were shredded.

Twenty officers from the London Obscene Publications Squad simultaneously raided the Zipper Store and *Him Monthly* editorial offices on July 25 with warrants issued under the Obscene Publications Act and the Protection of Children Act. The authorities stripped the store of some 5,000 magazines, leaving only *Him* on the shelves. They also seized two books, *One in Ten* and *The Butterscotch Prince*. Prison sentences and/or fines were imposed on three directors of MCM Publications and on two bookstore employees, the latter two for trading without a sex shop license, although the stores in question were general bookstores and not sex shops.

Publishers Thames & Hudson, Faber & Faber, Victor Gollancz and Chatto & Windus have written letters of support to Gay's the Word and several authors' groups have become involved. A French publication, *Gai Pied*, detained at a British port of entry in June and destined for Gay's the Word shelves, has filed a complaint with the European Economic Community, arguing that the seizure of a newspaper registered in France violates the "freedom of movement of goods" guarantee of the Treaty of Rome, to which the United Kingdom is a signatory. Reported in: *New Statesman*, September 21, August 17, October 12; *Gay Scotland*, September/October 1984.

New Delhi, India

Faced with widespread criticism after unchecked

violence against the Sikh minority following the assassination of Prime Minister Indira Gandhi left at least 600 dead and 30,000 homeless in New Delhi alone, the Indian government clamped a lid of censorship on news of the crisis. According to Western journalists, authorities made it clear that news coverage, especially pictures by foreign agencies, was to be highly restricted. Some reporters were denied admittance to refugee camps and a television videotape was confiscated. American television crews found they were unable to transmit reports by satellite on what they were told were official orders.

New Delhi Lt. Gov. M. M. K. Wali defended the censorship. "If something is likely to cause problems, we have to prevent it," he said. "This is a very, very sensitive situation. Thank God, this is a free country, but there are certain times you have to be cautious."

Claims that the censorship was aimed at preventing further spread of the rioting were belied, however, by the fact that restrictions were greatest in the Punjab region, home of most of India's Sikhs, after the violence had peaked there. In Bhogol, it was charged that a loudspeaker warned residents hard hit by rioting that anyone talking to news photographers would be shot. The president of the Editors Guild of India, Prem Bhatia, decried the censorship measures and called them ineffective. Reported in: *Washington Times*, November 7.

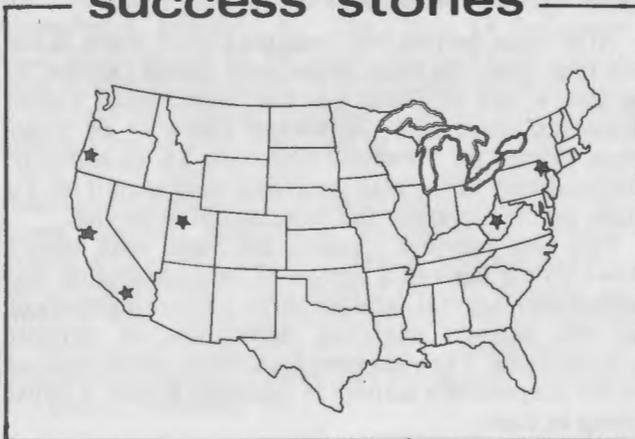
Iznalloz, Spain

A father who held a public burning of a school's shipment of sex education books was fined \$17.50. Manuel Benitez Valverde, president of the School Parents Association, was found guilty by an Iznalloz judge of organizing the burning of the books in front of city hall last January 26. Benitez Valverde and other parents said they objected to the explicit content of the book *Sex Education for Children*, published by the Andalusian regional government for use in the public schools. Reported in: *Baltimore News-American*, October 25.

Taipei, Taiwan

A Tahitian dancing troupe visiting Taiwan in late October was disappointed to find that the government's strict no-topless law prevented them from appearing bare-breasted. "It is a Tahitian tradition to dance topless," said Grand Ballet of Tahiti founder Gilles Hollande. "We do not mean to titillate the audience. We performed in 47 nations in the world but never had trouble before." The dancers, who perform in grass skirts, settled for bikini tops made of coconut or sea shells for the Taiwan performances. Reported in: *Los Angeles Times*, October 28.

success stories



libraries

San Jose, California

For the third time in eight years, the San Jose City Council has reaffirmed its support of the Library Bill of Rights. By an 8-2 vote October 2, the council rejected a proposal by Councilwoman Lu Ryden to require that controversial works be kept on closed shelves. On a subsequent 9-1 vote, the council specifically upheld the provision of the Library Bill of Rights incorporated in the San Jose City Library selection policy which states that no library materials shall be removed because of "partisan or doctrinal disapproval."

At issue was the controversial sex education book *Show Me!*, which a former library clerk had asked the council to remove in August (see *Newsletter*, Nov. 1984, p. 183). In more than two hours of public testimony, citizens alternately condemned the book and defended its presence in the library collection. "The issue here is the sexual molestation of children," said Dolores Hebert of Santa Clara. "This book is designed for pedophiles." An aide to state Assembly member Alister McAlister (Dem.-Fremont) read a letter from the lawmaker that asked, "If this book is not pornography, what is?"

"*Show Me!* is not the issue here tonight," responded Gerard Roney, a member of the city's library commission. "*Show Me!* is a vehicle that's being used by otherwise quite well-meaning people who would like to decide for all of us what to read, and quite possibly, what to think. The real issue is censorship. The real issue is who is to determine what citizens in a free society can read.

And the real issue is, is library policy going to be decided at the whim of whatever pressure group dislikes whatever book?"

"A public library, if it's to fulfill its mission in our society, must provide for the broadest range of ideas and information," added city librarian Homer Fletcher. "Unless San Jose maintains an atmosphere of freedom of intellectual inquiry, San Jose will not be a major city." Reported in: *San Jose Mercury*, October 4.

Coos Bay, Oregon

Playboy magazine will stay in the Coos Bay Public Library. After hearing more than three hours of testimony before an audience of about 120 people, the library board voted unanimously October 10 to deny a request from Jerry Sanderson, a representative of People Opposed to Pornography (POP), to remove the publication from circulation.

The confrontation came as the culmination of a campaign by POP to rid Coos Bay of allegedly pornographic literature. The group had been picketing convenience stores and supermarkets since August 6 and succeeded in removing *Playboy* and similar publications from Fred Meyers, Albertson & McKay and several smaller grocery stores. When the group learned that the library carried *Playboy* and that it was available to all borrowers without restriction, Sanderson approached librarian Carol Ventgen and requested its removal.

Sanderson charged that *Playboy* is "pornographic" because it shows obscene, sexual acts, as well as sadomasochistic acts. Others who supported his position charged that the magazine is linked to sexual abuse of children.

"The problem is not *Playboy*, but censorship," responded library board member Ralph Mohr. "*Playboy* is a gadfly. There are things in *Playboy* I find objectionable, but I do not find it objectionable that it be in our library. I also cannot accept unsupported claims that pornography leads to child abuse . . . that starts in the home. I would like to urge this group put its energies into doing something about the poor parents making children suffer, rather than picking on *Playboy*. You can deny it in your home. We can't because it is reliable, it has valid social content, and it is not obscene." Reported in: *Coos Bay World*, September 27, October 11.

Madison, West Virginia

"We're not here to defend the book, we just want the public to have freedom of choice in what they want to read." Corrine Scott, president of the Boone-Madison Public Library Board, was speaking before the Boone County Commission in defense of the library board's

decision not to remove the sex education book *Changing Bodies, Changing Lives* from library shelves.

Several weeks earlier, a group of citizens, including several members of the clergy, called on the county commission to meet with the library board over the issue. Mr. and Mrs. Tom Parks told a reporter that over 800 persons had petitioned the library demanding the book's removal.

"We discussed this at length with the Parks and we offered to put the book on the reserve section in the library, but they wanted the book destroyed," Ms. Scott told the commission. "The book has been checked out only four times in two years," she added. "Our stand is that the public has the freedom to choose what they want to read."

The board was unanimous in vowing to keep the title in the library collection. Board member Deloris Jean Davis told the commission that the library has a freedom to read policy and "as a public library, we cannot suppress that right." She said some of the book's vocabulary may be offensive, "but the book was written as a book for educating young people. . . . It is important that the young adults know the biological terms, but 90 percent of them don't know what they are and they have to be able to relate to them."

"You must remember that we are dealing with a public library," Delore Cook, another board member, added, after calling the commission's attention to the text of the First Amendment to the U.S. Constitution.

"It is the right of the people to have the right to read," said Randy Foxx. "We don't agree 100 percent with the book, but we have a responsibility to the public, too." Reported in: *Coal Valley News*, September 19.

etc.

Hollywood, California

Singer Frank Sinatra has dropped, unconditionally, a \$2 million law suit he had brought against author Kitty Kelley in an effort to stop her from writing his biography. Kelley, author of *Jackie Oh!* and *Elizabeth Taylor: The Last Star*, is writing the biography for Bantam Books. Sinatra had charged that Kelley misrepresented herself as writing an authorized biography and lied to interviewees about her purpose.

According to Kelley, Sinatra's attorneys had produced a list of about a dozen interviewees but that she "hadn't even heard of half of them. Then his next tactic was to say he had a tape recording of me saying, 'I'm the official biographer and I'd like to talk to you.'" Sinatra's lawyers admitted, however, that the voice on the tape bore little resemblance to Kelley's.

U.S. gives visa to Fo

After twice barring him from the United States in the last four years, the State Department agreed October 30 to give a visa to Dario Fo, the controversial Italian dramatist whose play, *Accidental Death of an Anarchist*, opened on Broadway November 15. In addition, the producers of the play received a work permit for Fo from the Immigration and Naturalization Service.

Fo's two previous requests for visas were turned down on the basis of a section of the Immigration and Nationality Act that excludes aliens who are members of or who support anarchist, communist or terrorist organizations. The visas were apparently denied because of the playwright's activity in Soccorso Rosso, a leftist group in Italy.

In 1980, Fo and his wife, actress Franca Rame, were to appear at New York's Town Hall in works written by the two of them as part of a festival of Italian theater. When Fo and Rame were unable to come, a number of American writers and directors staged "An Evening Without Dario Fo." In 1983, Joseph Papp asked the couple to perform at the New York Shakespeare Festival, but again entry was denied.

In September, Fo and Rame were invited to be in Washington at a conference on Free Trade in Ideas. They were to be on a panel with Regis Debray, Dennis Brutus and others. Because they were denied entry, they—along with Nobel Prize-winning novelist Gabriel Garcia Marquez—addressed the meeting by closed circuit television from Toronto (see *Newsletter*, November 1984, p. 179). Reported in: *New York Times*, October 31.

Kelley was supported by a coalition of writers groups, including the National Writers Union, PEN, the Reporters Committee for Freedom of the Press, the Society of Professional Journalists, the Newspaper Guild and Washington Independent Writers. In a joint statement, the groups said that the dropping of the suit "reaffirms the right of the public to be informed about the lives of influential public persons whether or not they approve of the writer and his or her approach. Every controversial public figure would have been encouraged to file similar suits to stop books about them from being written had Mr. Sinatra—with his lawyers and unlimited resources—prevailed over this individual writer." Reported in: *Publishers Weekly*, October 1984.

Salt Lake City, Utah; Vista, California

By a 2-1 margin, Utah voters rejected a proposal to ban "indecent material" from cable television November 6. Initiative A, "The Cable TV Indecency Act," received just 85,305 votes, while 173,889 people voted against the proposal. A similar legislative attempt to regulate the content of cable programming is still under review by a federal court in Salt Lake City.

In a related development, voters in the northern San Diego county community of Vista rejected a similar "indecent material" proposition directed at the Playboy Channel by a vote of 7,323 to 6,394. A separate proposition asking whether voters wanted the city to spend an estimated \$300,000 in litigation costs to defend against an expected challenge to a Playboy Channel ban was defeated by a margin of more than two to one. Reported in: *Variety*, November 14.

(from the bench . . . from page 20)

manent injunction against the portable sign ordinance passed in 1983 by the Cobb County Board of Commissioners. The commissioners contended that the ordinance was needed in the interests of traffic safety and esthetic considerations, but Judge Moye said it violated freedom of speech. The ordinance's regulations on the placement of portable signs were so restrictive that they "effectively amount to a complete prohibition," Moye said. Reported in: *Atlanta Constitution*, August 22.

Euclid, Ohio

A federal judge ruled August 15 that a Euclid ordinance outlawing political signs on lawns in residential areas was unconstitutional and violated First Amendment rights to free speech. U.S. District Judge Alvin I. Krenzler found the law deficient because it prohibited political signs but allowed commercial signs in front of homes.

The ruling stemmed from a suit filed against the city by Thomas L. Meros, an unsuccessful City Council candidate, whose political signs were removed from the lawns of supporters by city workers a month before the election. "My right to free speech is much more important to me than the election or any other political consideration," said Meros, who finished last among six candidates for four at-large seats. The 1982 law allowed political posters in windows of homes, but prohibited lawn signs. For-sale or for-rent signs were exempt. Reported in: *Cleveland Plain Dealer*, August 16.

Pierce Township, Ohio

Mondale supporter Jene Galvin's right to put up political signs in his front yard without paying for the privilege was upheld October 29 by a federal court. U.S. District Judge Carl B. Rubin ruled that the Pierce Township ordinance that required a \$100 deposit for erecting political signs on private property is unconstitutional.

"I don't believe any governmental entity can interfere with political rights," Rubin said. "Placing a fee on the expression of political opinion is contrary to the First Amendment." Reported in: *Cincinnati Post*, October 29.

libel

Washington, D.C.

Controversial minority party presidential hopeful Lyndon LaRouche's libel suit against the National Broadcasting Company collapsed in early November as a federal jury in Alexandria, Virginia, ordered the candidate to pay more than \$3 million to the network. The suit stemmed from broadcasts on "NBC Nightly News" and the now defunct "First Camera," which portrayed LaRouche as the head of a "political cult" with anti-Semitic leanings. Reporters claimed in the broadcast that LaRouche's followers engaged in smear tactics to intimidate reporters and subvert the campaign of Democrat Walter Mondale.

The jury rejected LaRouche's claim that the broadcasts were untrue and then awarded damages to NBC based on the network's \$10 million countersuit. NBC alleged that LaRouche and his followers interfered with the network's business operations by sabotaging an interview with Sen. Patrick Moynihan (Dem.-N.Y.).

An NBC representative hailed the verdict, claiming it "supports the right and obligations of journalists to gather news and report facts to the American people." Reported in: *Variety*, November 7.

street performances

Alexandria, Virginia

A federal appeals court in Richmond ruled November 7 that playing bagpipes on the sidewalks in downtown Alexandria is protected by the First Amendment, overturning a city ordinance prohibiting such performances. The decision by a panel of the U.S. Court of Appeals for the Fourth Circuit came after a three-year court battle between the city and Lee Davenport, a bagpipe player who decided to challenge the ordinance.

In 1981, the Alexandria City Council enacted the law for safety reasons after receiving complaints from pedestrians who said they were forced to walk in streets to avoid crowds gathered around sidewalk performers. The ordinance prohibited such performances and exhibitions on sidewalks of the central business district and required permits for performances in downtown parks and plazas.

The appeals panel agreed with a lower court ruling that a total ban on street performers on public sidewalks throughout the district for all hours was broader than necessary to insure public safety. Moreover, the city failed to show any "safety issue substantial enough to outweigh the plaintiff's First Amendment interests," the court said. Reported in: *Washington Times*, November 8.

obscenity

Washington, D.C.

The Federal Communications Commission must find another way to restrict dial-a-porn simulated telephone sex services after a federal appellate court unanimously declared rules limiting them to nighttime hours unconstitutional. "While the aim of the regulation is to limit or prevent access by minors to dial-a-porn messages, its operative effect is to deny access to adults as well," the three judge panel of the U.S. Court of Appeals for the Second Circuit said November 2.

In December, 1983, Congress passed and President Reagan signed a new law banning the commercial operation of dial-a-porn services if they were easily accessible to minors. The law directed the FCC to develop guidelines for determining whether service had been properly restricted to adults.

After citing the high standard that must be met for any regulation affecting freedom of speech, the judges concluded: "In the present case, the FCC has failed adequately to demonstrate that the regulatory scheme is well-tailored to its ends or that those ends could not be met by less drastic means." Reported in: *New York Times*, November 8.

(CLA . . . from page 1)

Selth said McCalden came to his attention in 1983 when the publisher was refused exhibit space during a Banned Books Week event at the Torrance City Library. Torrance city librarian James Buckley said at the time that certain books McCalden wanted to display—including *Anne Frank's Diary*, *a Hoax* and *Did Six Million Really Die?*—presented one-sided views by obscure authors.

Selth said he felt McCalden was unfairly treated in Torrance, so he decided to take the publisher's case to Moses. The CLA director said he had "no problem" in selling McCalden three days of booth space plus an hour's speaking time. Just to "make sure" about his decision, Moses said, he checked with his program committee in July and there were "no objections" to including McCalden. So the conference's preliminary program went to the printer.

Then came a September 17 meeting of the CLA Council. It was while reading copies of the preliminary program, which was not on the meeting agenda, that several council members discovered they would be providing a forum for McCalden. One ex officio council member was Marie Brown of Los Angeles, president of Friends of California Libraries. On September 19, "as a matter of conscience," Brown contacted the American Jewish Committee.

Neil Sandberg, the committee's regional director sent a telegram to Moses, and two days later, Moses, Sandberg and Minto Keaton, assistant director of the American Jewish Committee, met to discuss the appearance. The result of that discussion, all agreed, was the first decision by Moses to cancel the McCalden contract.

Moses said he felt pressured to get McCalden off the program "because of what they told me about McCalden's background, and about what some activist Jewish groups might do if angered. Sandberg made it clear that we could expect some organized Jewish demonstrations. He suggested my good name and that of CLA was at stake. He said, 'You and CLA will be wiped out.' He didn't say it like a Mafia guy would or anything . . . [but] he painted a picture for me that in all good judgment I better cancel."

Sandberg and Keaton both denied that any threats were made to Moses. On the contrary, Sandberg claimed, Moses came to the American Jewish Committee's office with his mind already made up—after the first complaints from Jewish groups and others—that the wisest course would be to cancel the invitation. "He also said that there were limits to the CLA's concerns for free speech," Sandberg said.

In any event, Moses informed McCalden that his contract was cancelled and returned the \$225 the publisher had paid in rental fees for an exhibit booth. McCalden

promptly replied that he would sue for breach of contract. Moses said he consulted association attorneys as well as the program committee and in late October notified McCalden that he was back on the program.

In the weeks which followed, as pressure mounted, Moses rejected a "compromise" proposed by Rabbi Marvin Hier of the Simon Wiesenthal Center for Holocaust Studies, who was organizing a protest demonstration against the speech, that, in exchange for no protest, CLA would deny McCalden a speaking platform and publicly disassociate itself from his views, while still giving him booth space in accord with his contract. Moses did agree, however, to permit Jewish groups to show a film on the Holocaust at the convention.

As late as November 13, Moses was quoted in the *Los Angeles Times* as saying the association had "no intention" of cancelling the McCalden exhibit and program under pressure. "I don't see why we should," he said. "Basically, I'd be happiest if he would say, 'I'm not going to come because I don't want to cause any more trouble,' but that is just whistling in the dark. I just keep thinking of the same quote over and over again . . . 'I may not agree with what you say, but I'll defend with my life your right to say it,' and the fact is, whether you agree with him or not, as a publisher, McCalden has rights" at a library convention.

Moses said the "straw that broke the camel's back" was the Los Angeles City Council's decision to have the city library withdraw from CLA. "It was that and a message from [Mayor Tom] Bradley and the knowledge that there would be a large demonstration from the Wiesenthal Center and that many of my members wouldn't cross a picket line." In a letter to Rabbi Hier, Bradley said he had directed the Los Angeles Library Commission, whose members he appoints, to boycott the conference.

"I share your shock and anguish at the atrocious decision of the California Library Association to invite a purveyor of barbarism and inhumanity to address its upcoming conference," Bradley wrote.

Bernard Kreissman, university librarian emeritus at the University of California, Davis, and president of CLA, said he supported the McCalden appearance on intellectual freedom grounds, but expressed surprise at the outcry against it. "Anyone who proposes such a ridiculous concept—that the Holocaust never took place—I just thought no one would take him seriously," said Kreissman, who is Jewish.

Carol Sobel, associate director of the ACLU of Southern California, said her organization strongly supported the right of free speech, even if it applied to views such as McCalden's. "If ideas that are pernicious, that are offensive to people, can't be presented to a

library association, then where can they be heard?" she asked. "Besides, bad ideas in this country have pretty much died of their own accord."

Sandberg of the American Jewish Committee hailed the cancellation. "We are absolutely delighted that common sense has prevailed," he said. "This is a victory for all decent people in our community—Jews, non-Jews, elected officials, church leaders and others. This was never a free speech issue; it was a mistake in judgment on the part of a few people in CLA and we are very pleased that reason has prevailed."

Also registering objections to the McCalden appearance, according to Sandberg, were the National Conference of Christians and Jews, the Los Angeles Urban League, the Mexican-American Legal Defense and Education Fund, the Southern Christian Leadership Conference, the Los Angeles Episcopal Diocese, the Southern California chapter of the Catholic League and fourteen Jewish survivor organizations. Sandberg said Democratic Reps. Henry Waxman and Mel Levine and Assembly Majority Floor Leader Mike Roos also made strong protests.

McCalden has long been associated with anti-Semitic and white supremacist causes. He was using the name Lewis Brandon in 1979 when he first offered \$50,000 to anyone who could prove that even one person was put to death in a Nazi gas chamber. McCalden's offer caught the attention of Long Beach businessman Mel Mermelstein, who wore No. A-4685 at Auschwitz. Mermelstein sought unsuccessfully for two years to collect on McCalden's offer, then filed a \$6 million lawsuit against the Institute for Historical Review, which McCalden then headed.

McCalden has since split with the institute in a dispute with Willis A. Carto, head of the ultra-right Washington, D.C.-based Liberty Lobby. McCalden and Carto each claim to have founded the institute. Mermelstein's suit against officials of the Institute for Historical Review and Liberty Lobby is pending in Los Angeles Superior Court.

Asked to comment on the CLA cancellation, McCalden said, "Obviously, a lawsuit would be appropriate. It was totally non-surprising. It proves my argument there is no free speech in America."

Jeffrey Selth, whose proposal to invite the speaker precipitated the controversy, said he was "obviously disappointed that a meeting on free speech was cancelled." But Selth admitted he "understood why Stefan Moses had to cancel the event. There was just too much pressure. But I'm disappointed because I believe in free speech for everybody, regardless of their views. That's why I supported this appearance. That's the only reason." Reported in: *Los Angeles Times*, November 13, 17.

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