

newsletter
on
intellectual
freedom



IFC ALA

Editor: Judith F. Krug, Director
Office for Intellectual Freedom, American Library Association
Associate Editor: Henry F. Reichman

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censorship in the south

Nearly 45 percent of public libraries and 30.9 percent of public school libraries in four southern states have been targets of attempts to restrict access to or remove books, magazines or films since 1980, according to a survey of librarians sponsored by the American Civil Liberties Union. The results of the survey of 1,127 librarians in Alabama, Georgia, Louisiana and Tennessee were released November 25. The survey said that people who objected to library materials most often cited moral concerns, obscenity or profanity as motives for censorship.

Of the 290 challenges to materials reported in public school libraries, the material in question was removed from the library 36.8 percent of the time. In an equal number of cases, the material was kept on the shelves without change. Other decisions, including restricting use or altering the materials, were made in the remaining cases. The survey found that 44.9 percent of the public libraries had been targeted and that there were 84 reported challenges to materials, 73.8 percent of which were rejected. The material in question was removed in 9.8 percent of the cases.

Works by a total of 220 authors were reported challenged in the ACLU survey. The most challenged author was Judy Blume, whose books about juvenile and young adult concerns were challenged in 46 separate instances. Books by Norma Klein, whose works include discussions of unmarried couples who cohabit, were challenged eight times. Four challenges were reported to books by award-winning writer-illustrator John Steptoe. Other authors whose books were challenged included Saul Bellow, William Golding, Joseph Heller, Nat Hentoff, Stephen King, Robert Ludlum, Norman Mailer, Vladimir Nabokov, Joan Rivers, J. D. Salinger, Maurice Sendak, William Shakespeare, John Steinbeck, Mark Twain, John Updike, Kurt Vonnegut, Alice Walker and Paul Zindel.

According to the ACLU survey, most reporting school and public libraries in the four southern states have written policies and procedures to handle challenges, ranging from lows of 81 percent for Louisiana public libraries and 86.6 percent in Alabama school libraries to highs of 100 percent for Georgia public libraries and 95.2 percent in Georgia school libraries. Yet the survey did not find a clear relationship between adoption of written policies and retention of challenged materials.

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Views of contributors to the **Newsletter on Intellectual Freedom** are not necessarily those of the editors, the Intellectual Freedom Committee, or the American Library Association.

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IFC report to ALA Council

The following is the text of the Intellectual Freedom Committee's report to the ALA Council, delivered January 22, 1986, by Chairperson C. James Schmidt.

I am pleased to report to you today on behalf of the Intellectual Freedom Committee.

At our meetings during this Conference, we have been monitoring several issues that may become serious threats to intellectual freedom and, therefore, to the ability of librarians to fulfill their role of providing information. I'd like to tell you about two of these issues which are, in a way, new concerns, but really are variations on old censorship themes.

The first is the issue of labeling and censorship of the rock music industry. Last fall, the Senate Commerce Committee held hearings aimed at encouraging the recording industry to rate and label record albums and cassettes containing "profanity, sex, violence or vulgarity." In light of this, and because the Office for Intellectual Freedom had been receiving calls from librarians across the country asking how to deal with the rating label issue with regard to their record collections, the IFC believed it needed to consider the problem. The

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idea of rating labels should sound very familiar to all of you—even if you can't distinguish the Rolling Stones from John Denver or Frank Zappa. Similar concerns were considered by the IFC last year, with regard to the circulation of motion pictures and video-cassettes—and many years earlier when the profession had to face the problem of "pink slips."

At this time, the IFC has taken no specific action on the rock lyric question—relying instead on the existing *Statement on Labeling: An Interpretation of the Library Bill of Rights*, and on the *Circulation of Motion Pictures and Video Productions: An Interpretation of the Library Bill of Rights*.

A second area of concern that the IFC is watching is the increasing tendency for health issues to become bases for censorship. We have noticed this most clearly with regard to concerns over the disease AIDS—with reports to OIF that librarians have been directed to remove older editions of books having to do with gay sex but they have not also been directed to replace such books with more current information. There have also been government efforts to ban cigarette advertising. The IFC does not, of course, advocate smoking any more than it does rock music, gay sex or R-rated movies. The point to be made is that, as librarians, we believe it is crucial that material representing all points of view be available; individuals will make their own choices. Information *itself* is not dangerous, not distasteful and not immoral.

Three issues are currently under discussion and review in the IFC, in conjunction with other appropriate units of ALA, which are likely to result in action recommendations to Council, perhaps at the 1986 Conference in New York.

First, we have established a liaison with the American Association of School Librarians—its President, Board, and Intellectual Freedom Committee—which we hope will produce a statement of interpretation of the *Library Bill of Rights* for School Library Media Centers. As you all know, school librarians are and have been particularly vulnerable to censorship attacks, and it seems possible and desirable to assist librarians in these settings by providing them with such an interpretation.

Second, as part of our continuing concern for the impact of technology on intellectual freedom and access, the IFC is also reviewing the "Policy on Confidentiality of Library Circulation Records" in light of recent technological advances; especially, the increasing number of cooperative systems and consortia using technology and concerns over confidentiality with regard to interlibrary loans.

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FTRF report to ALA Council

The following is the text of the Freedom to Read Foundation's report to the ALA Council, delivered January 20, 1986, by President Lee Brawner.

The Freedom to Read Foundation has recently concluded one of its most productive and "high energy" meetings—one in which we continued the process of growth and development that comes from reviewing past accomplishments, evaluating the current state of affairs and planning for the future. In effect, we have begun our own mini-version of the ALA's Strategic Long Range Planning process.

It will not surprise you to learn that more than a small measure of this "high energy" comes as a result of the ALA Executive Board's recent invitation to meet with its Directions and Program Review Committee, chaired by E. J. Josey, to review the relationship between the Foundation and the ALA.

On behalf of the Foundation, I welcomed this opportunity to further improve the critical communications and relationship between the Foundation and the ALA, and to bolster our common resolve in defense of intellectual freedom. I have submitted a detailed response to the specific questions from the Directions and Program Review Committee, and Foundation officers have met with that committee at this Midwinter meeting.

It would be fair to say that a heightened level of dialogue between the ALA Executive Board and the Foundation has begun; at the Foundation's full-day meeting on Thursday, the ALA's ex-officio members of the Foundation Board were joined by two other Executive Board members who attended as observers and participants.

I hold to the old, but proven adage that "people are generally *down* on what they ain't *up* on," and welcome the opportunity to get people *up* on the Freedom to Read Foundation, its goals and objectives, and its relationship to the ALA, to its own, as well as ALA's members, to the library community and to the larger community of those organizations who share our dedication to protecting and extending the freedom to read.

By way of introduction to this dialogue with the Executive Board, allow me in brief strokes to highlight the roots and role of the Freedom to Read Foundation.

At its fall, 1969, meeting, the ALA Executive Board directed the establishment of the Freedom to Read Foundation. Subsequently, in December of 1969, the FTRF was incorporated and chartered with four main purposes:

- promoting and protecting freedom of speech and freedom of the press

- protecting the public's right of access to information and materials stored in the nation's libraries
- safeguarding libraries' right to disseminate all materials contained in their collections
- supporting libraries and librarians in their defense of First Amendment rights by supplying them legal counsel or the means to secure it.

The Foundation's work has been divided into two primary activities:

- the allocation and disbursement of grants to individuals and groups primarily for the purpose of aiding them in litigation; and
- participation in litigation dealing with freedom of speech and of the press.

The Foundation becomes involved in litigation occasionally by initiating an action itself, but more often in response to requests for support made by librarians, or by members of the publishing industry, the motion picture industry, booksellers, civil libertarians and others.

Each request for Foundation support and/or direct involvement in a case is measured against the ten numerical factors in the Foundation policy entitled "Litigation Support Criteria and Procedure." Decisions to become involved are made by the Board, based on elements such as the relationship of available funds to the number of cases to which the Foundation is already committed, as well as the number and type of cases in which the Foundation is considering involvement.

Because the ALA is highly regarded as a guardian of First Amendment mandates of freedom of the press and freedom of speech, the Foundation occasionally asks the Association to participate in a case with Foundation funding. Formalized agreements between the ALA and the FTRF concerning the filing of pleadings by the ALA in litigation involving issues relating to First Amendment rights date back to policy adopted by the ALA Executive Board on January 24, 1974.

A resolution adopted by the FTRF Board of Trustees on June 22, 1979, and by the ALA Executive Board on June 25, 1979, in Dallas, states that, in cases "involving the advancement and defense of First Amendment rights," and where "it is desirable to invite the ALA to join . . . because of the Association's historical concern with First Amendment rights and its preeminence and leadership in the library and educational communities," the Foundation may invite the ALA to participate as an *amicus curiae* (friend of the court) in litigation undertaken by the Foundation.

The ALA, the largest and oldest library association in the world, serves as the chief spokesperson for the

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Jean Auel defends *The Valley of Horses*

In November, 1984, a 12-year-old junior high school student in Bastrop, Texas, went to the Bastrop Public Library and checked out the best-selling novel, *The Valley of Horses*, by Jean Auel. When the girl's mother discovered the book she was outraged. Alice Roberts thought Auel's novel violated Texas' obscenity laws, and, together with members of *Citizens for Morality*, she filed a formal request that the library place the book in a restricted access area (see Newsletter, May 1985, p. 79). Bastrop Librarian Putzie Martin informed Ms. Auel of the controversy, and invited the author to defend her use of sexual scenes in the book, which is part of a series of novels on the life of prehistoric humans. Since the books in Ms. Auel's "Earth's Children" series, including *The Clan of the Cave Bear* and *The Valley of Horses*, have become increasingly controversial, the editors decided to share Auel's self-defense with our readers. The text of Jean Auel's June 4, 1985, letter to Ms. Martin and the Bastrop Public Library Board follows.

I am sorry there is a disagreement over my book *The Valley of Horses*. My reasons for proceeding as I did were based on several factors which included both research and story line.

My research has been quite extensive. In addition to hands-on field research which has included stone-tool making, processing of animal skins by natural means, making cordage and digging roots, I have traveled to both western and eastern Europe to visit actual sites and caves, and plan to go again. A bibliography of published material I have read would approach 1,000 entries, and I have established working relationships with many professionals. If you would like a copy of a selected bibliography of the resources I have used in the writing of my books, I will send it.

My *Earth's Children* novels are fiction, but the information I have used to create them is sound. Based upon my research, I have attempted to create a logical and complete society of our Upper Paleolithic ancestors who inhabited that Ice Age world. Many of my characters are drawn from fossils, fleshed out with imagination, and I have tried to portray their life as it might have been lived.

The sexuality I have expressed in my works is not added gratuitously. Human sexuality has such a profound and powerful influence on the shape and attitudes of every culture, that had I left it out, it would have been conspicuous for its absence. It would have left a gaping hole in the fabric of that prehistoric world, resulting in a lopsided, less than complete picture. But while the sexuality is an essential part of the story, it is not, by any

means, the entire story, as anyone who has read my books, rather than thumbing through looking for passages of "prurient interest," knows.

All we have left of the period are bones and stones, but they can yield amazingly rich results. From a Neanderthal skeleton we learn that their posture was the same as ours, they walked just as upright; they had somewhat sturdier bones, probably were more muscular; and their brains, though organized somewhat differently, were larger than ours! If tools that are used to make furs and leather are found at Neanderthal sites, it's reasonable to assume they were not too hairy.

What else can be learned from bones and stones? If the skeleton of an old Neanderthal man indicates he was blind in one eye, and one of his arms had been amputated at the elbow, you might ask who took care of him, and why. Did someone love him? Was his culture advanced enough to have compassion for him? What about survival of the fittest? Is compassion a necessary survival trait of the fittest human beings? And who healed his eye? Amputated his arm? What if you discovered that injuries, his and others, healed with little or no sign of infection? What might that say about Neanderthal society? What does burial with purpose and ritual mean?

Conclusions are not hard to draw. Neanderthals were intelligent, compassionate human beings, who took care of each other; were capable of complex activities; must have communicated easily in some manner and, possibly, had a spiritual sensitivity about an afterlife. They utilized their environment very well; probably had a rather sophisticated herbal medical knowledge; and, understanding the part filth plays in infection, may well have been clean.

If the bones and stones of Neanderthal draw a tantalizingly human picture, the artifacts—and the art—of Cro Magnon leave no doubt. Not only are we physically the same, we are the same in every other way. They were the first appearance on earth of people like us, and whatever we do, they could do; whatever intelligence, emotional sensitivity, psychological trait, or physical ability we attribute to ourselves, we must grant them.

In *The Clan of The Cave Bear*, because the Clan, based on Neanderthal, were very much like us, and yet not, the challenge was to show our relationship and commonality, in counterpoint to a prehistoric difference, without doing a disservice to the latest findings of science. It turned out to be an opportunity because it allowed me to examine certain elements of our own society, at arm's length, through a lens of the possible past.

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AAParagraphs

AAP testimony to Meese Commission

On January 22, 1986, Heather Grant Florence, a vice president of Bantam Books, Inc., and Chair of the Freedom to Read Committee of the Association of American Publishers, testified before the Attorney General's Commission on Pornography, which was established May 20, 1985, by order of Attorney General Edwin Meese 3d. The commission has come under criticism from civil liberties activists as onesided and overzealous in its efforts to establish a connection between pornography and sex crimes (see Newsletter, July 1985, p. 101; January 1986, p. 4). Accompanying Ms. Florence, and also testifying before the commission, was J. D. Landis, author of *The Sisters Impossible*, a recent target of censorship in Sallisaw, Oklahoma (see Newsletter, July 1985, p. 112). Following are the complete texts of the statements by Ms. Florence and Mr. Landis.

statement by Heather Grant Florence

My name is Heather Grant Florence. I am a Vice President and Group Executive at Bantam Books, Inc. and its Secretary and General Counsel. Bantam just celebrated its 40th birthday in the book publishing business. The company began as a mass-market paperback house that largely reprinted successful hardcover books of other publishers. Today it not only continues as a leader in that field, it originates its own books, from a full range of fiction and non-fiction authors who are published in all formats including hardcover and paperback book format, computer software and audio tapes. The Bantam list has books for all ages, at all price ranges and on all subjects.

For the past couple of years I have also served as the Chairman of the Freedom to Read Committee of the Association of American Publishers, the trade association of over 300 book publishing firms, including Bantam. I have attached a copy of the AAP's statement to the Commission to these remarks for the record.

As a practicing lawyer in this field for some fifteen years, I have seen countless efforts to regulate sexual expression. This history has been characterized by continually changing legal standards which demonstrates the fundamental difficulty of defining obscenity in a fashion that protects First Amendment interests. It is hard to do; it has not been done yet.

I appreciate this opportunity to appear before you to share my concerns about the chilling effect that obsceni-

AAP statement

The following is the text of a statement to the Attorney General's Commission on Pornography delivered on behalf of the Association of American Publishers June 20, 1985, by AAP President Townsend Hoopes and resubmitted to the commission in written form by Heather Grant Florence.

The Association of American Publishers, Inc. (AAP)—whose more than 300 members publish in the aggregate the vast majority of all general and educational books produced in the United States—is pleased to submit this statement for inclusion in the record of the deliberations of the Attorney General's Commission on Pornography (Commission).

The book publishing community has, from early in the nation's history, played a vital role in the development, dissemination and preservation of ideas and knowledge. This free exchange of ideas through publishing is undoubtedly the greatest service the publishing industry can render our society. For publishers to be effective in fulfilling that role requires an atmosphere that fosters the public's access to the widest possible range of ideas, makes room for the unorthodox and the unpopular alongside the accepted and conventional, and rejects the imposition of the political, moral or aesthetic views of any one group upon adherents to other points of view.

AAP and its members have been vigilant in opposing censorship efforts—emanating from

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ty legislation does have on the free flow of ideas—the *raison d'être* of the First Amendment, the cornerstone of our pluralistic society, our uniquely enduring democracy. There is, I believe, the unwarranted potential to view the state of obscenity law as it exists today and the current legal climate as causing no undue concern for authors, publishers and those who distribute their works. My principal purpose in appearing before you today is to scotch that notion—for there is much cause for concern. Joining me here today is J.D. Landis, one of Bantam's authors and one of the many writers whom you may not know and whose book *The Sisters Impossible* (which you also may not know), has been the recent target of censorship in this country.

While neither Mr. Landis nor I can purport to tell you about the many potentially significant books (or scenes or passages in books) that have not been written or published—since that is, alas, a consequence of censor-

ship which we will never be able to tally—we do know that efforts to apply and extend the definitions of obscenity in the *Miller* case, particularly its emphasis on community standards, as well as efforts alternatively to define “pornography” have caused and will cause restrictions on the creation, publication and dissemination of works which our Constitution calls on us to protect. I can point to two sources for this evidence: the courtroom and the community.

The AAP is one of the plaintiffs in the federal court action to declare the Indianapolis “civil rights” ordinance unconstitutional. While bypassing the Supreme Court’s *Miller* tests of obscenity altogether and trying to fashion a definition that encompasses the admittedly trouble-some elements of violence and abuse, this would-be model feminist statute not only does violate the Constitution as found by the federal District and Appellate Courts, it would eviscerate a substantial amount of mainstream book publishing in this country. The papers being filed this week in the U.S. Supreme Court contain from the record of the case a representative listing of material that would be affected by this statute. The list includes:

John Updike—*The Witches of Eastwick*
Anais Nin—*The Delta of Venus*
Sidney Sheldon—*The Other Side of Midnight*
Judith Krantz—*Scruples*
Various James Bond novels by Ian Fleming
Harold Robbins—*The Carpetbaggers*

Regardless of whether you or I find these books to be substantial contributions or mere trash, I hope we all agree that they should not be thrown off the bookshelves of libraries or racks in newsstands.

Where communities and states have tried to legislate in apparent deference to the *Miller* tests, there are problems as well. AAP has joined with booksellers to challenge statutes in Colorado, Georgia and Virginia—among other states—that have extended *Miller* to create prohibitions on the display to minors of material with sexual content. Testimony from the publishers (myself included) which was relied on by the trial court judges in throwing out such statutes underscores the virtual impossibility of reviewing a whole list of new titles (in the case of Bantam approximately 400 a year) to see which might violate such a statute and, even when a likely candidate is identifiable, to apply the three-part test of *Miller* of prurient interest, patent offensiveness under community standards and lack of value for a particular age group. Application of these guidelines is inevitably subjective, leading any publisher to conclude—perhaps to its detriment—that its entire list is fully protected.

While it is difficult for a publisher to apply such an analysis to its own list, the problem for the typical

bookseller is impossible. Joyce Knauer of the Tattered Cover Book Store in Denver, Colorado testified that she carried approximately 35,000 different titles in her store’s inventory and that about 35% of those books probably dealt with some aspect of sex and/or had some explicit sexual content. She was personally familiar with approximately 1% of the list and would not be able to segregate it by sexual content.

One possible retailer response to the problem could be to stop ordering books when the legal climate gets too risky. This is not a scare-tactic hypothetical. Testimony in the Georgia case showed that a leading department store in Atlanta, part of the Federated Chain, actually planned to stop ordering all new titles unless the Georgia minors display law was legally enjoined. Why, after all, should a general retailer, not dependent on books, get embroiled in legal actions or become the target of community hostility when its business can thrive without books?

Another way to try to avoid the threat of legal action would be to sell certain material on a request—only basis. Often, outspoken members of a community will pressure a store to hide material behind the counter. Larry Hamilton, affiliated with Columbia Books and Records in Buffalo Creek, Colorado, tried to comply with community pressure by placing *Playboy* behind the counter. He testified that sales on that title dropped by 40% in one month.

Book publishers have to be especially concerned with any such retailer retreat since there is almost *no* likelihood that even 60% of the buyers of a typical mass-market paperback, for example, would ask for it by name; most of that business is an impulse sale based on display and availability. Without display, there is no meaningful access and without access, the books might just as well not be published or written.

These censorship pressures with their potential of limiting the opportunities for sale and readership inevitably have an impact on the creative side, the writers themselves. The apparent invitation in the *Miller* tests to apply community standards has led to an enhanced censorship and then to the fear of it and then, yes, even to self-censorship.

Judy Blume, the well-known and admired author of young adult novels went to Colorado to testify about these concerns. In describing the creative process, she explained:

... I get an idea that comes from somewhere. I’m not sure from where, from observing, from listening, from reading, from recalling my own childhood, from incidents in my children’s lives. And, that idea stays with me for a long time, maybe a

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less access to less information by and about the U.S. government: a 1985 chronology (July-December)

The following article, prepared by and reprinted with the permission of the American Library Association Washington Office, updates a previous article, "Less Access to Less Information By and About the U.S. Government: A 1985 Chronology" (see Newsletter, November 1985, p. 192), which covered the months January-June.

The issuance of the Office of Management and Budget (OMB) Circular A-130, Management of Federal Information Resources, on December 12 is a landmark for those monitoring the continuing pattern of the federal government to restrict government publications and information dissemination activities. This circular will have a significant impact on the extent and quality of federal information which will be available to policy makers and to the public. The public should pay careful attention to the implementation of this circular, and urge Members of Congress to do so. The final circular requires cost-benefit analysis of government information activities, "maximum feasible reliance on the private sector" for the dissemination of government information products and services, and cost recovery through user charges where appropriate. The likely result is an acceleration of the current trend to commercialize and privatize government information.

A policy has emerged which is less than sympathetic to the principles of freedom of access to information as librarians advocate them. A combination of specific policy decisions, the current administration's interpretations and implementations of the 1980 Paperwork Reduction Act (PL 96-511), implementation of the Grace Commission recommendations and agency budget cuts significantly limit access to public documents and statistics.

The accelerating tendency of federal agencies to use computer and telecommunications technologies for data collection, storage, retrieval and dissemination has major implications for public access. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or cannot pay for computer time? A few of the factors which will influence the answer to this question are: contractual arrangements with commercial firms to disseminate information collected at taxpayer expense, increased user charges for government information, the trend toward having increasing amounts of government information available

in electronic format only and the elimination of the printed version.

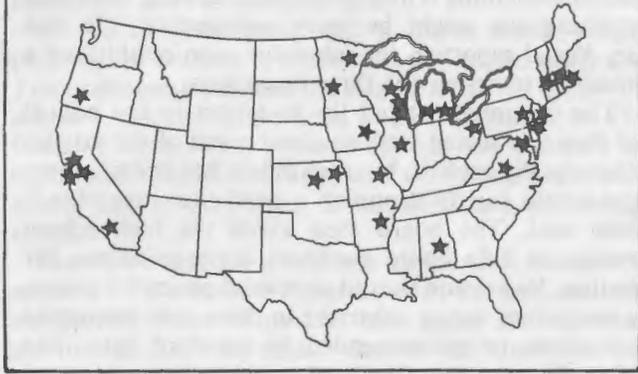
ALA reaffirmed its long-standing conviction that open government is vital to a democracy in a resolution passed by Council in January 1984 which stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States." In January 1985, Council established an Ad Hoc Committee to Form a Coalition on Government Information. The Committee is in the process of organizing a coalition of concerned organizations which could encourage executive and legislative branch policies and activities which assure that information needs of citizens are not restricted.

With access to information a major ALA priority, members should be concerned about the following series of actions which create a climate in which government information activities are suspect. Four previous chronologies on the same topic were compiled in an ALA Washington Office publication "Less Access to Less Information By and About the U.S. Government—A 1981-84 Chronology: April 1981—December 1984." An update for the period between January—June 1985 continued the chronology; the following covers July—December:

*July 1985—At a July 17 hearing of the House Government Operations Subcommittee on Employment and Housing chaired by Rep. Barney Frank (D-MA), Rep. Major R. Owens (D-NY) said: "It appears that OMB has zeroed in on the cost of information while remaining cynically unaware of, or ignoring, its value." Carol Turner of Stanford University testified for ALA and reaffirmed the Association's view that if OMB implemented its draft circular as proposed in the March 15 *Federal Register*, there would be a drastic reduction in the flow of government information to the public. (*Washington Post*, July 18) (Ed. note: The transcript of the hearing, *OMB's Proposed Restrictions on Information Gathering and Dissemination by Agencies*, is available from the Subcommittee (202/225-6751).)*

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— censorship dateline —



libraries

Oakland, California

A crusading minister who is trying to ban the controversial sex education book *Show Me!* from the Alameda County library system gained a powerful ally January 9—the chair of the County Board of Supervisors. Denouncing what he called “the sick elements of our society,” Supervisor Charles Santana declared after skimming through the book, “I can’t believe it . . . I wouldn’t have it [*Show Me!*] in my house.” While Santana said he would not interfere in the work of the Library Commission, he indicated he would be far from unhappy to see the book removed.

The controversy began when the Rev. Eric Smith, pastor of the Eagles Nest Christian Church in San Ramon, checked out a copy of *Show Me!* from the library’s Dublin branch in July and never returned it. Dublin police, one of the law enforcement agencies to which Smith took the book, finally returned it six months overdue. County Librarian Gennie Cooper charged that Smith “never intended to bring it back,” and just days before Santana’s public remarks members of the board asked the district attorney to consider bringing criminal charges against Smith. “If everybody went into a library and took something out they didn’t agree with, it would amount to de facto censorship,” Supervisor Bob Knox said.

Smith is convinced that the book doesn’t belong in the library, but he denied any intent to confiscate it himself. “I don’t believe in taking books from the library and burning them,” he said. “I checked the book out and it took me some time to properly in-

vestigate and bring it to the attention of the authorities.” Smith took the book to the FBI, the U.S. attorney general’s office, the district attorney’s office and Dublin police. All determined that the book did not violate child protection laws and took no action to remove it from the library. Smith said he also lent the library copy to a reporter who kept it for two weeks.

The 19-branch Alameda County library owns three copies of *Show Me!*, which has been a target of protest nationwide but has never been found obscene by a court of law. The book’s publisher, St. Martin’s, allowed the book to go out of print after the U.S. Supreme Court’s ruling in the *Ferber* child pornography case broadened the scope of expression exempt from First Amendment protection.

Librarian Cooper defended her decision to shelve the book in the medical reference section. “We have a lot of material—sexual, political and in other areas—which may be contrary to the beliefs of some people,” she said. “But we serve a diverse community.” Reported in: *San Francisco Examiner*, January 8, 10.

Springfield, Illinois

Prison libraries aren’t a place for *Penthouse* and *Playboy* magazines, Illinois Corrections Department officials decided December 11. After learning that four of the state’s 27 penal institution libraries subscribed to the magazines, top prison officials decided they were “not an appropriate expenditure of public money,” according to department representative Nic Howell.

The Dixon Correctional Center warden was told to cancel a subscription to *Playboy* and remove all copies of the magazine from the prison library. The libraries at Pontiac, Logan and Dwight penitentiaries are run by the Cornbelt Library System, which was asked to consider cancelling subscriptions to *Penthouse*, *Playboy* and, at Dwight, a women’s prison, *Playgirl*. “Hopefully they will reassess it, but we have no control over what they stock in their library,” Howell said.

Howell said legal experts advised that prisoners are entitled to library materials “similar to what the general public gets in public libraries.” He said he surveyed whether public libraries in the communities around the prisons carry the magazines and none did. “*Playboy* and *Penthouse* seem to be in excess of what the general public gets,” he concluded.

Asked about the reasoning behind the ban, Howell admitted, “Actually there’s nothing wrong with them, other than the perception that it conveys, and the objection many people would have to spending public money for these kinds of publications.” He added, “If the in-

mates want it, they can subscribe to it and pay for it out of their own money." Reported in: *Chicago Sun-Times*, December 12; *Peoria Journal Star*, December 12.

Newton, Iowa

About fifteen Newton-area residents have asked the Newton Library to remove 25 books which they charge are unsuitable for children. The books are in a series titled *The Endless Quest*, published by TSR Hobbies in Lake Geneva, Wisconsin, the company that created the controversial fantasy game Dungeons and Dragons. In the *Endless Quest* series, readers pick the ending they want and are told what page to turn to for the ending of their choice.

The protest group showed up at the Newton Library Board meeting January 14, and told the board the books contain excessive violence, destruction, witchcraft and the occult. The board agreed to consider the matter at a future meeting. Titles in the series include: *The Hero of Washington Square*, *The King's Quest*, *Under the Dragon's Wing*, *Light on Quest Mountain*, and *Spell of the Winter Wizard*. Reported in: *Cedar Rapids Gazette*, January 16.

DeSoto, Kansas

The DeSoto school board is considering whether its high school library should stop subscribing to three national magazines—*Mademoiselle*, *Ms.*, and *Redbook*—which some parents say contain sexually explicit articles. School board members discussed the matter in early November and told the high school librarian to develop a new written policy for choosing magazines.

Mike Laster, school board member, said the proposed policy comes from the board's desire to "get the most for our educational dollar" and not buy magazines that students won't use or those that offend parents. Laster brought the issue to the board after two parents questioned him about the three magazines. Laster said the parents were concerned with specific articles in *Redbook* and with the content each month of *Ms.* and *Mademoiselle*.

"I personally would hate to take out a magazine that is generally well-written and accepted and occasionally has an objectionable article," Laster said. "But if the magazine continually has articles that are objectionable, maybe it would be best to take it out of the library." Laster said he did not want the school board to censor magazines on a magazine-by-magazine basis. "I don't think that's our role. I think our role is to establish a policy as to why we subscribe to certain magazines. If there's not an educational purpose to it, then I don't think we should subscribe to them."

Superintendent Harold Vestal said the school district has a standing policy that if the content of books or

textbooks is questioned, a committee is set up to review the material. "Usually a judgment is not made about whether something is inappropriate," he said, "but that something else might be more appropriate." In this case, Vestal reported, the administration established a committee to review the three magazines.

"The committee stated [in its report to the board] that they had mixed feelings about some of the articles being sexually explicit, but they didn't feel like single articles would justify dropping a particular magazine," Vestal said. The board then asked the high school librarian to help board members draft guidelines for selection. Vestal said the old unofficial policy for choosing magazines was to subscribe to those titles requested by teachers or recommended in standard lists. The DeSoto library subscribes to 41 magazines that are used in the classroom, and 37 magazines that students use for research or enjoyment. The library serves 395 students. Reported in: *Lawrence Journal-World*, November 7.

Worcester, Massachusetts

The Roman Catholic Diocese of Worcester in October removed a book from its reference library, yielding to demands from a group of conservative lay Catholics. The book, *Sex, Sexuality and You*, by Nancy H. Cooney, was available as a reference for parents and teachers of Confraternity of Christian Doctrine classes. Although Rev. Louis R. Piermarini, director of diocesan religious education, said the book was not used in sex education classes, opponents of the text claimed it had been dropped from those classes too.

Richard R. Blanchard, a member of a group called The Church Militant, said he met with Bishop Timothy J. Harrington July 18 to express concern about the book. "The book was very, very confusing on the questions of abortion, contraception," he said. "It almost condoned homosexuality and lesbianism. In the question of life-styles and the question of family, the book was very secularist in its outlook. It was Planned Parenthood all the way."

Prior to meeting with Bishop Harrington, Blanchard said his group met with members of the diocesan school department, "but after discussions, the book didn't seem to faze them too much. Nonetheless, the bishop has removed it from the sex education program," Blanchard said. "It has been removed from the library shelves of the chancery and is no longer to be used as a reference source."

According to Rev. Piermarini, *Sex, Sexuality and You* carries the church imprimatur, or formal approval from the Roman Catholic Church, stating it does not contain passages deemed contrary to Church teaching. Although removed from the diocesan reference library, it has not been banned, Piermarini

said. Bishop Harrington "had a problem with it because of their approach to abortion. That was the principal reason for not recommending it."

In March, Blanchard and a dozen other people picketed the Diocese to protest use of *Sex, Sexuality and You* in diocesan schools, the staging of a play the group deemed Marxist in an area church, columns in *The Catholic Free Press* which they said are contrary to traditional church teaching, and a Fitchburg Catholic school course on values clarification and situational ethics.

Blanchard said his group was happy with the book's removal. "We feel very pleased with the fact that the bishop did listen to us and take some action, some positive action," he said. "But we still feel that the bishop is a bit leery of us, and there is much work to be done." Reported in: *Worcester Telegram*, October 30; *Worcester Evening-Gazette*, October 30.

Stuart, Virginia

A parent's complaint to school authorities at Patrick County High School resulted in the placement of *Forever*, by Judy Blume, on a restricted shelf. The Patrick County School Board voted unanimously January 13 to abide by the recommendations of a school review committee. The committee, composed of two teachers, two students, two parents, an assistant principal and the school's librarian, recommended placement of the book on the restricted shelf and that parents who so wish be informed of student requests for it.

School librarian Betty Kirkpatrick said that books on the restricted shelf were not there solely due to content. "Special shelving is not just to protect the reader but also to protect the books," she said. Other books on the shelf include a special edition of the *Bible*, art books, older books with loose bindings, and books on human reproduction. According to School Superintendent Dennis G. Witt, *Forever* differed from other books on the shelf because parents would be advised if they so desired that their child had requested it.

The removal of *Forever* culminated the first challenge to library materials in the county since reconsideration procedures were adopted in 1978. The complaint was filed by a parent on December 18. Reported in: *Roanoke Times and World News*, January 14.

New Berlin, Wisconsin

On November 25, the New Berlin School Board upheld School Superintendent Gerald E. Tuchalski's actions in placing the book *Vision Quest*, by Terry Davis, on a restricted reading list. The board voted unanimously to support Tuchalski's authority to make the decision and then voted 6-1 to ratify the decision itself. Students under 18 must now have parental permission to check

the book out of the New Berlin High School library.

Board President James A. Luebke said the district received a complaint about the book in July 1984. The complaint was referred to Robert P. Wiese, principal of the high school. After the principal and a committee of three teachers reviewed the book, Wiese decided that parents wishing to restrict their children's access to the book could do so by telephoning the school or writing a note.

In October 1985, board member Trevor N. Giese contacted Tuchalski about the book. The superintendent said he read the book and found it vulgar and not educational, and he placed the novel on the restricted list. Giese said he was serving his constituents. Board member James N. Engel, the lone member of the board who voted against restricted access, said decisions on the appropriateness of reading material for high school students could best be made by people who work regularly with those students. Reported in: *Milwaukee Sentinel*, November 26.

schools

Montgomery, Alabama

On December 12, the Alabama State Board of Education approved without change a list of textbooks recommended by the state Textbook Committee despite pleas from conservatives that additional titles be cut. The approved texts cover business education, career education, driver education, foreign language, music and special education. A majority of the board members also said they hoped the legislature would open textbook committee meetings to the public before the controversial process of selecting social studies texts begins in the spring. At present, a 23-member committee composed of educators and lay members meets behind closed doors to discuss and vote on books. Their recommendations must be approved by the state board, which may reject additional books but cannot override the committee's rejections.

The Textbook Committee rejected 37 books November 12. According to Arthur Heustess, head of the state Department of Education's textbook section, the number of rejected titles was the highest he could recall for a single year. He admitted, however, that the figure was misleading since 30 of the 37 titles were short stories contained in three paperback volumes. Mary Weidler, director of the Civil Liberties Union of Alabama, said that conservatives raised objections to 33 of the 37 titles. In addition, two conservatives on the panel offered a minority report to the state board which argued that more books should have been turned down.

One title rejected for special education classes was *Americans All*. The book contained at least one glaring misprint—a picture of Confederate Gen. Robert E. Lee was miscaptioned as U.S. Gen. Ulysses S. Grant and vice versa—and conservative critics charged that the book “lavishes praise on blacks, women, labor unions and Democrats” while criticizing “just about everything that Americans have accomplished.” A feminist critic also complained that the word suffragette rather than suffragist was used to describe those who fought for women’s right to vote. Among other books rejected were *Superstars of Rock* and *Rock Hall of Fame*, which offered negative role models for youth, according to one committee member. *Superstars of Country* and *Superstars of Soul* were accepted, however.

Two conservative members of the committee, Mertice Miles, a member of Eagle Forum from Florence, and Mansel Glover Daniels of Mobile, coordinator for Faith America, an anti-abortion, anti-evolution group, charged in their minority report that a number of approved texts “would reflect unfavorably upon the public schools of Alabama and actually be harmful if used in the classroom.” The day before the Board of Education met to consider the committee recommendations, Miles held a press conference urging the rejection of fifteen additional titles.

Daniels and Miles objected to the book *Music*, by T. Politoske, because it showed a picture of Mischeangelo’s sculpture of David. “Of all the pictures the illustrator could have used, the statue of David with its male genitals fully exposed was chosen,” Daniels wrote. Daniels also objected to *The Heritage Songbook*, because it contained the Aztec Hymn to the Sun, “a song in praise to a sun god,” and to *Americans of Dream and Deed*, because “the very first role model is Billie Jean King, an admitted and highly publicized lesbian.” Daniels and Miles charged that an approved history text, *World History for a Global Age*, promotes “one worldism” and population control, instills fear of nuclear war and “promotes the idea that the U.S. is an imperialistic nation whereas Russia is not.”

Marshall County Superintendent Kenneth Wilson, who served as chair of the textbook committee, said the minority report did “not reflect upon the integrity of the process or procedure . . . and does not reflect negatively on the committee as a whole,” but added that the report had received undue attention. The Civil Liberties Union warned that the controversy generated by the minority opinions might frighten local textbook committees into censoring books that the board had endorsed.

“There is more political advantage to being in the minority than in the majority on the textbook committee,” said Lucile White, president of the Birmingham

chapter of the National Organization for Women. “Simply by getting one individual on the textbook committee, a group or organization can have anything it wants distributed to hundreds of individuals around the state as an official document of the Alabama Board of Education. This board has an ethical and probably a legal responsibility to get the minority report under control,” Ms. White told the Board of Education.

State Superintendent Wayne Teague said he asked eight former textbook committee chairs to develop ideas for improving the selection process and to report their findings in February. Teague also recommended that written criteria for selection be established. Reported in: *Birmingham Post-Herald*, November 13, December 11, 13; *Montgomery Advertiser*, November 13.

Little Rock, Arkansas

Dr. Ed Kelly, superintendent of the Little Rock School district, refused to allow Rev. Jesse Jackson to speak to students at Central High School November 14. Dr. Jesse Rancier, associate superintendent, said that Kelly refused to allow the speech because of Jackson’s prominence as a political figure. Rancier said that if the district granted Jackson’s request to speak, it would have been obligated to allow other political figures to speak, and Central students would lose valuable instruction time.

Odies Wilson 3d, executive director of the Arkansas chapter of Jackson’s Rainbow Coalition, said, however, that Jackson did not plan a political speech but would speak against drug abuse. The “primary intent” of Jackson’s visit to Little Rock, he said, was to speak at Central. Reported in: *Arkansas Gazette*, November 6.

Shawnee Mission, Kansas

A student produced television news program that airs twice monthly on a cable channel in suburban Kansas City, Missouri, was partially censored by a school administrator in September. The Shawnee Mission school district official deleted portions of the program reporting on a controversial teacher contract dispute at Shawnee Mission South High School.

Wayne Hickox, director of the educational media program, authorized the removal of portions of the story. He said the high school news program was intended as a public relations tool for the district. “Why should the district pay for something that makes us look bad?” Hickox said.

Kathy McNamara, KSMS-TV broadcasting sponsor and a teacher at Shawnee Mission South disagreed. “I honestly think the kids did a good job on the story. They were very conscientious,” she said. “Student broadcasting is at a point where student newspapers

were fifteen years ago," McNamara added. "Reporters are unsure what their legal status is or what rights student journalists have." Reported in: *Student Press Law Center Report*, Winter 1985-86.

Hanover, Massachusetts

By a 4-3 vote December 11, the Hanover school committee banned a book from classroom use that had been taught at South Shore Vocational Technical High School for thirteen years. The book, *Go Ask Alice*, is the anonymous diary of a 15-year-old-girl whose experimentation with drugs leads to her death. Those who wanted the book banned objected to its use of profanity.

The controversy arose when teacher Robert Parkis asked Superintendent Clifford Easton to order more copies of the book which he used in his sophomore literature class. Easton read the book and told Parkis to stop using it. "I don't think the language and the way the book is presented is appropriate for this school," he said. Parkis appealed to the school committee.

"There isn't a kid in this school who is shocked by this book," Parkis told the committee. "Too often we are afraid to bring something before the kids that they already know, and we seem prudish in front of them." Parkis said the book is easy to read and students are able to identify with the main character. "This is the most moral book I know," he later told reporters. "It is as moral as the Bible. I honestly and truly believe this book can save a life."

Easton disagreed, however, noting that *Alice* contains language "a longshoreman would blush at. If it had been a classic written by Shakespeare and used that kind of language, I would have disallowed it," he said. "I'm willing to take a stand," he added. "There are some very good people who are letting the Civil Liberties Union and other agencies of that ilk intimidate them."

Parkis said Easton based his decision on his religious beliefs, which Easton acknowledged. "I have a Biblical standard, OK?" he said. "The problem with that is many people would not look upon that as an appropriate standard to use in a public school. I as the superintendent want to represent the entire spectrum of society. I try not to let my religious and moral convictions make decisions for me, but they are standards I have to live by and I let them help me decide."

Easton said profanity was not the only standard he used in judging books. "If there was a book by homosexuals, or a book on sexual technique, or a book describing terrorism techniques, you think they would be on my library shelf? No way," he said. Easton added, however, that he would not order *Alice* removed from the school's library since no one is forced to read it there. But teaching it in the classroom, he said, gave the

impression that the school condoned the book's language. Reported in: *Quincy Patriot Ledger*, December 12, 13.

Detroit, Michigan

When students at Detroit's Mumford High School were invited to appear on the NBC television show *Main Street*, a monthly news magazine geared to teenagers and hosted by Bryant Gumbel, to discuss school-related violence, Detroit public school officials were not flattered. Fearing negative national publicity, Mumford Principal Irving Petross and Joseph Miller, area superintendent, turned down NBC's request to film inside the school. The producers went instead to a Chicago school, where they filmed a segment on gang violence.

But *Main Street* producer Avrom Zaritsky was impressed by the Mumford students he met before school officials declined his request. "We felt there was a new story here in Detroit," he said. The story, of course, was censorship.

So, on December 7, seven students gathered to answer questions about the incident for a film clip to be shown on the program, and, a week later, Mumford senior Krystal Miller, editor-in-chief of the *Mumford Times*, flew to New York to tape the January program. Miller explained how the *Detroit Free Press* first publicized how NBC and the students were turned down by school officials, and how other stories and newspaper and television editorials followed criticizing school officials. "Freedom of speech was my main concern, that was the only thing that crossed my mind when they said no," Danyelle Wilkins, another Mumford student said. Reported in: *Detroit Free Press*, December 8, 18.

Herman, Minnesota

Seventh-graders in Herman began school in the fall without social studies textbooks. Ninth-graders had to use texts that were seven years old. Those were among the results of the Board of Education's decision to consider content in ordering new books.

The controversy began in June when the school board failed to approve seventh- and ninth-grade social studies texts. In the past, the board had approved books on the basis of budget considerations, but this year member Rudy Bertram objected to the content of the books. At the August school board meeting, a social studies teacher proposed a different text for the seventh-graders, but Bertram objected to that book, too, and the board took no action.

Bertram said he objected to the books because one contained a chapter on evolution and lacked information on the Declaration of Independence and traditional American heroes. Teacher Gary Magnuson said,

however, that the book did not discuss evolution but the geology of rivers, lakes and mountains. He also said the book did discuss the Declaration of Independence and omitted only minor historical figures. "You are never going to find a book that includes everything," he said.

Magnuson filed a grievance against the board on the issue, but Superintendent Bill Smith said the board rejected his appeal because textbook selection "is a matter of policy and not part of the teachers' contract." Magnuson said he would pursue the grievance, calling the board decision "downright censorship."

Bertram, a former social studies teacher, said that the textbook itself was a "small issue" and that not having textbooks for a class was "not a serious problem." He said the larger issue is getting the community involved in textbook selection. Reported in: *Minneapolis Star & Tribune*, October 7.

Parma, Ohio

Since last spring, a group of parents has lobbied the Parma school board to remove 500 copies of the textbook *Life and Health* from district classrooms. On November 19, the Parma PTA sponsored a discussion of the book which drew an audience of over two hundred people.

Teacher Kenneth Wiley demonstrated to the meeting how he uses the book in class, noting several times during his lecture that, "We can agree to disagree." Several parents in attendance accepted his proposition. Parma Heights resident Donna Sessanna, a leader of the movement to get the text banned, said, "I object to the book. I know that Mr. Wiley and others who teach it are excellent, but I feel the material in the book is inappropriate. I think the book should not be in the hands of students."

The book "tries to avoid having any values or morals," one woman said after Wiley's lecture. "In its own way it preaches a religion of moral indifference." She received applause when she said that to give the book to a junior or senior was similar to "lighting a match to a powder keg."

Mary Ann Moga, a member of the Parma PTA and of the district textbook selection committee, disagreed. She said the book hit all topics of concern. "Children will be affected by all of these things, but I hope that my values will be above all others." The meeting was not intended to resolve the issue, which may ultimately be decided by the school board, and the controversy continued. Reported in: *Cleveland Plain Dealer*, November 20.

Myrtle Creek, Oregon

A seventh-grade social science textbook sparked a six-month-long controversy in the South Umpqua School

district, pitting district administrators against some local residents. The book, *Introduction to Social Science*, presents a variety of concepts that Myrtle Creek resident Terry Flora said are "controversial and inappropriate for seventh-graders."

Flora, director of the local chapter of Citizens for Excellence in Education, said the book's sections on death education, extrasensory perception, genetic planning, group therapy and religious values had little to do with the teaching of "basic social studies." The book includes little information on history or geography, she charged, adding, "The whole book is just crummy."

The controversy arose in April when the district's curriculum committee recommended the book's use for the 1985-86 school year. More than 500 district residents signed a petition against the book after Flora and other activists placed poster boards containing copies of its "controversial" sections in local stores. After receiving the petition at an August meeting, the school board rejected the text and instructed Superintendent Ray Hanson to appoint a new curriculum committee.

"I don't think all the people understand the book or have seen what's in it," said Janet Dobry, director of personnel and curriculum. "It may be a simplification, but some people just don't want to have their values questioned." According to Dobry, the district was trying to change its approach to social studies to include sections on sociology, psychology, anthropology and economics. The new committee wants to continue the new emphasis, but Dobry said that only two available textbooks could adequately implement the proposed curriculum.

"We are caught between a rock and a hard place," she said "There is no way the book is going to be adopted, although it is the best book for the proposed approach. We're not trying to teach some far-out concepts, but we're not trying to teach Sunday school, either," she added. "There is room for compromise. We just want to teach a balanced curriculum." Reported in: *Portland Oregonian*, December 5.

Waukesha, Wisconsin

In a 7-2 vote November 12, the Waukesha School Board granted Superintendent George Shiroda's request to excise a brothel scene from the Vietnam War film *Hearts and Minds* so that students at Waukesha North High School would not see it. Last May, Shiroda objected to use of the film because of the sex scene and ordered teachers not to show that portion of the movie. The teachers decided that rather than show a censored version they wouldn't show the film at all. Although Shiroda's order violated district policy at the time, the school board voted 5-3 in June to uphold his decision (see *Newsletter*, July 1985, p. 115; September 1985, p. 152).

Later in the summer, the board voted to amend the policy governing selection and reconsideration of materials to permit the superintendent to remove materials while they are reviewed by a reconsideration committee. In September, Shiroda filed a formal complaint against the film (see *Newsletter*, January 1986, p. 11).

On October 29, the film was reviewed by the Reconsideration Committee, which voted 7-2 by secret ballot to permit screenings of the entire film. School Board President John Inzeo nullified that decision, however, charging that the vote violated Wisconsin's Open Meetings Law. Shiroda appealed to the board, which agreed to support his position in editing the film was legally permissible.

In December, an attorney advised the board that editing the film for classroom use would not violate copyright laws, but that "extreme caution should be used in making entire copies of edited motion pictures." *Hearts and Minds* won an Academy Award for best documentary in 1975. Reported in: *Milwaukee Sentinel*, November 8; *Waukesha Freeman*, December 12.

West Milwaukee, Wisconsin

West Allis-West Milwaukee School Board vice president Ernest Terrien remains at the center of a widening controversy over textbooks and First Amendment rights. Terrien led a board majority that voted in August against using a psychology text, *Understanding Psychology*, that some claimed was not supportive of "family values." In subsequent weeks, Terrien released a list of subjects he considered "suspect" for textbooks (see *Newsletter*, January 1986, p. 12). In November, Terrien complained that a sociology book recommended by the district's curriculum committee teaches secular humanism, and the board put off an adoption decision while a legal opinion was sought on whether the book violates students' rights.

At West Milwaukee High School, the October edition of the student newspaper, *Mustang Express*, published an editorial critical of the board's ban on *Understanding Psychology* which subjected Terrien's views to considerable ridicule. An angry Terrien demanded disciplinary action against the student editorial board and asked the School Board to review how high school papers are operated and financed in the district.

The students understood Terrien's response as a threat to shut down the paper and accused him of censorship. Terrien said, however, that he sought only "a commitment to honest journalism." He charged that the editorial inaccurately presented his position. Editor Chris Burgess said the paper's right to publish a clearly

labeled opinion was guaranteed under the First Amendment. She said the paper would not apologize and would comment on Terrien's remarks in its next issue. Reported in: *Milwaukee Journal*, November 14.

student press

Palo Alto, California

An advertisement from a gay and lesbian support group that ran in Palo Alto High School's student newspaper, *The Campanile*, came under fire in October from a substitute teacher and Palo Alto resident who asked the school board to ban its publication. Virginia Briggs charged that publication of the ad might induce teenagers to engage in homosexual activity.

The school board refused to stop publication of the ad, but agreed to debate the issue in the future. "We're going to look into the matter and see what the circumstances are and then evaluate it to see what, if anything we do from there," board member Alan Davis said. "Frankly, I think we ought to be reviewing whether we should have ads at all."

Board member Carolyn Tucher said that the school policy allowed the ad and it should continue to run. "I don't think we should be looking at each ad," she said. "I am not eager to comment on this particular ad, but I will say that we don't want to be in a position of promoting sex of any kind. If this ad provides support and aid, that's something else."

The Peninsula Gay and Lesbian Youth Group's ad offered weekly discussion groups, "a friendly supportive atmosphere" and a telephone number for interested readers. When the number is dialed, callers get a taped message offering "fun, friendship and support" for gay students aged 15 to 25. Reported in: *San Jose Mercury*, October 26.

Union City, California

Following a flurry of news stories reporting the suspension of the student newspaper at James Logan High School, the *Logan Courier* appeared December 20 with a revised version of a story on youth gangs to which school officials had objected. Emelyn Lat, editor-in-chief of the *Courier* and author of the story, said that although she agreed to make three changes in her story, she retained strong feelings about what had happened. "I believe that censorship is very wrong and the people have a right to know the truth, no matter how ugly it is."

"I thought it was more important to the students of Logan and the community to print the story instead of having it held up by further negotiations," Lat said. She

agreed to change her description of the gangs as "school gangs" to "youth gangs;" to delete the names of an alleged gang member and a student who supposedly once had ties with gangs; and to eliminate two photographs of youths identified as gang members.

In the story, Lat reported on the growing tension between two gangs that was capped November 16 when 18-year-old Mike Estavilla was fatally shot. Lat also described efforts by school district officials to keep gangs off campus.

Logan Principal Judy Bender, who originally gave the order to suspend the newspaper, said the objection to naming the alleged gang members quoted in the story was due to the school's inability to prove that they had, in fact, said what they were quoted as saying. "We are the publishers of the newspaper and we are liable," she said. "Nobody ever wanted to shut down the newspaper, we just wanted time to negotiate." According to Bender, the district's lawyer said the article as originally written was libelous and inflammatory. Superintendent Guy Emmanuele said he feared those named might become targets of reprisals. "We really thought there was a real threat to life and limb," he said. Reported in: *Oakland Tribune*, December 20.

Cambridge, Massachusetts

Editors of the student-produced course guide at Harvard University charged that university officials threatened to stop publication unless reports on certain professors were changed. The university-financed guide, the *Cue*, consists of reviews of courses and professors based on anonymous numerical and descriptive questionnaires completed by students and compiled by student editors. University officials objected to what they saw as harsh criticisms of some professors.

The editors complied with the demands, but included notice that the censorship had occurred. In a preface they wrote, "While the university's actions affected only a minority of the write-ups, censorship of this sort undermines the integrity and objectivity of *Cue's* guide." Barbara Okun, *Cue's* editor-in-chief, said that only 17 of 250 courses were affected by the changes.

In recent years, the *Cue* has been relied upon by senior faculty to evaluate professors in the tenure process. Last spring, complaints that the guide was too subjective prompted the faculty to vote that the completed questionnaires be turned over to teachers. Reported in: *New York Times*, September 22.

Hibbing, Minnesota

School board officials in Hibbing met November 20 to find a way to control the content of two unofficial underground newspapers distributed at Hibbing High School. "I want to respect the rights of students who

want to write," school principal Jon Bathke said, "but I'm seeing a lot of innocent people getting hurt."

The Underground, a free newspaper written by students on their own time, was begun last year by three students. A rival publication, *Underwater*, was founded by other students several months later. Gene Wilenius Jr., last year's editor of the *Underground*, said the paper was started because the school-sanctioned student paper, *High Times*, didn't meet student needs. Students "weren't free to express opinion," he said.

Bathke said he didn't object to criticisms of school policy or even to jokes about himself in the papers. But he did mind sexual innuendos, references to drinking and drugs, and, most of all, insults of other students. "We're talking about people's feelings," he said. "Humor has to be seen in the eyes of the people it's about, too."

Bathke suggested that the school board consider a policy for materials distributed on school property that would require review of such newspapers by the school administration. The purpose of such a policy would be twofold, the principal said: "To protect the rights of students to the First Amendment and to protect the rest of the students from libelous" statements. Reported in: *Minneapolis Star & Tribune*, November 20.

New York, N.Y.

The editor of the student newspaper at the New York City campus of Pace University resigned in November after a faculty committee decided to shut down the paper and recommend his dismissal as editor for publishing an article that used graphic language in discussing AIDS. The university administration also confiscated 3,000 copies of the November 14 issue of the newspaper, *Pace Press*, that included the article, nearly half the weekly paper's total press run.

The school's chancellor, Dr. Edward J. Mortola, said the article contained "offensive" material, such as "four-letter words in large print," and constituted "gross and inappropriate treatment of an important subject." The editor, Brian Sookram, defended publication of the story as a public service and called the faculty decision to freeze funds for the paper and demand his ouster "outrageous."

Sookram said his resignation was not an admission of wrongdoing but a move to clear the way for the staff to elect a new editor and resume publishing. Normally, the Pace faculty has no involvement in the selection of an editor, but Mortola said the faculty committee which oversees the paper would have to approve the staff's choice.

Under the paper's constitution, the administration has no prior control over content, but may, on the vote of a publications committee of six faculty members,

close the paper. In taking such an action November 18, the committee cited "offensive language beneath acceptable journalistic standards," as well as violation of a January directive from Mortola that the paper exhibit "a constant concern for accuracy and good taste." Reported in: *New York Times*, November 24.

Philadelphia, Pennsylvania

Administrators at Temple University removed the funding from the school's satire magazine because of content they labeled "libelous, inciteful and obscene." In May 1985, Temple President Peter J. Liacouras sent a memo to administrators and professors saying that editors of the humor and satire magazine *Spice* were to be evicted and all copies of the magazine destroyed. The memo also indicated that *Spice's* funding would not be continued.

Liacouras objected to a section in the spring issue of the biannual entitled "Cannibal Comix," which consisted of a number of single-frame cartoons depicting cannibals. Liacouras objected to what he called racial and sexual stereotypes in the drawings. After the fall issue, *Spice* editors were told by the director of the University Publications Board that the magazine was "devoted to vilification." The director was also said to have hinted that there would be serious consequences if the same type of material appeared again.

On September 19, Liacouras announced he would restore the funding, saying that the cutoff had been an attempt to defuse a sticky situation. But because of the funding cut in the spring, no staff had been chosen for 1985-86. The staff is chosen by a nine-member publications board of faculty, students and administrators, which meets just once a semester. Reported in: *Student Press Law Center Report*, Winter 1985-86.

student theatre

St. Louis Park, Missouri

The first high school to stage a student production of the hit Broadway show *A Chorus Line* will be cautious in selecting future plays. Richard Winio, St. Louis Park High School principal, said he received an unusual number of objections to the play which ran on two weekends in November, including "half a dozen phone calls, a couple of letters and two personal visits." Most of those who objected questioned the appropriateness of the play for a high school and the language used.

Marilyn Keillor and several other parents brought their objections to the school board. "I expect a play at the high school I can bring my children to," Ms. Keillor

told the board. "I was deeply offended by the subject matter. I was offended by the constant use of obscenities. It was not a family play. I feel the school owes the kids who came an apology."

Winio said that usually he reads plays selected for production in advance, but due to a change in directors he did not read this one. "I talked to the people involved in selecting plays," he added. "We will not do anything to alienate the public. We will abide by good taste—what is acceptable in the community." Reported in: *St. Louis Park Sailor*, December 16.

Appleton, Wisconsin

A famous drama that students at Appleton West High School prepared for performance at a theatrical festival was canceled by criticism in October before its first performance. Roger Danielson, head of the school's drama department, said he canceled all performances of Peter Weiss' *The Persecution and Assassination of Marat as Performed by the Inmates of the Asylum of Charenton under the Direction of the Marquis de Sade* rather than have "the audience coming through pickets."

Students rehearsed the play, commonly referred to by its abbreviated title, *Marat-Sade*, for three weeks. Danielson said the production was chosen for performance after the school was invited to participate in the three-day Illinois High School Theater Festival. Principal Emmet Hoks, Superintendent Randy Dewar and members of the board of education said they received letters and telephone calls protesting selection of the play. First performed in 1964, *Marat-Sade* includes scenes of sex, sadism and brutality, although Danielson said the most controversial segments were edited out for the student production. Reported in: *Madison Capital Times*, November 6.

Waukesha, Wisconsin

A high school English and theater instructor was required to rewrite a scene in Neil Simon's play, *The Good Doctor*, for a production at Catholic Memorial High School after complaints from a parent. In the final scene of the play, a father takes his son to a house of prostitution to celebrate his 19th birthday, but ultimately changes his mind. A parent who saw the scene in rehearsal complained to Principal Father James Loehr, who instructed teacher William Doering to do the rewrite. The scene was altered to show the boy out on his first date, but Doering freely admitted that he is not Neil Simon and that the first scene was better.

Loehr said he felt that he was in a "no-win situation." He said he asked Doering to rewrite the play after the parent objected, but admitted that the original scene had been handled well by Simon. "I'm sure there

are others who will be upset that it was changed," he said.

Among those who might object would be Simon. According to William Talbot of Samuel French, Inc., which owns and leases rights to the play, such rewrites are illegal without the author's permission. "You cannot tamper with it at all," Talbot said. Reported in: *Milwaukee Journal*, November 8.

broadcasting

Berkeley, California

A left-of-center documentary film on Central America that was aired on television stations across the country but rejected by San Francisco Bay Area broadcasters was shown in a Berkeley church November 12 in what its sponsor called an effort to overcome *de facto* censorship. The Institute for Food and Development Policy, a San Francisco research and education group, said that efforts to purchase time on all five Bay Area television stations to show its film, *Faces of War*, had been unsuccessful. The film was advertised for public showing in Berkeley and San Francisco with fliers labelled "Banned by Bay Area TV."

"This locally produced television special has aired in eight cities across the United States, but Bay Area stations refuse to sell time to its sponsors," said Nick Allen, the film project's director. Allen said the 30-minute documentary had been seen on stations in Portland, Oregon; Providence, Rhode Island; Jacksonville and West Palm Beach, Florida; Rochester, New York; Minneapolis, Minnesota; Albuquerque, New Mexico; and Eureka, California.

Officials for the Bay Area television stations confirmed that they declined to sell the institute air time, but maintained they were under no obligation to do so. Ian Zelleck of KTVU-TV said his station had already "sought out" enough opposing viewpoints for its programming on Central America. Zelleck said he reviewed the film and "saw nothing wrong with playing it as long as we could give time for opposing views." But institute representative Michael Ganley countered that under the FCC Fairness Doctrine, a station is not required to provide "equal time" but merely a balance. Dave Wilson of KRON-TV said his station turned down the film because its own news crew produced a documentary in El Salvador.

Ganley said the stations "are fearful of offending the Reagan administration by presenting a point of view at odds with administration policy. It's time to bring the anti-interventionist point of view out of church basements and into the taxpayer's living rooms on their TV sets because the U.S. government has poured over \$2 billion into Central America in the last couple of years." Reported in: *Oakland Tribune*, November 12.

West Orange, New Jersey

A New Jersey radio station November 3 barred a Brooklyn Black minister, the Rev. William A. Jones, from on-the-air criticism of the apartheid regime in South Africa. "I find this utterly incomprehensible, given the bestial nature of the South African government made manifest in its unconscionable treatment of Blacks, the moral outrage sounding forth from every quarter of the globe and your own alleged commitment to the Christian ethic," wrote Rev. Jones, leader of Brooklyn's 5,000-member Bethany Baptist Church, in a letter to Art Thompson, manager of WFME radio station in West Orange.

Jones had for ten years hosted "The Bethany Hour," a series of prerecorded sermons, every Sunday from 6:30 to 7:30 a.m. on the listener-funded religious station. In his sermon broadcast November 3, Jones told listeners: "Enough! This word has often been the rallying cry for people under the heel of oppression. And in that context it is a good word. How often has this word pierced the noisome madness of demonic tyranny. History is punctuated by the cry of 'enough.' I hear it coming up from the brickfields of ancient Egypt. It rises from the mouths of slaves in the cotton fields of Dixie. It sounds forth as a proper response to the Nazi juggernaut. It bellows at least against all efforts at human domination. We hear it now all over South Africa. Enough! Enough! Enough!"

Thompson edited out the words: "We hear it now all over South Africa."

Jones said that Thompson's predecessor never edited his sermons, but that earlier in 1985 Thompson edited out another reference to South Africa. Declaring that the "rightness of the Black struggle in South Africa" was at stake, Jones informed Thompson that he was withdrawing his program from the station. "Bethany Church elects to purchase air time elsewhere and thereby preserve the freedom of her pulpit."

Thompson defended his actions by claiming that FCC rules "prohibit political content in sermons." Thompson said that if Rev. Jones "wants to comment on Haiti, Central America and South Africa, we have the proper format and program to address this. He has not abided by our regulations." Reported in: *New York Amsterdam News*, November 9.

art

Little Rock, Arkansas

A Psychic Art Fair, sponsored by the Southwest Mall, which had been scheduled for Halloween weekend, was canceled because of opposition from some merchants and customers who believe psychic powers come from the devil. Martha Cole, owner of the Living Word and Gift Shoppe in the mall, said so many of her customers had complained about the Psychic Art Fair that she felt her business, which sells religious materials, would suffer if she didn't oppose it. "I feel like it's witchcraft and sorcery," Cole said.

Kaye Risser, promotion director for the Southwest Mall Merchants Association, said the merchants voted on the Psychic Art Fair and twenty opposed having it, while fourteen supported it. Admission to the fair would have been \$1 and proceeds would have gone to the Little Rock Museum of Science and History.

Carol Pate of Little Rock said that she and about eighteen other people had planned to exhibit art at the fair. She called her art "psychic" because she has no formal training in art, yet visions come to her and she paints what she sees. Pate said she and the other artists were all "respectable Christians" and opposed Satanism. Pate also was scheduled to speak to talented and gifted students at two elementary schools in the Pulaski County School District, but the principals of the schools canceled the presentation because of the controversy surrounding the art fair.

Works from the Psychic Art Fair were eventually displayed at the Camelot Hotel November 30. A local reviewer said Pate's art "revealed the pleasant preoccupations of a Baptist who's only been painting six months—dreamy seascapes, swans, hummingbirds, sea gulls and mountain lions." Reported in: *Arkansas Gazette*, October 30, December 1.

San Diego, California

A sculpture depicting a border agent searching an illegal alien atop a donkey cart was removed the day it went on display outside the federal courthouse in San Diego, setting off a flurry of censorship charges as well as a lawsuit. The sculpture, a wood representation by David Avalos, was removed January 6 by the General Services Administration (GSA) after the artist refused to dismantle it himself. The removal came at the order of Chief District Judge Gordon Thompson, Jr., who held the sculpture was a security risk. The GSA had granted Avalos permission to display his work on the plaza through January 17.

The sculpture was an eight-foot-high replica of the type of donkey cart used as backdrops for tourist

photographs in Mexico. Where tourists strike their poses, however, a border agent is depicted searching an undocumented worker. On the cart steps are the words "La Raza, si, Migras, no."

Thompson ordered the sculpture's removal "for security reasons" just hours after Avalos set it up. In an interview, the judge explained that "somebody could get in there and put something in it that could do harm to the court. This man could have put that object any place he wanted to, any other government building, where there is no litigation or where there isn't so much volatility and dissatisfaction. We have enough problems around here already."

Avalos said, however, that the building manager informed him the judge's objection was to the piece's meaning. The artist added that the security argument was not persuasive. "Does he really expect people to believe that someone's going to go through chain-link and barbed wire to plant a thermonuclear device in it? This is just censorship."

With the assistance of the ACLU, Avalos sued the GSA and Judge Thompson, seeking a restraining order against the sculpture's removal, but other district judges declined to hear the matter and, on January 15, the U.S. Court of Appeals for the Ninth Circuit refused to order a hearing. Gregory Marshall, an ACLU attorney, said a new suit, requesting damages, would be filed.

The removal order was criticized by Consuelo Santos Killens, a member of the California Arts Council. She called the security argument "just a ruse" and said she would present a resolution to the arts council calling Thompson's order "anti-art, anti-artist and unconstitutional." "By his reasoning," she added, "the Vietnam War Memorial is a security risk. It received numerous bomb threats." Objections also came from San Diego's Public Arts Advisory Board and local museum officials. Reported in: *New York Times*, January 21.

Baltimore, Maryland

Johns Hopkins University officials temporarily removed three paintings depicting nudes from a hallway gallery toured January 10 by South African Bishop Desmond M. Tutu. The paintings were part of a 65-piece exhibit by students at the Maryland Institute College of Art. Jay Quiring, who coordinated the exhibit, said one painting was of a nude done in a classroom study. The other two were described as "semiabstract oil paintings."

Quiring said Hopkins officials told him the works would be returned to the exhibit shortly after Tutu's visit. A representative of the Hopkins Medical Institutions said Dr. Levi Watkins, who invited Bishop Tutu to Baltimore, "Saw the paintings while going through the exhibit and thought they weren't appropriate." Reported in: *Baltimore Sun*, January 11.

Grand Rapids, Michigan

An art exhibit entitled "Powers & Principalities" was cancelled one day before its scheduled September 18 opening at Calvin College because school officials objected to one work in the show. The college said it would display the rest of the exhibit if the three-piece work "Metanoia," by Patricia Mohan, part of which showed a couple having intercourse, was removed. Seven of the exhibit's eight artists and the curator agreed to scrap the entire exhibit instead.

The show was mounted a month later at the Race Street Gallery, where at the opening about fifty artists, Calvin students, and others discussed the issue of censorship and artistic freedom. "Thank goodness that Race Street Gallery decided to have the exhibit shown here," said Mohan, who added she was surprised by the college's decision because her painting and sculpture illustrate religious, primarily Catholic, themes.

Bob Dykman, a 1985 Calvin graduate who attended the exhibit, said he could "understand why the decision was made. If the exhibit had been allowed, heads would have rolled. But the fact that the decision had to be made is appalling." Reported in: *Grand Rapids Press*, October 16.

foreign

Beijing, China

In a major new crackdown on literary freedom, China has outlawed the publication of all books, magazines and newspapers that are published without official government approval. The ban was adopted by three Chinese government ministries January 17. It requires all publishers to register with the government and gives authorities the power to confiscate the publications of those who fail to do so. In addition, publishers or printing firms involved in putting out unauthorized material can be fined and have their income confiscated.

The new controls reflected a shift in attitude on the part of the government since the time, barely a year earlier, when it seemed to be advocating cultural liberalization. The immediate target of the new decree seemed to be China's increasingly popular "yellow press", not political and cultural dissent. Over the last year, prompted by the government's market-oriented reforms, publishers have flooded the market with tabloids, magazines and books featuring stories about sex, romance, crime, kung fu and other martial arts. The official New China News Agency said that authorities would "crack down on cheap fiction published purely for profit, which contaminates people's minds."

Since the economic reforms were announced in late 1984, some Chinese publishing units have turned out popular magazines and tabloids to earn money to offset the cost of their more weighty but less profitable literary or political journals. One editor has been selling a movie magazine with pictures of Brooke Shields and other foreign stars to help subsidize his literary journal which for years has been warning against allowing too many decadent foreign influences into Chinese life. The success of the populist tabloids also has led to a severe shortage of paper and newsprint.

Under the new regulations, authorities do not have to find any particular book or magazine offensive. Instead, they have broad power to confiscate materials brought out by unregistered publishing enterprises. Even when publishers register, the rules require them to get approval for particular books and to abide by limits on the number of copies that can be produced. Those who fail to do so can be fined and have their earnings seized. Reported in: *Los Angeles Times*, January 20.

Helsinki, Finland

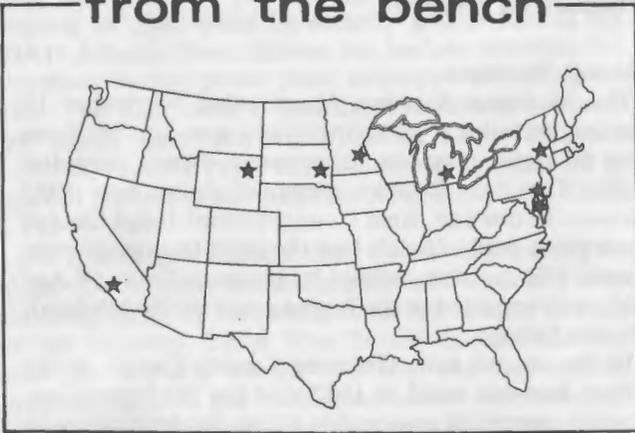
Finland's State Board of Film Censorship has banned the public showing of a Finnish-American film *Born American*, described by critics as brutal and anti-Soviet. The film, directed by Finland's Renny Harlin, was banned by unanimous decision of the board "for political reasons and reasons of violence." Originally entitled *Arctic Heat*, the movie tells the story of some young Americans who illegally cross the border from Finland into the Soviet Union and end up in a prison camp. Reported in: *Los Angeles Times*, January 17.

(Is it legal? . . . from page 55)

lightenment and their colonial experience with censorship by taxation under British rule," argued Czyzewski's attorney, Gary Becker. Beyond the constitutional issue, Becker says the tax is unjust because it is selective. "It is not a general system of tax. The tax should be all or nothing, which is probably politically impossible," Becker said.

A group of authors in New York, including Norman Mailer and Erica Jong, have lobbied that state to remove the sales tax on books, arguing that New York does not tax necessities and that books are a necessity. But Becker said, "the issue is not whether books are like bread, but whether books are like newspapers." Reported in: *Twin Cities Reader*, November 27.

from the bench



U.S. Supreme Court

For the first time since its 1969 landmark ruling in *Tinker v. Des Moines Independent Community School District*, the U.S. Supreme Court agreed to hear a case directly involving the free expression rights of high school students. On October 7, the court agreed to review the case of *Bethel School District v. Fraser*, which arose from incidents at a Tacoma, Washington, high school in 1983. The case questions the definition of student speech that creates a "material and substantial disruption of school activity," the authority of school officials to control "indecent" speech that is not obscene, and the constitutionality of school policies regulating speech.

In April of that year, Matthew N. Fraser, a senior honor student at Bethel High School, gave a nomination speech for a student government candidate at a student-run assembly. His speech contained several sexual innuendoes and was accompanied by loud clapping and hooting from the audience, although school officials had no trouble maintaining order. The day after the speech, Fraser was suspended and denied permission to be considered as a graduation speaker. The school claimed that his speech was disruptive of the educational process and that he used vulgar and indecent language which the school had the right to control. The school cited its own regulations, which prohibited conduct that "materially and substantially interferes with the education process . . . including the use of obscene, profane language or gestures."

Fraser sued the district for violation of his First Amendment rights. The U.S. District Court for the Western District of Washington and the Court of Ap-

peals for the Ninth Circuit both found that Fraser's speech was protected by the First Amendment, and that the school regulations were unconstitutional, vague and overbroad. The district appealed to the Supreme Court. Reported in: *Student Press Law Center Report*, Winter 1985-86.

The Federal Election Commission asked the Supreme Court to rule that the Federal Election Campaign Act authorizes the agency to regulate a newsletter that advocated support for pro-life candidates in the 1978 Massachusetts primary. The U.S. Court of Appeals for the First Circuit ruled in *FEC v. Massachusetts Citizens for Life* that although the newsletter is not covered by an exemption in the law protecting newspapers, FEC regulation would be a prior restraint on publication of views about politics.

Massachusetts Citizens for Life is an anti-abortion group that publishes a newsletter sporadically. In October, 1978, its mailing list included 3,100 names. But before a September, 1978, Massachusetts primary, MCFL distributed a special election edition free to more than 58,000 homes. The newsletter urged readers to "vote pro-life" and contained the voting records of all candidates, but the photographs of only those candidates the group considered "pro-life."

The National Abortion Rights Action League complained to the FEC and in March, 1982, the FEC sued MCFL, claiming that the special edition violated the 1971 Federal Election Campaign Act which bars any corporation from making a contribution or expenditure in connection with any federal election primary. MCFL replied that the law exempts periodical publications and in June, 1984, the District Court ruled that the MCFL publication was indeed exempt from the act.

The FEC then appealed to the U.S. Court of Appeals for the First Circuit in Boston. The appeals court agreed with the FEC that the \$10,000 cost of the special edition was indeed a campaign expenditure and that the election edition was not a true periodical. The court ruled, however, that the government had failed to demonstrate that it had a substantial interest in restricting publications like the MCFL election newsletter. The FEC has asked the Supreme Court to review the decision. Reported in: *News Media and the Law*, Fall-Winter 1985.

In separate arguments involving the *Philadelphia Inquirer* and syndicated columnist Jack Anderson, the Supreme Court December 3 was asked to establish greater protection for media defendants facing libel suits. In the Philadelphia case, the court was asked to rule on the constitutionality of a Pennsylvania statute requiring media defendants facing libel suits by private figures to prove that their story was true. Pennsylvania is one of just five states which puts that burden on the defendant.

"This rule," *Inquirer* attorney David H. Marion argued, "turns the First Amendment upside down. The burden of proof must be allocated to protect truthful speech about public affairs." The newspaper is being sued by a beer distributor who claims he was libeled in a series of stories which appeared in 1975 and 1976. A jury found for the newspaper under the ruling that the distributor must prove the stories false, but in 1984, the state supreme court overturned that decision and ordered a new trial where the *Inquirer* must prove the stories true.

The Anderson case stems from two 1981 articles in which the columnist called the Liberty Lobby and its treasurer, Willis A. Carto, neo-Nazis, anti-Semitic and racist. Anderson moved to dismiss the suit claiming it could not be shown that the accusations were made with malice. A federal judge agreed, but an appellate panel reinstated the suit on the premise that a case should not be dismissed by a judge without a jury first being given the opportunity to decide the malice question. Anderson's attorney asked the Supreme Court to reverse that ruling, arguing that it would drastically increase the number of libel suits. Reported in: *Washington Times*, December 4.

A week after the death of Antoni Gronowicz on October 16, the Authors League and the American Civil Liberties Union filed briefs with the Supreme Court on behalf of his challenge to a criminal investigation of his controversial book, *God's Broker*. Until his death at 72, Gronowicz had waged legal battles against the right of the government to investigate whether he had had interviews with Pope John Paul II for the book. His Supreme Court appeal was directed at an appellate ruling last June that said the government could conduct a grand jury investigation into the veracity of the book on grounds that U.S. postal laws may have been violated (see *Newsletter*, September 1985, p. 162; May 1985, p. 87).

The outcome of the appeal was uncertain since the court has in the past considered such cases moot when the petitioner is no longer alive. But Irwin Karp, who filed a friend-of-the-court brief on behalf of the Author's League, said he hoped the court would hear the case "because the court of appeals decision will, as the brief contends, have a chilling effect."

The ACLU said it "takes no position on the truth or falsity of Gronowicz' book," but noted that "never before has the federal government sought by its powers of criminal investigation to compel an author to verify his work. Never before has a federal court of appeals permitted the government to do so." Gronowicz' appeal was filed by former U.S. attorney general Ramsey Clark. Reported in: *Publishers Weekly*, November 15.

shopping malls

Lansing, Michigan

The Michigan Supreme Court ruled November 13 that organizations gathering signatures on petitions have no right of access to privately owned shopping malls. The 5-2 decision stemmed from two 1982 lawsuits. In one suit, Kent County Circuit Judge George Cook ruled mall officials had the right to exclude petitioners. His decision, upheld by the state Court of Appeals, was appealed to the higher court by the Michigan Citizens Lobby.

In the second suit, Genessee County Circuit Judge Robert Ransom ruled in 1982 that the Michigan Constitution permitted reasonable access for petitioning in Genessee Valley Mall. The two cases were combined on appeal (see *Newsletter*, March 1985, p. 57).

The court majority dismissed the Citizens Lobby's contention that it had no adequate alternative to reaching people in the malls. "While there may be no similarly convenient alternate avenues," wrote Justice Dorothy Comstock Riley, "the practical difficulties of obtaining signatures without constitutionally mandated access to the malls has not been shown."

Chief Justice G. Mennon Williams and Justice Michael Cavanagh dissented. Former Michigan Governor Williams and Cavanagh said the "minimal intrusion" of petition circulating "is justified in view of the importance of the power of initiative reserved by the people. Access to people is the lifeblood of the initiative power."

Howard Simon, Michigan executive director of the ACLU, called the ruling a "devastating blow to the freedom of all Michigan citizens" and said it means "private property takes precedence over the rights of individuals."

The U.S. Supreme Court has ruled that access to shopping malls by petitioners, leafletters and other disseminators of expression is not protected by the U.S. Constitution but may be protected by state constitutions. Several state courts have acted to guarantee such protection, but a growing number have ruled as the Michigan court did, most recently New York (see next story). In the majority of states, the issue remains undecided. Reported in: *Grand Rapids Press*, November 14.

Albany, New York

In a major decision on the limits of free speech, a divided New York State Court of Appeals, the state's highest court, ruled December 19 that shopping malls may stop groups from passing out leaflets or making political pitches on their grounds. In a 5-2 decision, the

court said the Smith Haven Mall on Long Island acted properly in 1980 when its security guards barred the SHAD Alliance from passing out leaflets opposing the Shoreham nuclear power plant to shoppers entering the mall. The high court's decision overturned a March 1983 lower court ruling, affirmed by a state appellate court in February 1985, that allowed demonstrators to pass out leaflets at the mall (see *Newsletter*, May 1985, p. 87).

The court's split decision cast two very different lights on the role of large shopping malls as the main public gathering spots in sprawling suburban areas. Writing for the majority, Judge Vito Titone stressed that the mall was privately owned and that the free speech clauses of the U.S. and state constitutions were intended to prevent government—not private businesses—from limiting open debate. Titone noted that the Smith Haven Mall has a rigid policy against passing out leaflets which is applied to individuals and groups of all persuasions. He said activities which had been allowed, such as blood drives and senior citizen information booths, were "types of events that generate good will, consumer interest, and patronage."

But the dissenting opinion by Chief Judge Sol Wachtler, himself a former Long Island civic leader, stressed that the mall has several large seating areas and was clearly designed to encourage the public to linger. He wrote that passing out political leaflets at a mall is not substantially different from a number of other public activities conducted there, such as charity auctions or Armed Forces recruiting.

Furthermore, Wachtler noted, New York's free speech amendment was drafted in 1821 when there wasn't any indication that privately owned property would come to replace town squares and downtown business districts as the public gathering areas in many communities. In the past, those who had ideas they wished to communicate to the public had the unquestioned right to disseminate those ideas in the open marketplace," he wrote. "Now that the marketplace has a roof over it, and is called a mall, we should not abridge that right."

While mall officials and executives of the Prudential Insurance Co., which owns Smith Haven and some 80 other malls nationwide, welcomed the ruling, Steven Shapiro of the New York Civil Liberties Union called the decision "a significant setback for free speech rights in New York. The effect will be to shrink political debate." Reported in: *Newsday*, December 20.

student press

Los Angeles, California

An opinion page editor at Harbor College settled his lawsuit with the Los Angeles Community College Board of Trustees and was reinstated to his position by a federal court last fall. Details of the settlement remained unknown because of a confidentiality agreement.

The controversy surrounding *Harbor Hawk* editor Joe Fields began in 1984 after he wrote an editorial series called the "myth of the holocaust" that was condemned by the district board of trustees. Although *Hawk* editor-in-chief Joe Granberg supported Fields' right to free expression (see *Newsletter*, March 1985, p. 47), his activities became more notorious. In 1985, Granberg dismissed Fields from the *Hawk* staff for meeting with a former Ku Klux Klan leader and distributing antisemitic leaflets during a Holocaust commemoration. A federal court temporarily reinstated Fields.

Gary Williams, ACLU lawyer, confirmed that the court decided Fields was fired improperly and his First Amendment rights violated. According to Williams, the court also recommended that the Los Angeles Community College school district revise its student press guidelines to accommodate quicker resolution of disputes. Reported in: *Student Press Law Center Report*, Winter 1985-86.

Gillette, Wyoming

A former student newspaper adviser's suit in Gillette ended with the revision of the school district's publication policy. Judy Worth filed suit in federal court in August, 1984, charging that the Campbell County School District's policy was unconstitutional. Specifically, the suit pointed to the fact that broad prior restraint was allowed without setting out criteria as to what could be censored. Worth also claimed that her May 1984, removal as adviser of Gillette High School's yearbook and newspaper, *Camel Tracks*, was a result of her attempt to exercise her rights.

In fall, 1983, a controversy arose in Gillette over attempts to remove Stephen King's *The Shining* from the school library. In response, student editors of *Camel Tracks* decided to reprint a nationally syndicated cartoon satirizing the Moral Majority. Initially, the principal approved the cartoon but then refused to allow it to be published. In May, 1984, Worth was removed from her advisership.

On April 26, 1985, the federal court denied both parties' motions for summary judgment. Before the case went to trial, however, Worth reached a settlement with the district. The district agreed to adopt a new policy

with more rigorous definitions of "obscene," "libelous" and "substantial disruption." Mandatory prior review was replaced with a provision allowing the principal to see the paper if he has reason to believe the policy is about to be violated. In addition, Worth received a cash settlement of \$51,000. She did not seek reinstatement as advisor. Reported in: *Student Press Law Center Report* Winter 1985-86.

libel

Sioux Falls, South Dakota

The South Dakota State Supreme Court granted a second hearing to Gov. William Janklow, whose libel suit against author Peter Matthiessen, Viking Press and several booksellers was dismissed last year by a lower court. The Supreme Court ruled that the lower court granted a dismissal too early and remanded the case for summary judgment.

In June, 1984, Judge Gene Paul Kean of the Second Judicial Circuit in Sioux Falls, dismissed the suit, ruling that the allegedly libelous statements in Matthiessen's 1983 book *In the Spirit of Crazy Horse* met the newsworthy and controversy standards for fair reporting (see *Newsletter*, September 1984, p. 148). The Supreme Court said that since the U.S. Supreme Court had not yet adopted the neutral reportage privilege, such protections could not be relied upon in South Dakota. Reported in: *Publishers Weekly*, November 15.

petitioning

Baltimore, Maryland

A federal judge ruled December 24 that a three-year-old Maryland law barring payments to persons collecting signatures to petition issues onto election ballots violates First Amendment rights to freedom of speech. The decision by Judge Norman P. Ramsey came in a suit brought by Montgomery County lawyer Robin Ficker, who had paid for signatures during the 1984 campaign to place an issue on the ballot changing the way the County Council was elected.

Ficker was represented by the Washington branch of the ACLU and Arthur Spitzer, ACLU legal director, praised the ruling. "It's a significant case because putting initiatives on the ballot is an important part of the political process," he said. "If you can't pay to circulate a petition your ability is severely limited. As a legal matter, the courts have recognized that this is no different than buying an ad in the *Washington Post* or on television." Reported in: *Washington Post*, December 25.

copyright

Minneapolis, Minnesota

Mead Data Central, Inc., cannot insert the page numbers from books published by West Publishing Co. that report judicial decisions into reports generated by LEXIS, a computer-assisted legal research tool owned by Mead, a federal judge in Minneapolis ruled October 3. U.S. District Judge James Rosenbaum said that use of the page numbers would be a copyright infringement. The decision is important because it extends copyright protection beyond traditional definitions of expression.

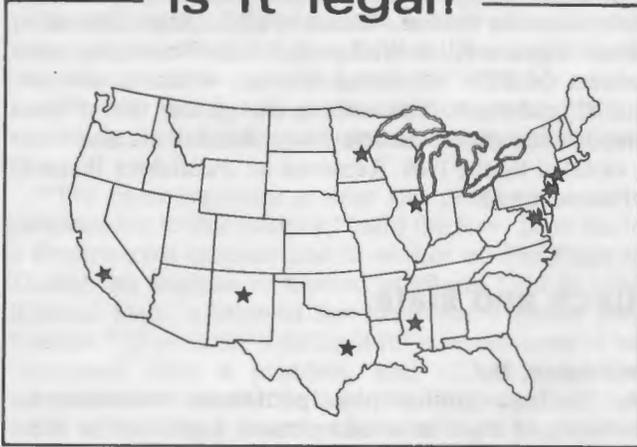
West, which began publishing judicial opinions 108 years ago in St. Paul, claimed that the arrangement of cases in its volumes and page numbers was unique and copyrightable. West's referencing system is widely used in the legal profession and is the common way of citing cases in legal briefs and opinions. Mead argued that West's effort to claim protection for page numbers was an attempt to copyright a numbering system, which can't be done. Rosenbaum ruled that the arrangement of cases could be copyrighted because the process involved planning, labor and talent. He said that if LEXIS were allowed to use the numbers, there would never again be a need to buy West's books. Reported in: *Minneapolis Star & Tribune*, October 5.

Shields wins NYLA/SIRS award

Prof. Gerald R. Shields, Asst. Dean of the State University of New York (SUNY) at Buffalo School of Information and Library Studies was presented the 1985 Social Issues Resources Series (SIRS) Intellectual Freedom Award at the New York Library Association's Annual Conference in New York City December 9. The award is given annually to an individual or group who has made outstanding contributions to intellectual freedom in New York State. Shields received a cash prize of \$500, and an additional \$500 was donated in his name to the library at SUNY, Buffalo.

As a librarian, educator and editor, Gerald Shields has built a well-merited reputation as a defender of intellectual freedom. He has served as chair of the NYLA Intellectual Freedom and Due Process Committee; is the editor of *Pressure Point*, an intellectual freedom publication; and is the co-author of *Freedom of Access to Library Material*, a unique text in the field. He is director of the only national library institute on intellectual freedom at SUNY Buffalo, where he regularly teaches a course on intellectual freedom.

is it legal?



film

Los Angeles, California

Bullfrog Films v. Wick, a lawsuit brought by the Center for Constitutional Rights on behalf of a group of fifteen independent filmmakers and production companies against the United States Information Agency (USIA), was filed in federal district court in Los Angeles December 5. The suit challenges the constitutionality of U.S. government regulations which the plaintiffs charge are being used to limit the distribution of their films abroad. The action is funded, in part, by the Freedom to Read Foundation.

Under the terms of the Beirut Agreement, an international accord signed by thirty countries and adopted by the U.S. in 1967, the USIA issues certificates of educational character to films that are of an educational, scientific or cultural nature. Films which are denied such certificates are subject to high import taxes from foreign countries and voluminous paperwork which makes distribution to schools and libraries abroad virtually impossible.

The six films that are the subject of the lawsuit were denied certificates by the USIA "precisely because the films have been critical of a conservative administration," according to Center for Constitutional Rights attorney David Cole. Cole said that difficulty in obtaining certificates began in 1981, when the Reagan administration came to office. "We know of no protest prior to 1981," he said. Cole charged that the regulations used

by the USIA were "being applied inconsistently—they do not knock out all films with a point of view, only those with which they disagree. The USIA has taken an international treaty designed to advance the free flow of ideas and turned it into a mechanism for propaganda and censorship," he added.

The six films are: *Peace: A Conscious Choice*; *Ecocide: A Strategy of War*; *Soldier Girls*; *Save the Planet*; *In our Own Backyards*; and *Whatever Happened to Childhood?* Reported in: *OIF Memorandum*, December 1985; *New York Times*, December 6.

rock music

San Antonio, Texas

The San Antonio City Council on November 14 became the first American city governing body to attempt to control rock 'n' roll music concerts. On that date an ordinance was passed forbidding promoters and performers from admitting at city-owned facilities anyone under thirteen years of age to performances containing material deemed obscene to children. Key to the ordinance's passage on a 7-3 vote was Mayor Henry Cisneros' last-minute maneuver to keep the age limit at thirteen and to remove provisions that would have required all lessees of city-owned facilities to tape every performance.

Critics called the ordinance unenforceable, impractical and defenseless in court. There was disagreement on who would determine which concerts are obscene and what standard would be used. Concert promoters balked at the prospect of weeding 13-year-olds out of concert arenas filled with young people.

"Obscene means different things to different people," said promoter Jack Orbin, who vowed to test the ordinance in court with the help of the ACLU. "It's unconstitutional and it's subject to different interpretations."

"I'll fight," added Ed Kolarich, vice president of Citizens for Musical Liberties of San Antonio. "My son has a right to go to a show if I so desire," he said of his 9-year-old. "Because this imposes such a burden of liability on the promoters and performers, they're going to err on the side of making sure that nothing offensive is in the performance," said Gara LaMarche of the Texas Civil Liberties Union. "It's not so much the kids who are going to be left out, but certain themes and ideas."

But city officials defended the measure. City Attorney Lowell Denton admitted that enforcement would be "very difficult" but said the ordinance was fully defensible and constitutional. "This is not a violation of

the First Amendment, and I think the courts will prove that out," added Mayor Cisneros. "This is saying that, in San Antonio, we are prepared to try to take a reasonable legal position that young children need not be exposed to whatever some rock groups happen to have." Reported in: *San Antonio Light*, November 13, 15, 16; *Austin American-Statesman*, November 16; *Los Angeles Times*, November 15; *Variety*, December 11.

visas

Albuquerque, New Mexico

An impressive group of writers has joined with Margaret J. Randall, author of forty books focusing primarily on Latin America and women's issues, in filing suit in federal court to block efforts to have her deported. Randall, who was born in New York City and who renounced her citizenship when she moved to Mexico in 1967, was denied permanent residency status. She is a member of the faculty at the University of New Mexico.

In the suit, Randall claims that her request for permanent residency status was denied "solely on the basis of the ideas and opinions expressed in her published writings" and was "part of a pattern and practice of ideological exclusion by the executive branch." Randall is an avowed Marxist, and her works on Latin America often praise Cuba, Nicaragua, Fidel Castro and other Communist leaders and governments.

The suit said that when Randall sought Mexican citizenship "she was erroneously advised that she was required to renounce her U.S. citizenship in order to acquire Mexican citizenship for employment purposes." She returned to the U.S. in January, 1984, on a visitor's visa to join her husband and family in New Mexico. In June and October of last year, after she filed for permanent resident status, Immigration and Naturalization Service (INS) agents, the suit alleged, questioned her "at length about her writings, beliefs and associations." Her request was denied.

The denial "cast a chill over Randall's First Amendment freedoms," the suit charged. The INS policy "is part of a larger policy and practice, by which the defendants have improperly used their authority under the Immigration and Naturalization Act to shape and limit political debate within the United States. The purpose and effect of this policy has been to deny Americans the opportunity to hear and meet with significant and respected critics of American policy and advocates of policies which differ from ours, as well as to chill the freedom of expression of aliens who lawfully reside here."

The authors supporting Randall, including Norman Mailer, Arthur Miller, Grace Paley, Rose Styron, William Styron, Alice Walker and Kurt Vonnegut, are members of PEN American Center, which is also a plaintiff in the suit. The authors charge that their First Amendment rights to associate with Randall are also being violated by the INS. Reported in: *Publishers Weekly*, November 15.

church and state

Washington, D.C.

A Buffalo philosophy professor announced November 18 that he would present a petition to the U.S. Senate asking that body to stop publishing at taxpayers' expense the collected prayers of the Senate's chaplains. Prof. Paul Kurtz, of the State University of New York at Buffalo and editor of *Free Inquiry* magazine, offered the petition with the encouragement of Sen. Charles Mathias (Rep.-Maryland) and a federal judge. Mathias, chair of the Senate Rules Committee, said he personally opposed printing the prayer books at public expense.

Judge Louis Oberdorfer encouraged Kurtz and the Senate's lawyers to see how the Senate might vote on such a petition before asking the court to rule on the constitutionality of the practice. Kurtz contends that publishing the prayers violates the constitutionally mandated separation of church and state. Kurtz, however, did not challenge the right of the Senate or House to have official chaplains, pay them and hear their prayers. Those practices have been upheld by the U.S. Supreme Court. Reported in: *Buffalo News*, November 19.

New York, N.Y.

The concept that a discussion between a clergy member and a churchgoer is confidential, a long tradition protected by law in most states, has come under challenge in recent cases in California, Texas and Florida. Religious leaders have expressed fear that the challenges could have a chilling effect on those who go to ministers, priests and rabbis for counseling and confession.

The Texas and Florida cases involve state child protection laws that require anyone with knowledge of an abused child to report the incident. In the Florida case, the Rev. John Mellish was counseling a person later arrested and charged with child abuse. The minister was held in contempt and spent a night in jail after he refused to testify at the man's trial. In Texas, an El Paso minister asked the state attorney general if he would be required to report a case of child abuse if it were brought to him. The attorney general said he would.

In the California case, a woman sued her Episcopal priest, saying that he violated the secrecy of her confession that she embezzled church funds. The trial judge in the embezzlement case ruled that the woman's admission to the priest was a conversation rather than a sacramental confession and was not protected by state law.

"The cases represent a clear and present danger to religious life in this country," said the Rev. John Bush, a Presbyterian minister and co-author of *The Right to Silence*, an analysis of clerical privilege. Said Brother Richard Daly, a lobbyist for the Texas Catholic conference, "If we make it difficult for a person to go to his clergyman with a problem, and if we make the clergyman a criminal if he doesn't go to the police, then we're taking a bad situation and making it worse."

"Compelled disclosure will impede the work of the church," added the Rev. Dean Kelley, director for religious and civil liberty of the National Council of Churches. Reported in: *Minneapolis Star & Tribune*, September 15.

prisoner rights

Chicago, Illinois

Members of what Chicago police say is one of the city's most notorious street gangs are testing the First Amendment with a lawsuit seeking recognition as an organized religion, with the right to preach in prisons. The El Rukns say they are peaceful adherents of Islam and their intent is to spread Allah's word to the incarcerated. They follow the Koran and have adopted Sunni Islamic beliefs, leader Amir Reico El told a federal court in Danville, Illinois.

The El Rukns contend their group has a constitutional right to practice its religion and should be given the same rights afforded other religions by the Illinois Corrections Department. "A group could be a religion and a street gang," said the El Rukns' attorney, Thomas Peters. "Their beliefs are traditional Islamic beliefs." Corrections authorities said the class action suit is crucial to the future of the state prison system. They charged that the request was a guise to cover gang recruiting and to organize illegal activities behind prison walls.

"If the inmates should happen to prevail in this case," said Illinois Corrections Director Michael Lane, "it would guarantee no one would be able to manage the Illinois prison system." Reported in: *Minneapolis Star & Tribune*, December 4.

obscenity

Jackson, Mississippi

State Attorney General Ed Pittman has asked U.S. District Judge L. T. Senter to reconsider his decision that the Mississippi laws against pornography are unconstitutional. Pittman asked Senter to delete what the judge had considered to be unconstitutional parts of the law, rather than throw out the entire statute. Senter's decision came out of a suit brought by Nathan Goldstein and other book dealers challenging the state's obscenity statute (see *Newsletter*, March 1985, p. 53).

"Judge Senter," Pittman said in a press release, "ruled that the words 'lustful' and 'erotic' as they were used in the statute were constitutionally overbroad, and that the phrase 'of decency' was the wrong standard. All of these words can come out without substantially affecting a community's ability to enforce a ban on pornography." Reported in: *Delta Democrat Times*, November 4.

AIDS

Trenton, New Jersey

Adult bookstore owners would be required to record customers' names and would be liable if a customer contracted AIDS on the premises under a bill introduced November 18 in the New Jersey Legislature. Reports of homosexual activity in X-rated shops prompted the proposal, said its sponsor, Assemblyman Thomas Paterniti. Jeffrey Fogel, director of the ACLU of New Jersey, said the bill was a veiled attempt to impose Paterniti's own morals on others. "It's preposterous, it's outrageous, it's unconstitutional," Fogel said. Reported in: *Wilmington Morning Star*, November 19.

taxation

St. Paul, Minnesota

Should books and magazines be subject to sales taxes? Paul Czyzewski thinks not. Czyzewski has filed a lawsuit against the state of Minnesota charging that the six percent sales tax levied by the state on books and magazines (but not school textbooks and newspapers) violates the First Amendment.

"The First Amendment is a product of both the founding fathers' philosophical connection to the En-

(Continued on page 48)

While Louisiana public libraries reported the lowest rate of adoption of written policies, they reported the highest rate of retention of challenged material (80 percent). By contrast, while all Georgia public libraries had written policies, challenged materials were retained without change in only 63.2 percent of reported incidents.

Moreover, the survey found that written policies, were often ignored. School librarians in Alabama, Louisiana and Tennessee reported that policy was completely followed in less than a third of the challenges filed. Only in Georgia was policy followed more often than not—and then, just barely, at a reported level of 50.5 percent.

One respondent in Georgia noted that “the policy is rarely followed. Usually if there is a challenge, the book is removed from the shelf by the school principal.” From Tennessee, a respondent wrote that “books questioned are immediately removed from circulation . . . Anything found with four-letter words is usually questioned. Principal demands removal from shelf. Librarian is given no voice in the matter.” An Alabama librarian reported that the “people ‘in charge’ are censors themselves.”

Such responses point to widespread self-censorship, the survey authors concluded. A Louisiana librarian wrote, “My main observation is that teachers, librarians, media personnel and supervisors practice self-censorship—‘Let’s do it for them before they do it to us,’ seems to be the prevailing attitude. Most of the time, the people doing the censoring do it out of fear [and] misinformation and they usually are very professional otherwise.”

“After talking with the surrounding area librarians,” a Tennessee respondent volunteered, “I have concluded that most censorship occurs by the librarians themselves. They avoid buying materials that may be deemed questionable.” A Georgia librarian reported, “Because of monetary and space constraints, some decisions have to be made regarding retention and purchase. I feel no qualms about avoiding books that are potential trouble.”

The survey unearthed more than a few interesting anecdotes about library censorship:

- A rural Tennessee school followed its established policy and removed *Love Story*, by Erich Segal, from its library for profanity.

- A classroom teacher in Alabama objected to *The Life Cycle of a Chicken* for “evolution and human reproduction” reasons. Established policy for handling challenges was followed and the book was removed.

- In an Alabama school, a librarian reported that she was challenged for a “bulletin board featuring ‘Blacks

in Children’s Literature.’ I was accused of promoting interracial marriage because I had posted a biographical sketch and picture of Leo and Dianne Dillon.”

- A 1982 survey of DeKalb County, Georgia, schools showed that 24 books had been objected to at least once since 1979. Some of them, and the objections to them, included: *Animal Farm*, by George Orwell, for its political theories; *The Adventures of Huckleberry Finn*, by Mark Twain, for racism; *The Crucible*, by Arthur Miller, for witchcraft; and *Wuthering Heights*, by Emily Bronte’, for the supernatural. The following books were added in a 1984 update: Orwell’s 1984 and the Lerner and Loewe musical *My Fair Lady* for religious reasons; *The Great Gatsby*, by F. Scott Fitzgerald, for glamorizing adultery; Nobel Prize winner William Golding’s *Lord of the Flies* for its pessimism; and Nobel Prize winner John Steinbeck’s *The Grapes of Wrath* for being “disgusting.”

- In one Louisiana school, a survey respondent reported that a book entitled *Nobody Asked Me If I Wanted a Baby Sister* was challenged, and eventually restricted, because “the brother tried to give away new baby sister and a parent said it would give children ideas.”

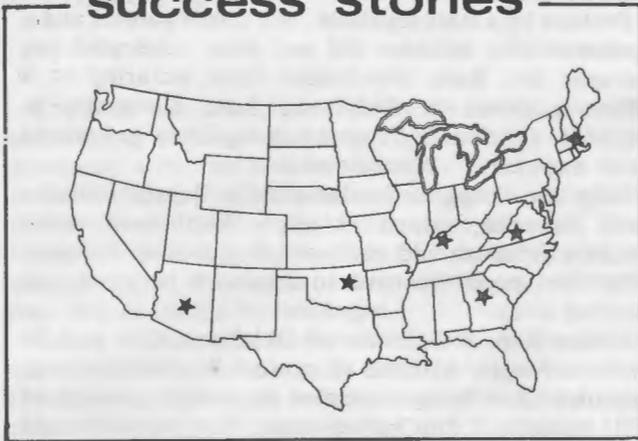
- One respondent reported that Roald Dahl’s *George’s Marvelous Medicine* was challenged by a classroom teacher because of its “defiance of authority” and “total disrespect and inhumanity toward the elderly [his grandmother].”

- Several comments indicated that the type of area served influenced the nature of the challenges. From Tennessee, one librarian in a rural area wrote, “I have been very lucky regarding the challenging of materials. Most parents have been willing to accept why a particular book is used or should be kept in our collection. It might also be to a certain degree, that parents in this area do not generally monitor what their children read.”

The survey was co-sponsored by the American Booksellers Association, the Intellectual Freedom Committee of the Louisiana Library Association, the Louisiana Council of Teachers of English, the Metropolitan Atlanta Library Association, the National Coalition Against Censorship, the National Council of Teachers of English, the New Orleans-Gulf South Booksellers’ Association, the School of Library and Information Science at Louisiana State University, the Southeastern Booksellers Association, the Tennessee Education Association, and the Tennessee Library Association. Funding was provided by the Deer Creek Foundation and the Sapelo Island Research Foundation, with assistance from the ACLU offices in Alabama, Georgia, Louisiana and Tennessee.

The report was written by Sissy Kegley and Gene Guerrero for the American Civil Liberties Union.

success stories



libraries

Gwinnett County, Georgia

A Gwinnett County elementary school committee voted 9-1 December 18 against a proposal to remove *Confessions of an Only Child*, by Norma Klein, from school library shelves. Parent Theresa Wilson had asked the committee of parents and educators to remove the novel from the Beaver Ridge Elementary School library or place it on a restricted shelf. She charged that use of a profanity by the lead character's father during a single episode in the story destroyed the entire book. "It is totally inexcusable to use that word," her complaint said.

Last spring, the same committee voted unanimously to approve a request by Wilson to remove the novel *Deenie*, by Judy Blume, from Beaver Ridge library shelves. In August, the Gwinnett County school board voted to remove *Deenie* from all elementary schools, a decision which has been appealed to the state Board of Education. In October, the Gwinnett board rejected a proposal by Wilson to establish restricted shelves in all district libraries and an angry Wilson vowed "to find every [objectionable] book in Gwinnett County and bring it before the board" (see *Newsletter*, November 1985, p. 193; January 1986, p. 8.). Wilson said she would appeal the latest decision to the board. Reported in: *Atlanta Constitution*, December 19.

Owensboro, Kentucky

A five-member panel of administrators, teachers and parents in early November unanimously recommended that *Slaughterhouse Five*, by Kurt Vonnegut, Jr., re-

main on the shelves of the Owensboro High School library. Carol Roberts, whose 15-year-old daughter is a student at the school, had filed a formal complaint against the book in October (see *Newsletter*, January 1986, p. 9). Mrs. Roberts objected to foul language in the book, which she deemed "pornographic" and "plain despicable." She said she had collected more than a hundred signatures on a petition to remove the novel.

Judith Edwards, director of the city schools' department of instruction, said the panel reviewed the book on the basis of nine selection criteria for all books in school libraries. "On all nine counts—and it was a unanimous vote—we felt the book was meritorious," Edwards said.

Edwards said the book "depicts war as we actually know it. The overall purpose is to show the negative side of war." she said the committee did not approve of certain language in the book, but felt it was appropriate in context. "When you're being shot at, you don't say, 'Oh goshee darn'," she said. Mrs. Roberts said she would think about the decision before responding. Reported in: *Owensboro Messenger-Inquirer*, November 6.

schools

Casa Grande, Arizona

In a 5-0 vote December 10, the Casa Grande Elementary School District No. 4 board agreed to retain the Pulitzer-Prize-winning novel *To Kill a Mockingbird*, by Harper Lee, on a supplemental eighth grade reading list, despite protests by black parents and the National Association for the Advancement of Colored People (NAACP). In a gesture of compromise, however, the board agreed to change procedures so students can avoid class discussion of books they find objectionable.

The board vote, taken without public discussion, drew angry reaction from critics who charge the book is unfit for junior high use. "I'm disappointed, to say the least," said parent Katie Lewis, who led the drive against the book after her daughter—one of two black students in a language arts class—came home upset and embarrassed after a class discussion. Casondra Davis, president of the Pinal County NAACP, called the decision "insensitive" and charged that "the board has an unwillingness to consider vulnerability [on the part of students]." She said her group would "have further discussion" of the issue, "but beyond that, I don't know."

Language Arts Department members had urged the board to keep the novel on the supplementary list. In a

written recommendation, they called the book "an attack on racism" with "literary merit" which "can provide an enriching experience for junior high school students." The book was also supported by the Arizona Civil Liberties Union and the Arizona State Library Association Intellectual Freedom Committee.

School Superintendent W. Dean Skaggs said that revised class procedures approved by the board would help avoid the kind of student discomfort and embarrassment which produced the controversy. Under the new procedures, students may choose one of several novels and will be grouped for discussion according to the one they have chosen. Previously, students who objected to an assigned novel would go to the library during class discussion. Also under the new procedures, teachers must review the contents of novels under consideration with students in advance and encourage students to discuss them with parents before making a selection.

School officials also reacted favorably to a suggestion by the NAACP that a black volunteer work outside the classroom with white teachers using *To Kill a Mockingbird* to assure a presentation sensitive to black concerns. Officials added that they would review a list of novels recommended by the NAACP for use instead of *Mockingbird*. The list included William H. Armstrong's *Sounder*, Maya Angelou's *I Know Why the Caged Bird Sings* and several books by Langston Hughes and Mildred Taylor. Reported in: *Arizona Republic*, December 11; *Arizona Daily Star*, December 12.

etc.

Cambridge, Massachusetts

An ordinance that would have allowed women who believed they had been hurt by pornography to sue for damages was defeated in an electoral contest November 5. There were 13,031 votes cast against the initiative and 9,419 votes for it, with 1,931 blank ballots. John Roberts, executive director of the Civil Liberties Union of Massachusetts called the vote "terrific." It's a very emotional issue," he said. "In many ways it's difficult to vote against."

"We're disappointed that the new law is not going to be in effect," said Barbara Findlen, a member of Women's Alliance Against Pornography, "but we're very pleased that the campaign itself focused attention on the issue as well as it did." Reported in: *Wilmington Morning Star*, November 12.

Stillwater, Oklahoma

Protests by a state legislator, two dozen parents and a fundamentalist minister did not deter celebrated sex therapist Dr. Ruth Westheimer from lecturing to a sellout audience at Oklahoma State University in Stillwater October 7. "I spoke as explicitly as I would speak anywhere," Westheimer said.

Billy Joe Clegg, a fundamentalist Baptist minister from Shawnee, vowed to place Westheimer under citizen's arrest should she publicly condone sodomy. After the speech he tried to approach her, but was escorted away.

Earlier Rep. Bill Graves of Oklahoma City said he wrote university officials to protest Westheimer's appearance after being contacted by several parents of OSU students. "This gal advocates homosexuality and anal intercourse," the Republican lawmaker said. "She advocates any kind of sexual intercourse if people want to do it, and that's what's causing AIDS," he said. Reported in: *Minneapolis Star & Tribune*, October 2, 9.

Salem, Virginia

On November 13, Virginia's Southern Baptists defeated what many considered an attempt by a fundamentalist preacher from Virginia Beach to censor the denomination's statewide newspaper.

Calling *The Religious Herald's* coverage of strife in the Southern Baptist Convention "volatile and inflammatory," the Rev. Tommy Taylor of London Bridge Baptist Church proposed that the publication be encouraged to use "more caution, discretion and restraint." A key committee of the Virginia Baptists' legislative body struck down Taylor's proposal, however, and the committee chair denounced it as attempted censorship.

"We thought it was definitely aimed at censoring *The Religious Herald*, and we don't feel we can tell *The Religious Herald* what to do," said the Rev. Richard Walden Jr., pastor of North Roanoke Baptist Church. "A free press is part of the democratic process."

Taylor's proposal came in the form of a resolution during the annual meeting of the Baptist General Association of Virginia in Salem. Instead of adopting the proposal, the 1,450 voting delegates twice voted to thank *The Religious Herald* for keeping Virginia Baptists "informed" and for its "credibility and forthrightness."

The Southern Baptist Convention has been badly divided in recent years and fundamentalist and moderate factions have fought over theological and political issues. The Virginia association is dominated by moderates, while Rev. Taylor is a fundamentalist. Reported in: *Norfolk Ledger-Star*, November 14.

Third, as with school libraries/media centers, we will be initiating a dialogue with appropriate units in ALA concerned with institutional libraries to explore the desirability and feasibility of an interpretive statement of the *Library Bill of Rights* for these libraries; this dialogue will include explorations of the confidentiality issue as well. It remains to be seen whether such a statement can or should be developed.

Before I come to the two recommendations for action that the IFC has for Council, I want to report on our disposition of the matter referred to us and to the International Relations Committee by Council action.

At the 1985 Midwinter Meeting in Washington, D.C., Council voted to rescind a resolution entitled "Reaffirmation of the Freedom of Expression of Foreign Nationals" and to refer the statement back to both the International Relations Committee and the Intellectual Freedom Committee for further consideration. The IFC and the IRC have given this issue serious review and both have concluded that the Association should rely on "Policy on Abridgment of the Rights of Freedom of Expression of Foreign Nationals" approved by Council in 1974 (Policy 57.3). This document relies upon Article 19 of the Universal Declaration of Human Rights—a most worthy document and *the* most appropriate basis for evaluating the actions of signatory nations which are themselves sovereign nations.

The first action item for Council from the IFC was presented yesterday during your debate on the report from the Commission on Freedom and Equality of Access to Information. Given the outcome of your debate, you will be pleased, I am sure, to learn that the IFC began immediately to conduct the review of this report that you requested. In this review, we will be identifying those of our policies which merit review, and we expect to identify some policies which are under the purview of other units of this Association which bear on access and which merit discussion and review. It seems to me likely that the review process you have requested of all units will also point out new areas for policy development.

As our second action item, the Intellectual Freedom Committee recommends that Council express its concern about the possible inhibiting effects upon intellectual freedom of the actions of Accuracy in Academia, Inc. This expression of concern should take the form of endorsing the statement issued by the presidents and executive directors of eight higher education associations:

American Council on Education
American Association of University Professors
National Association of State University and Land-Grant Colleges

Association of Catholic Colleges and Universities
Association of Urban Universities
Council on Graduate Schools in the United States
Association of Jesuit Colleges and Universities
United States Student Association

The statement reads:

"We are concerned about the threat to academic freedom from a new organization called "Accuracy in Academia" (A.I.A.), which was formed by "Accuracy in Media" to "combat the dissemination of misinformation." A.I.A. encourages students in classrooms to record professors' statements and send them to A.I.A., which will determine whether they are correct. A.I.A. says that it will ask the professors to acknowledge alleged errors and will publicize the professors' names and "incorrect" statements.

"We believe such activities pose serious dangers for the following reasons:

- The classroom is a place of learning where the professor serves as intellectual guide, and all are encouraged to seek and express the truth as they see it. The presence in the classroom of monitors for an outside organization will have a chilling effect on the academic freedom of both students and faculty members. Students may be discouraged from testing their ideas and professors may hesitate before presenting new or possibly controversial theories that would stimulate robust intellectual discussion.

- The call is for accuracy in academia, but the goal of A.I.A. is conformity with their particular views and is therefore clearly inimical to the principle of free expression of views by all members of the academic community.

- A.I.A. claims that it can assess the correctness of what is said in the classroom. We believe the quality of academic performance is best judged through peer evaluation by skilled professionals.

"Chief executive officers and government boards are responsible for ensuring both accountability and academic integrity while safeguarding the university from undue outside influence.

"We encourage colleges and universities to resist this assault on institutional integrity by reaffirming established practices for insuring professional responsibility and academic freedom. We encourage government officials to continue their respect for the academic autonomy which has enabled colleges and universities to serve impartially the public interest.

"We encourage the public to continue its support for the tradition of academic freedom essential to a democratic, diverse, and free society."

The statement was signed by:
Robert H. Atwell, president, American Council on Education

Ernst Benjamin, general secretary, American Association of University Professors

Robert L. Clodius, president, National Association of State Universities and Land-Grant Colleges

Sister Alice Gallin, executive director, Association of Catholic Colleges and Universities

Jim Harrison, president, Association of Urban Universities

Jules B. LaPidus, president, Council on Graduate Schools in the United States

The Rev. William C. McInnes, president, Association of Jesuit Colleges and Universities

Tom Swan, president, United States Student Association.

A press release announcing the Council's action should be distributed by the ALA Public Information Office to appropriate higher education organizations and the media.

(FTRF report . . . from page 32)

modern library movement. Its objectives are to promote and improve library service and librarianship and to provide lifelong learning services to all. In support of its purposes, the Association has identified five priorities: intellectual freedom, access to information, legislation/funding, public awareness and personnel resources.

The two organizations fulfill distinct, but often related, purposes and provide studied attention to those ends. The ALA represents the professional librarian and the standards and principles of librarianship. It is accountable to a diverse membership made up of over 600 membership groups which include divisions, committees, round tables, sections, interest groups, forums, discussion groups, etc., each with its own interests, priorities and concerns.

The Foundation provides a specialized, activist, support function. It protects the individual librarian who defends the right to read, it combats censorship, whether it has been attempted by public or private individuals; it challenges legislation that strikes at the heart of constitutionally protected rights; it advocates equal treatment and protection for both popular and unpopular viewpoints; it raises money that is specifically earmarked for the protection, defense, and expansion of First Amendment principles and interpretations.

That's how we do things.

I'd like to now say a few words about *what* we have done in the last six months. To do that I've selected, by way of illustration, two cases recently funded by the Foundation. The two cases are, on the surface, as different from each other as any two sets of facts could appear to be. In reality, they are very much alike, because they both illustrate how one influential person can use his or her position to try and determine what types of material other people can have access to. In other words, these two very different but very similar cases deal with censorship.

The first case, *Faulkenberry v. Board of Education of Sallisaw, Oklahoma*, arises out of an incident in my own state of Oklahoma. There, one influential parent objected to the book, *The Sisters Impossible* (an award-winning novel by J. D. Landis), and insisted that it be removed from the local elementary school library shelves. The school board complied—in clear violation of their own written policies and procedures (see page 65 and *Newsletter*, July 1985, p. 112).

What has happened in Sallisaw can, does, and is happening in communities throughout these United States. It is therefore appropriate that the Foundation is providing legal and financial assistance to the plaintiffs in Sallisaw: five parents and their children, who are objecting to this violation of their First Amendment rights at the local—or trial court—level.

The importance of this case for the library community is clear. The results can—and will—have important implications for us all.

The second case is one you already know something about—and that is because the American Library Association is one of the lead plaintiffs. The case, *American Council of the Blind, Blinded Veterans Association, American Library Association, Scott Marshall, Dorothy Kendrick and Playboy Enterprises, Inc. v. Boorstin* was filed on December 4, 1985. It arose because one influential person—here, Representative Chalmers Wylie (R.-Ohio)—was able to introduce and have passed in Congress an amendment that resulted in Librarian of Congress Daniel Boorstin's reluctant decision to obey Congress' order and to cease publication of *Playboy* magazine in braille.

Now, as a result of Representative Wylie's personal belief that *Playboy* "assails traditional moral values" and that reading *Playboy* leads to "undesirable activities," blind people have lost their constitutional right to read what they choose. This, despite the fact that, since 1970, *Playboy* has been one of the 6 most popular of the 3 dozen magazines that the Library of Congress Books for the Blind program publishes in braille.

I'm not here today to defend *Playboy* magazine—the worth or taste of *Playboy* is not at issue. It's up to *you* to decide whether or not you want to read it. And that *is* what's at issue.

The National Library Service program produces virtually all of the books and magazines available in braille to blind Americans. The Wylie amendment does not prohibit the use of federal funds to produce braille or recorded editions of any other book or magazine, regardless of its content, and does not deprive the sighted of access to *Playboy* in printed form, which is in the collection of many libraries across the country—including the Library of Congress.

The Foundation had been monitoring this case for several months before the decision was made to ask the ALA to join as plaintiff. We did so for several reasons:

1. The ALA had gone on record in 1981 as opposing a similar Wylie Amendment to eliminate *Playboy* in braille.

2. At issue are the most basic beliefs and tenets of the library profession and the American Library Association.

This case *is* about the Library Bill of Rights: the right of people to have access to information; to select what they want to read and to be free from censorship based on content or what is perceived by some to be ideas that are bad, immoral, distasteful or dangerous.

In summary, the FTRF fulfills a critical role in its support and provision of legal counsel to libraries and librarians in the defense of their First Amendment rights.

The FTRF has effectively enlisted a broad support base including librarians, publishers and other media representatives, the legal profession and other organizations, foundations, and corporations to help implement and strengthen its programs.

During its 17-year history, the FTRF has been consulted in regard to all significant litigation relating to First Amendment rights and challenges.

Thanks to the ALA's vision in establishing the FTRF, the Foundation has been there when librarians and libraries were assaulted and barraged by censors, censors often affiliated with well-organized campaigns and financed by national groups. The FTRF has been there when these assaults have broadened to include harassment and threats to librarians and their jobs. Those in our ranks—most recently typified by Jean Layton—on the receiving end of these assaults can best attest to the Foundation's role. And finally, the FTRF—in close concert with the ALA Office for Intellectual Freedom—has been there to offer counsel, financial support for litigation, and referrals for other related support. The FTRF has been there as a knowledgeable resource and ally when the assaults arose.

The FTRF is proud of its heritage and its close ties with the ALA; it remains a viable, vigilant organization dedicated to preserving First Amendment rights for librarians and libraries.

(Jean Auel . . . from page 33)

No one knows how Neanderthal society was actually structured, but to 20th century readers, a male dominant society is traditional. So, to convey the unchanging traditional quality of their lives, I made the Clan male-dominant. Then as a contrast to Ayla, I decided to portray the women of the Clan as genetically dependent; unlike women of today who are adaptable and able to conceive possible alternatives, Clan women did not, could not, strive for independence.

In *The Valley of Horses* it was more difficult to create a sense of prehistoric distance because the characters, based on Cro Magnon, were no different from us. That posed a different set of problems and generated other solutions. Since they were like us, they must have struggled with some of the same problems. That gave me another opportunity to look at ourselves from the perspective of my long distance lens; to view an innocent, young world that was the childhood of the human race, partly because by research hinted strongly that sexuality in those days was woman-oriented.

Unlike the pretty coffee-table books which only show the beautiful pictures of horses and bison and mammoths, when you visit the Cro Magnon caves, you see symbols of sexuality everywhere, but they are primarily female sexual symbols. Male signs and phallic symbols are very rare. There is great sensitivity in the Cro Magnon art, including the depictions of the nude motherly female forms, and the sexual symbols. It was important in my books to show that sensitivity, and therefore show the sensitivity of which those early ancestors were capable. The modern world did not invent sex; we were created with it. Our society only made it obscene and "prurient."

I have received thousands of wonderful letters about both *The Clan of The Cave Bear* and *The Valley of Horses* and the great preponderance of comments have been very positive. The only negative comments have been from a very few people who objected to the sex in *Valley*. On the other hand, some parents have told me they gave *The Valley of Horses* to their sons and daughters so they would know a woman could be treated with care and respect. But I do not write for youngsters. I write for adults, and I mean to deal with mature themes. I believe any human activity is proper grist for a novelist's mill, especially if it causes people to think.

I have chosen to write about our paleolithic ancestors as complex human beings, with the same full range of human character that we allow ourselves, because it is more interesting from an author's point of view, and

more accurate from a scientific one. My books are fiction, and therefore must tell a story about people, but I have also had many letters and reviews from professionals all over the world praising the accuracy of both the physical details and the characterization in my books.

In an interview, the *Baltimore Sun* quoted Dr. J. Lawrence Angel, Curator of Physical Anthropology, Smithsonian Institution, Washington, D.C. "But it is her emotional range and sensitivity that strike home with modern readers, many of whom had perceived their Ice Age ancestors as little more than upright apes. . . This relatively new point of view for the layman is a welcome one, Dr. Angel said. Scientists have become increasingly aware of these properties of our forebears. 'Jean Auel pictures Upper Paleolithic man as having a rich culture and sensitivity, which our findings agree with,' he said." Here are a few more quotes:

"I have read quite a few novels concerning life in the Old Stone Age of Europe—some by writers, others by scholars—and those which have most impressed me are the two books by Jean Auel; this is not only because of their scope but also through the depth of the author's research and the accuracy of her reconstructions of environment, cultural material and the palaeolithic way of life: Indeed, I have learned a great deal from these books concerning the varied uses of plants. They are books which I would like to have written myself; were I capable of writing fiction, I would construct a very similar picture of those times."—Dr. Paul G. Bahn, Con Vincente Canada Blanch Senior Research Fellow of the University of London, England.

"You are right considering these our ancestors was more sophisticated than is generally believed. They were full people as we are—only with different cultural traditions.

"In our country was a painter . . . who tried to reconstruct this palaeolithic life in paintings. But curiously—not any writer even when the material is so rich here. In my museum Anthropos there is more than 300,000 objects . . . of palaeolithic age, tools, art, etc."—Dr. Jan Jelinek, Director, Anthropos Institute, Brno, Czechoslovakia.

"There was a great and subtle gap between the Neanderthals and their successors, people like ourselves, and Mrs. Auel has caught its essence beautifully. She has written an exciting, imaginative and intuitively solid book. She is planning five more prehistoric novels . . . I look forward to reading them as I look forward to her own evolution as a writer and her versions of human evolution."—John E. Pfeiffer, science writer and editor, professor of anthropology author of *The Emergence of Man*.

"I was very pleased to read your book; I found it

delightful on two planes, for its narrative qualities and for the accuracy with which you conveyed a possible (prehistoric) world."—Philip Lieberman, Professor of Linguistics and of Cognitive Science, Brown University, Providence, Rhode Island.

My books have been translated and published in seventeen foreign countries and are distributed in many more. In addition, I have been invited to speak at the Smithsonian Institute, San Francisco Academy of Sciences, several colleges and many libraries. I have even been awarded an honorary Doctorate of Letters degree for my writing, and my books are being used in classrooms from high school to graduate school levels.

I have always loved libraries, and have supported them both on a financial level and on a philosophical level. I feel very strongly about public libraries. Without them my books would not have been written. In 1977, when I got an idea for a story about a girl living during the Ice Age, it was to our downtown library that I went to learn about that time in our prehistory. And, after reading many, many books that made my story grow, and finally become a rough draft—a very badly written rough draft—it was to the library that I went to find books to learn how to write fiction. And, after many, many rewrites, when that rough draft became *The Clan of The Cave Bear* and an outline for five more books, it was to the library that I went to learn how to find a publisher.

Libraries are essential to our way of life. They are a symbol of freedoms we need to safeguard. This was brought home to me three summers ago when I decided to make a research trip to see some of the caves, sites, and artifacts of those ancient humans I am writing about. Modern political boundaries are meaningless in the study of people who lived 30,000 years ago; they lived and left their remains across the entire European continent. So my trip took me to France, Austria, Czechoslovakia, and Russia. There I learned that though the region is rich with artifacts and paleolithic sites, if I lived in Kiev, I could not have written my books. The public does not have access to books and information about prehistory, only the few people who study and work in that field may read them. There are no public libraries in Russia. A few people control what the vast majority of the public may read.

I have included copies of some of the letters I have received, which are fairly typical. I have crossed out the names and addresses of the people who wrote them to preclude any possibility of their being subjected to inappropriate questioning. One letter, for example, is from an 81-year-old woman, an invalid for whom reading is a major source of enjoyment in her life, who is anxiously awaiting my third book. If a few people have the power to censor the reading material available

to adult readers in public libraries, it won't stop most people from reading the books they want to read. If they can't find them in the library, they will buy them. But censorship of public libraries will penalize people like this woman, who cannot afford to buy books.

I'm not sure what "useful purpose" fiction is supposed to serve—some people could argue that no fiction is "useful"—but in terms of fiction, my books probably educate more than most. Perhaps one way to respond to those who object to my books is to ask those who have placed a reserve for my next one if they want to see my work withdrawn from your shelves, but I think the principle of resisting censorship is the stronger position. This is, after all, the United States of America, not Russia. In this country, a few people do not have the right to impose their viewpoint upon the great majority of their fellow Americans. Thank goodness there are librarians and library boards who have the courage to stand up to those who would attempt to force censorship according to their narrow beliefs upon those who do not share them.

(AAP statement . . . from page 34)

whatever source—which threaten to stifle freedom of expression. A major area of concern to AAP's members has been the historical efforts at local, state and federal levels to curb sexually-oriented expression. In the guise of promoting and protecting public (and private) morality, legislatures and courts have struggled for centuries unsatisfactorily to define the concept of legal obscenity, *i.e.*, to draw the line between sexually-frank expression which is entitled to the protections of the First Amendment and that which is not.

Not surprisingly, the line-drawing task has been an elusive one. For, as Justice Brennan noted in the landmark Supreme Court opinion in *Roth v. United States*, "sex and obscenity are not synonymous"; the topic of sex "has indisputedly been a subject of absorbing interest to mankind through the ages" and remains "one of the vital problems of human interest and public concern."

While, beginning in 1957 with the *Roth* decision, and culminating in 1973 in *Miller v. California*, the Supreme Court has attempted to draw workable constitutional boundary lines, the results have been marked by a constantly (and deeply) divided Court, shifting formulations of the governing legal standards, and resulting

definitions of obscenity characterized by what can only be viewed as inherent problems of vagueness and subjectivity. It is perhaps telling that one of the more frequently cited "tests" for obscenity is the memorable, but ultimately unsatisfying, observation of Justice Stewart (in *Jacobellis v. Ohio*), who, acknowledging that he could not define obscenity, said, "I know it when I see it."

Consistent with Justice Brennan's observations, the topic of sex has been the subject of countless writings designed variously to educate, inform and entertain. Of great concern to AAP's membership is the fact, however, that a number of such works—many proven over time to be among our nation's greatest works of literature—have through the years been attacked as obscene. For example, during the 1940's, Doubleday & Company was convicted of obscenity in connection with its publication of the *Memoirs of Hecate County*, written by the distinguished novelist and critic Edmund Wilson. And during the 1940's and 1950's, other leading publishers were forced to defend against obscenity charges the works, among others, of James Joyce, D.H. Lawrence, Theodore Dreiser, Henry Miller and William Faulkner.

That such unpalatable consequences could follow from notions of obscenity prevailing at any given time counsels caution both in applications of current obscenity law and in considerations given to extending the scope of government regulation over sexual expression. Where dealing with concepts as subjective as social value, offensiveness to community standards, and the like, how certain can we be of such judgments? And can we be certain that today's judgments will withstand tomorrow's light?

To be sure, the instruction of *Miller* that only hardcore pornography may be susceptible to being branded obscene has served to reduce the number of egregious abuses of the obscenity law. But the *Miller* decision is not the exclusive basis for attempted regulation at the local, state and federal levels. A spate of legislative initiatives taking the form of nuisance abatement and zoning laws, so-called minors' access and minors' display legislation, child pornography regulation, and, most recently, civil rights enforcement, have attempted to pick up where *Miller* left off. In AAP's view, many such measures which have been considered and enacted represent little more than an effort to end-run constitutional free speech guarantees—to the detriment of those who write and publish and those who would read their works. AAP and its members believe that the existing state of obscenity regulation is already creating difficulties in terms of allowing authors and their publishers the requisite freedom to be bold, creative and provocative. The introduction of more layers of restric-

tive legislation in this area can only further inhibit that vital creative process.

Illustratively, AAP and its members are concerned that, in the guise of protecting minors, overly broad legislative restrictions limiting the availability of materials "harmful to minors" can have the undesirable effect of depriving the adult reading public of material to which it is clearly entitled. Similarly, the current effort to regulate non-obscene literature which might be viewed as demeaning to women can be seen to threaten the creation and dissemination of unquestionably serious works of literature evincing points of view, however offensive to some, that deserve broad public circulation.

We cannot as a society tolerate permitting expression to be governed by a rule of non-offensiveness. Ours is a society founded on the principle that the truth will emerge from a multitude of tongues, and that false ideas will fall by the wayside in the "marketplace of ideas." If there is to be a presumption, that presumption ought to be in favor of more speech, not less, regardless of how controversial that speech may be.

Recent developments with respect to the regulation of sexual expression accompany a broader disturbing trend, whereby narrow segments of our society increasingly seek to dictate what is fit to be read and what is not, thereby shaping through their own parochial vision the nation's reading traditions and habits. These efforts at censorship have extended well beyond our nation's bookstores, to our schools, libraries, and even the privacy of our homes. This is, in AAP's view, an alarming trend that is disrespectful of our free-speech heritage and the benefit presumed to flow from it.

There is room, to be sure, for measured legislation in the obscenity field to protect the well-being of minors and the sensibilities both of minors and adults who choose not to have materials with strong sexual content thrust upon them. AAP is on record as supporting carefully drawn minors and "thrusting" legislation of the type endorsed by the predecessor of this Commission. AAP has likewise expressed its support for efforts to stem the tide of child pornography. But the legislative tools used in such instances must be sensitive ones, carving as narrowly as possible. Experience to date in these areas creates continuing concerns that much of the law on the books has an overbroad impact.

We trust that this Commission will approach its task with the requisite sensitivity to concerns of the First Amendment, and to this nation's pluralistic tradition. AAP is proud of the manner in which its members have sought to fulfill the mandate of the First Amendment. A climate of vigorous freedom for ideas and expression is essential to the pursuit of that mandate.

We thank the Commission for providing AAP with an opportunity to be heard on this important subject.

(Florence statement . . . from page 35)

year, and it's usually a basic family situation . . . I know pretty well where I am going to start, and I think I know where I want to get . . . And then I sit down at the typewriter and everything else happens spontaneously. The characters grow. They change. They may not do what I thought they were going to do. They react in different ways and I—I can't explain except to say that they take over . . .

If I were told that I could not write unless I wrote within specific guidelines and I tried to do that, although I am telling you that I feel that's impossible, if I tried to do that, I don't think that book would find readership. Because I don't think there would be—I don't think that people would be able to identify.

Yet, this author, Ms. Blume, also testified that very day in Colorado that under pressure from her editor/publisher who was concerned that her book would not be given full distribution, she had agreed to delete a masturbation scene which she felt was important to the work. On the witness stand she revealed: "Because of a general climate of fear and growing censorship within this country, I met up for the first time with editorial censorship in my last book. So, I was directly affected by that. I have thought about it a great deal since then."

Another writer who has been directly challenged in the current climate of increasing censorship activity is Jean Auel, author of the record-breaking best selling novel, *The Mammoth Hunters*, recently published by Crown in hardcover and the No. 1 best selling work of fiction on the *New York Times* Best Seller List. Bantam's paperback editions of two earlier books in her Earth Children's series, *The Clan of The Cave Bear* and *The Valley of Horses* have respectively 4,175,000 and 3,345,000 copies in print. Clearly, this writer is—to say the least—accepted and mainstream. And yet, I want to read to you parts of a letter she received a few months ago from Ms. Martin, librarian of the Bastrop Public Library on Bastrop, Texas:

Our public library is having a controversy with a group of individuals called 'The Moral Majority'. This group is claiming that the library is violating the Texas State Criminal Laws on obscenity and library standards should be changed. They claim the book *The Valley of Horses* appeals to the prurient interest in sex of individuals, and doesn't serve a useful purpose.

. . . They have also consulted with attorneys. We talked to the District Attorney and he really doesn't want to get involved in prosecuting the library if at all possible. He tells us that if it is at all possible he will avoid it. He said that one way to do this is to prove the educational value of the books, and the research that you have put into it.

Would you mind writing a letter to the Bastrop Public Library Board of Directors stating the research that has been involved in writing the books, and your intention when you wrote the

books. We really would appreciate the time away from writing the new book.

Mrs. Auel wanted to be here today to tell you in person what this attack on her books has meant to her, how it has affected her as a writer. She had a speaking engagement today in Texas and I trust you understand that on the short notice available she did not want to break it—it seems Texas is a state where she must justify herself. She has asked that I include in my submission, the full response that she did take time away from her new book to write for the Bastrop Public Library to use in her defense. I hope you each will read her six page letter (see page 33). It is a fascinating story and actually very instructive as to the role that sexuality played in her ability to capture and recreate a culture unknown to us all. Yet as interesting as it is, I submit that it is wrong for an author to have to justify her books in this way in order to keep the District Attorney from pulling them off the library shelves.

Ms. Auel's problem in Texas is hardly an isolated example. I fear these incidents proliferate and are on the increase. As I mentioned in my opening remarks, I have

been accompanied by an author whose book, first published in 1979, has been banned from a community in 1985 for the first time. Mr. Landis will tell you about his book and what has happened and his view as to why.

My own belief is that this book was a convenient target for a community concerned with a host of other and legitimate concerns. I fear that any endorsement by the Commission of schemes to blot out or control sexually-explicit material, whether called obscenity or pornography or vulgarity or otherwise characterized will invite, albeit unintentionally, more and more attacks on books in the schools, in the libraries and in the stores. These attacks are a way to lash out at the ills of today's society, yet they do not, indeed, cannot solve the problems that concern us all: child abuse, sexual harassment, organized crime and the ever increasing resort to violence. Those problems are not addressed by allowing the vocal few, or even the numerical majority, the power to control what can be read by the myriad of diverse individuals in our society. To quote just one line from Jean Auel's letter, "This is, after all, the United States of America, not Russia."

statement by J. D. Landis

I am the author of a book for children—as designated in this case by the publisher as being ages ten and up—called *The Sisters Impossible*. To put it as briefly as possible, it is the story of two sisters, the older of whom is very beautiful and is an aspiring ballerina, the younger of whom is merely cute but is very brainy and wise beyond her years. The older sister is haughty; the younger is friendly as can be. When the younger sister is persuaded by their father to take ballet lessons, the older sister is offended, as if her turf is being invaded. She does everything she can to make her younger sister hate ballet. But Lily, the younger sister, doesn't hate it, even though she knows she will never be the dancer her sister is. Meanwhile, the older sister is trying out for a single available place in the actual ballet company. To attain this place, she must beat out a hated rival, a girl named Meredith. And, lo and behold, the only way she can win the position against Meredith is with the help of Lily, her younger sister. Lily outsmarts Meredith, and Sandra, the older sister, goes on to win her place in the ballet company and to appreciate Lily—and Lily's brains and friendliness—as she never has before.

Now, this book, *The Sisters Impossible*, was published in hardcover by Alfred A. Knopf in September, 1979. It was then published in a paperback edition by Bantam Books in September, 1981 and was re-issued by Bantam in a new paperback edition in September, 1984.

In May, 1985, I received the following letter from Sallisaw, Oklahoma:

"I am the librarian in a Library Media Center which serves two grade schools housing grades three through seven. There are approximately 850 students and 50 teachers between the two schools.

"When your book *The Sisters Impossible* was nominated for the annual Sequoyah Award in 1980-81, I purchased two copies to place in the Media Center. The books have had wide circulation—especially among little girls taking ballet lessons. Recently, a parent was helping her daughter with a book report when she discovered the words "hell" and "fart" in the story! Well, to make a long story short, our school board has banned the book. This was done in spite of a recommendation by a faculty committee to retain the book in our collection. It made the local newspaper and T.V.!

"I thought you might be interested to know that you are now among the famous (infamous?) who have had their works banned!

"This is my second experience with censorship, as I was ordered to pull in all copies of *From Here to Eternity* for burning when I was serving as an Army Librarian during the Korean War!"

The writer of this letter has asked Bantam Books that her name not be released.

The complaint against the book was lodged by local residents James and Susie Wells. Sallisaw's board of

education voted to ban *The Sisters Impossible* from all the school's libraries, according to a report in the *Sequoia City Times*. The paper goes on: "Board member Gus Fullbright made the motion to ban the book after reading a short passage in which a character in the book took her clothes off in a locker room full of girls." Four of the five board members voted to ban the book. One of them, W. S. Stavely, again according to the *Sequoia City Times*, from which I quote, "said he did not read the book, but voted yes to ban the book because he 'respected the judgment of other board members.'" In addition to the offending words "hell" and "fart" and the outrageousness of the scene in which girls should be seen undressing in a girl's changing room, there was an additional offense: that the two sisters in the book, Lily and Sandra, were shown as rivals.

When questioned about this, Mrs. Wells said that to show girls fighting with one another is to display a "negative attitude." Therefore, she said, and I quote, "I don't think there was any redeeming quality in the book." Therefore, it should be banned—because girls were shown to be having an argument, for heaven's sake!

When asked if she felt the teacher's concern that other classics could be censored because of the precedent that had been set, Mrs. Wells said she would comment on only one book—*The Bible*. "I don't want to address any other book. You should know there is a set of standards that God gives—what is right and what is wrong. I think we should use *The Bible* in determining what is right and what is wrong as a standard guide for books in the schools. I can only say either you take God's word in its entirety or you don't take it at all."

And what I, as the author of this banned book, want to know is by what right this man and this woman, with their narrow views and their wholly unrealistic knowledge of what children are like—imagine objecting to the depiction of sisters having an argument—victimize an entire community by forcing a book off the shelves of all the school libraries?

When I read about this, it made me think I was living in a madhouse, and that the school board, some of whose members had not read the book, should have gone along with this four to one! Where was I living, I wondered, and where did this stop? For if you think censorship is going to end with everything on the conspicuous side of *The Tropic of Cancer*, you're sadly mistaken. The censors will come into a community, or into a school, and they will say, "Only God can say what is right and wrong, and God told me this is wrong," and they will take from the shelves some of the greatest books in our literature as well as some of the most innocent, like *The Sisters Impossible*, which is intended to be a simple story of how one sister helps another win a ballet audition and has ended up being

branded the work of some devil. And that devil is, apparently, me.

But this is not a simple, however misguided, case of God versus the Devil, of some fundamentalist kook attacking a book because it was not written by the same writers who wrote *The Bible*. It is, in fact, a case of a book that has been judged, essentially, *obscene* because it contains the words "hell" and "fart." These were the buzzwords that set off the hunt to corner this book, lasso it, wrestle it presumably to the ground of good taste, and remove it forcibly from the shelves of the school libraries in Sallisaw, Oklahoma. And this is an indication of what can happen when we allow the hunters of dirty books to cleanse the community of what to their benighted minds are words that are not fit to meet the eyes of children—in this case, as I said, children ten years and up. And I submit that this is an outrageous act, an aggressive act not simply against me and my book but even more against the very community that these people would no doubt claim to be protecting, and particularly against the children of that community. For what lesson can they—the Wells family and the school board that did their bidding—be teaching the children of Sallisaw, Oklahoma? This lesson: that a book the children want to withdraw from the school library and read has been forcibly removed from that library. That a book that some of them had already withdrawn from that library and read has been branded "dirty," thereby, presumably, branding dirty those very same children who had read it. That there is some force beyond those children that can come into their school and take from them a book they have read or want to read and consign it to the evergrowing pile of books that, they are told, *they should not read*. This is a terrible lesson in democracy. This is a terrible lesson in the oppression of ideas and story-telling and, I hope, pleasure-taking. This is a terrible lesson to be teaching in those very schools of America where children are supposed to be taught the otherwise glowing lessons in our collective national history of freedom, tolerance, and the enjoyment of a literature—even a literature for children—that celebrates openmindedness, the constant and necessary struggle with the status quo, and, yes, the inevitable clash between sisters, or between any other two people, for that matter, who may not see eye to eye on matters that affect how they are to grow up to be free and self-confident individuals in a society that must celebrate the very differences that render us—all of us—the spectacularly unusual and special human creatures that we are.

(less access . . . from page 67)

July—Reps. William H. Gray (D-PA) and David R. Obey (D-WI) criticized the administration's plan to stop issuing the government's annual report on after-tax income. The latest report, June 27, showed the wealthy are getting wealthier and the poor, poorer; households in all but the top 20 percent received a smaller share of after-tax income in 1983 than in 1980. The Congressman noted that the report indicated the share of after-tax income going to those with incomes of more than \$60,000 a year rose to 42 percent, from 40.6 percent in the 1980-1983 period, a shift of nearly \$25 billion. In a letter to Commerce Secretary Malcolm Baldrige, they protested the decision to stop issuing the report in order to cut costs. (*New York Times*, July 9).

In August, Baldrige wrote Gray that he had "reevaluated the Census Bureau's recommendation and have concluded that we should continue doing the report." (*Washington Post*, August 20)

August—Attorney General Edwin Meese III and Assistant Attorney General for Civil Rights William Bradford Reynolds are leading an effort to revise Executive Order 11246, the 20-year-old directive mandating equal employment efforts on the part of federal contractors. Business organizations joined civil rights activists and Members of Congress in challenging a draft executive order which would abolish rules requiring some government contractors to meet numerical goals in hiring minorities and women. Sen. Howard M. Metzenbaum (D-OH) said: "When you make an effort to determine whether there's been discrimination, you have to use whatever evidence is available. Doing away with the ability to use statistical data is tantamount to making it almost impossible to make a case." (*Washington Post*, August 15 and 16)

August—The Public Health Service's National Center for Health Statistics has been keeping track of the births, illnesses, disabilities and deaths of Americans and a host of other health facts—for 25 years. Critics have voiced concern that Reagan administration budget cuts may have undermined some of the center's record-keeping ability, particularly the frequency of surveys. The Center's Director, Dr. Manning Feinleib, acknowledged that "government-wide constraints on budget and positions have resulted in changes in the original periodicity" of some surveys. (*Washington Post*, August 23)

August—To save storage and mailing expenses, Department of Agriculture officials are junking thousands of copies of county soil profiles that cost the government large amounts of money to produce and publish. One clerk estimated that 40,000 surveys, some as thick as telephone books, will be dumped. County soil surveys and maps are vital tools to farmers, developers, land appraisers, home builders, engineers and recreation planners in determining what can be done in which soils. Over the years, the Department has compiled surveys for 1,908 counties. The survey trashing was ordered by the Soil Conservation Service, which oversees the compilation and distribution of the documents. The division decided that it would be the most cost-effective way of solving a budget problem, and would save \$67,000 a year by giving up storage for which it is charged "rent" by the General Services Administration. It was estimated that it would cost \$57,000 to send the surveys to the respective states. However, some copies will be available to the public in state capitals. (*Washington Post*, August 28)

September—The September *AGNET Newsletter* (University of Nebraska-Lincoln) informed readers that AGNET, an electronic system, would carry a reduced number of U.S. Department of Agriculture reports in the future. "The reason for this is USDA's new EDI (Electronic Dissemination of Information) system developed and run by Martin Marietta Data Systems (MMDS). Even if current technical problems can be worked out, the cost structure will not allow us to recover our expenses of retrieving most reports. MMDS is charging five cents/line to view the menu of available reports, and two cents/line for transmitting the reports—including blank lines. The line charges are in addition to long distance and connect charges . . . Since Central AGNET is a self-funded operation (not tax supported), we cannot subsidize projects or absorb costs we are unable to recover." The newsletter pointed out to their clients that the option exists to contract directly with MMDS, but advised that there is a \$150/month minimum fee. (See February 1984 "Less Access . . ." entry)

September—In a September 17 letter to Defense Secretary Caspar W. Weinberger, the presidents of 17 American scientific and engineering societies accused the Defense Department of creating a new system of classification on research and declared that their organizations will no longer sponsor restricted sessions at their meetings. The effect of the presidents' actions would be to shut out from their society meetings the papers of any defense-funded scientists working in "sensitive" but nevertheless unclassified areas. The letter said, in effect, that if the Pentagon wants certain

subjects restricted, it should take them out of open meetings or set up classified meetings. (*Washington Post*, September 21)

September—The Department of Education reversed controversial decisions made last spring by its Publications and Audiovisual Advisory Council (PAVAC) to bar publication of some education-research materials. The action by Under-Secretary of Education Gary L. Bauer will allow researchers at several federally sponsored education-research laboratories to publish materials that they had agreed to produce as part of their contracts with the agency. The researchers had been asked to halt the publication of some materials by PAVAC to cut the agency's printing costs. Some education researchers charged that the panel had overreached its mandate to trim spending and had tried to censor the publication of certain types of research. Bauer said, however, that he had found no evidence of censorship. (*Chronicle of Higher Education*, September 25)

November—In an essay in the November *Harper's*, "Liberty Under Siege," Walter Karp uses a chronological format to document what he considers "... an unflagging campaign to exalt the power of the presidency and to undermine the power of the law, the courts, the Congress, and the people." His chronicle is not a secret history, but a record of events which have been reported in daily newspapers. Karp warns: "When a concerted assault on the habits of freedom ceases to shock us, there will be no further need to assault them, for they will have been uprooted once and for all."

November—"A dozen annual reports recently were placed on the hit list of the White House budget office—and five of them come out of ED. The reasons cited by the budget office for refusing to fund publication of the reports: The annual report of the Centers on Education Media and Materials for the Handicapped contained no useful information not reported elsewhere; the annual report of the National Advisory Council on Continuing Education duplicates other reports, the biennial report of the Office of Education Professional Development was moot because the office was abolished in 1981; and two reports on the allocation of ED employee time by work-years contained information already provided in annual budget requests." (*American School Board Journal*, November)

November—Then Assistant Education Secretary Anne Graham was criticized at a November 13 hearing of the House Government Operations Subcommittee on Intergovernmental Relations and Human Resources for her role as chair of an in-house advisory group that

reviewed federal education research projects and blocked many from being published. In her testimony Graham said that the advisory group was established in response to OMB's Bulletin No. 81-16 which provided procedures and guidelines to implement the President's April 1981 moratorium on the publication and creation of periodicals, pamphlets and audiovisual products until systems were established and approved by OMB. (See April 1981 moratorium on the publication and creation By and About the U.S. Government.) In a November 15 article in the *Washington Post*, Rep. Ted Weiss (D-NY), who chaired the hearing, said: "The hearings confirmed that there is no legal role for PAVAC in educational research or program development." He added that "PAVAC's real impact is restricting the free flow of information necessary to improve education in our country." (Ed. note: PAVAC, the Publication and Audiovisual Advisory Council, has been restructured and is now called the Publications Review Board.)

November—A U.S. District Court judge ruled that federal agencies must tell the public the topics of regulations that are under consideration and how long the agencies have been considering them. The ruling said that disclosure of such "limited information" under the Freedom of Information Act would "at most" allow the public "to ascribe responsibility for delay to a particular agency." Though the ruling—that "regulatory logs" are public information—seems on the surface to be a technicality, the Public Citizen Health Research Group which brought the suit against the Department of Health and Human Services contends it could have important consequences if widely applied in practice. President Reagan gave OMB authority early in his presidency to review all significant government regulations, and critics have long charged that the Administration uses the OMB to stall and eventually kill regulations without public scrutiny. Robert Bedell, an OMB deputy administrator, said that OMB tells the heads of virtually all agencies whether their proposed regulations are consistent with the administration's principles. The Public Citizen Health Research Group has been lobbying the Food and Drug Administration since 1982 to require a label warning parents not to give aspirin to children with flu or chicken pox. (*Washington Post*, November 28)

December—ALA joined the American Council of the Blind, the Blinded Veterans Association, and Playboy Enterprises, Inc., in filing a complaint against the Librarian of Congress who followed the intent of Congress to deny FY 1986 funds for the braille edition of *Playboy* under LC's books for the blind and physically handicapped program. The suit was filed Dec. 4 in U.S.

District Court for the District of Columbia, and announced at a Dec. 4 press conference at which Reps. Vic Fazio (D-CA) and Jerry Lewis (R-CA) said they would submit an Amicus Curiae brief in support of the suit.

ALA President Beverly Lynch, speaking at the press conference, said the congressional amendment which caused the LC action restricts and suppresses access of the blind to viewpoints, ideas and information expressed in a single, lawful magazine, otherwise available to sighted readers, solely because the government deems those ideas to be dangerous, bad, immoral or otherwise undesirable. The suit requests a judgment either declaring that the Wylie amendment does not prohibit LC from producing *Playboy* in braille or ruling the intent of the amendment to be unconstitutional.

The issue arose on July 18 when the House accepted an amendment to HR 2942, the FY '86 Legislative Branch Appropriations Bill, offered by Rep. Chalmers Wylie (R-OH) to reduce the Library of Congress budget by \$103,000. The text of the amendment did not indicate the purpose of the amendment, but Rep. Wylie's remarks made clear its intent was to prohibit LC from reproducing and distributing *Playboy* in braille. The vote and remarks appear on pp. H5932-35 of the July 18 *Congressional Record* (daily edition). The Senate did not restore the funds. HR 2942 was later given final congressional approval and signed into law (PL 99-151) November 13. (News Release: American Library Association, November 1985)

December—A group of 15 independent documentary film makers and production companies filed suit on Dec. 5 in the Los Angeles Federal District Court, charging that the federal government had severely limited the distribution of their films abroad because of differences in political ideology (see page 53). The film makers charged that regulations issued by the United States Information Agency were being used "as a political censorship tool to hinder distribution" of their films. The film makers asked a federal judge to order that six films be given the certification they say is necessary to make foreign distribution realistically possible. The subjects of the films include childhood in America, uranium mining, nuclear war and Nicaragua. The film makers say that unless USIA issues a certificate stating that a film is educational, scientific or cultural in nature, the films are subject to high import taxes from the foreign countries and voluminous paper work that makes distribution to schools and libraries abroad virtually impossible. (*The New York Times*, December 6.)

December—The Office of Personnel Management (OPM), in a move prompted by the prosecution of

former Navy intelligence analyst Samuel Loring Morison, asked the military services for nominations to "Security Hearing Boards" that could lead to the summary removal of civilian employees "in the interests of national security." OPM said that the plan had been shelved, at least for the moment, in light of Morison's post-conviction resignation from the government. But at the Defense Department, officials said they were still mulling the OPM request. An OPM spokesman said that the "presidential instructions" cited in a Dec. 2 letter from OPM Director Constance Horner to the secretaries of the Navy, Army and Air Force were issued by President Dwight D. Eisenhower in a 1953 executive order that laid the basis for the Federal Loyalty-Security Program of the 1950s. (*Washington Post*, December 14)

December—After it was revealed in the news media on Dec. 11, the White House announced that President Reagan signed a secret directive requiring thousands of Administration officials and perhaps some Cabinet members, to submit to polygraph tests as part of a counter-espionage crackdown throughout the government. The President signed National Security Decision Directive 196 on November 1. It applies to officials with access to "sensitive compartmental information" (SCI); more than 182,000 federal employees and contractor personnel would be subject to the tests. (*Washington Post*, Dec. 12, 20, 21 and 25)

NSDD 196 is classified, thus it is not known if it contains a prepublication review system for speeches and writings of current and former government employees. However, such a system is already in effect. According to a June 1984 General Accounting Office report, every employee with access to SCI is being required to sign a lifelong prepublication censorship agreement, Form 4193. (See "Less Access . . ." item, June 1984)

December—Despite congressional and public pressure for an opportunity for further review of the final draft, OMB issued its policy directive, OMB Circular A-130, Management of Federal Information Resources, on Dec. 12. The text was published in the Dec. 24 *Federal Register*, pp. 52730-51, with corrections in the Jan. 6 *FR*, p. 461. A provision that agencies must arrange to make government publications available to federal depository libraries was added to the final version in response to public criticism of the controversial first draft published in the March 15 *FR*.

The basic considerations and assumptions have been amended and broadened to reflect criticism that these statements in the March draft were too narrowly conceived. However, the final circular requires cost-benefit

analysis of government information activities, "maximum feasible reliance on the private sector" for the dissemination of government information products and services, and cost recovery through user charges where appropriate.

December—While trying to help a friend find a government job, a Washington-area man found that locating the phone numbers to find the jobs is difficult. He found that most government agency employment hot lines are unlisted, but uncovered about 70 of those unlisted numbers. To make the task easier for the public—and money on the side—Ed Streeky has published his own phone listings *The Book: A Directory of Federal Job Information Phone Numbers Plus Unlisted Numbers for Dial-a-Vacancy 24-hour-hotlines*. It retails for \$6.95 in Washington bookstores. ("Finding Federal Job Hot Lines Can be Harder Than Finding Jobs," *Washington Post*, December 28)

December—In an article in the Dec. 20 *Publisher's Weekly*, "New Dangers to Press Freedom," Martin Garbus said that the conviction of Samuel Morison in a Baltimore Federal Court on Oct. 17, 1985, creates a serious danger to publishers. "The case has received little attention from the publishing community, but it should; for the prosecution is part of a larger Reagan administrative strategy to cut down on leaks and their appearance in books, newspaper articles and television reports."

December—In a Dec. 23 editorial, *The Washington Post* said that damage may be done by the OMB circular issued with the "sleep-inducing title 'Management of Federal Information Resources.'" It observed that "the proposal would likely reduce the number of printed government publications available in libraries or at low cost and increase the already widespread practice of private outfits interfacing with government computers and providing printouts for users at hefty fees." The editorial concluded: "It is saving pennies and squandering dollars for the government, in the name of cost-cutting, paperwork-reduction, and privatization, to starve the statistical agencies and choke off the flow of federal statistics from the government agencies to the people. Rep. Glenn English (D-OK) spoke out last spring against the earlier draft version of this circular, and OMB made some improvements. But there's still plenty for Mr. English and others in Congress to complain—and do something—about." ("Privatizing the Numbers," *Washington Post*, December 23)

December—Herbert I. Schiller urged "a national debate about the character, objectives and direction of

the information society" in an article in the Dec. 28 *The Nation* titled, "Information—A Shrinking Resource." He believes that the national information supply is an endangered resource, particularly threatened by the privatization and commercialization of government information.

December—The Treasury Department has been releasing its daily cash balance to a California computer service a day before it is released to the general public. The 150 subscribers to the \$1200-a-year service include a handful of the 36 primary bond dealers. After Dow Jones and Co. news wires carried a report about the 18½-hour gap, the Treasury announced it will formally release the cash balance data at 4 p.m. to anyone who wants it starting Dec. 30. One money market economist, who had not been aware of the commercial computer service, said of the two-tiered release: "No one is supposed to get a proprietary advantage where sensitive government information is concerned." A government bond dealer added: "Why does Treasury have to go through a private vendor to release public information?" Treasury officials indicated the early release was established without full consideration of its effect on financial markets. (*Wall Street Journal*, December 30)

poll gives media high marks

Americans give the news media high marks for credibility and competence, and think their "watchdog" role helps protect democratic functions. At the same time, however, many believe that the media are influenced too much by powerful institutions such as government and big corporations.

Such were the conclusions of a major national survey commissioned by the Times Mirror Co. and conducted by the Gallup Organization. Gallup's interviews with a national sample of 2,104 people indicated that most Americans have mixed, even contradictory, feelings about the media. The pollsters also conducted panel discussions in New York, Chicago and Los Angeles.

By 70 to 30 percent, respondents in the poll voiced a positive overall opinion of newspapers, magazines and broadcasters—about 90 percent gave them a high grade for "believability"—but this wide support was relatively shallow. The opinions of those with a critical view of the media were considerably stronger and more deeply held than those of supporters.

The survey found that positive and negative attitudes alike cut across all demographic, ideological, economic,

social and political lines. In general, attitudes were shared almost equally by men and women, liberals and conservatives, Republicans and Democrats. However, the most vociferous critics, who make up about five percent of the population, were found likely to be better educated and informed than supporters, more likely to have been in the news and more outspoken. Many consider themselves members of the Establishment and are more likely to view the media as antagonists. They include more Republicans than Democrats, and more conservatives than liberals.

"This may help explain why members of the press perceive much less support in the public than actually exists," said Andrew Kohut, president of the Gallup Organization. "It cannot be comforting to the news media that those who know their product best and use it most are those who support it least. But there simply is no credibility crisis between the press and the American people."

The survey found that most respondents believe competition among the news organizations results in more complete and better reporting. A majority also put a high value on the media's "watchdog" role over government, business and the military. A majority—53 percent—said the media, far from being too powerful and arrogant as powerful critics have charged, is too easily manipulated by these institutions.

The survey also showed that Americans are more supportive of First Amendment freedom than many in the media believe. But that freedom is defined by the majority as their own right of access to information. When asked, 61 percent of those responding said press freedom was designed to guarantee the public's right to hear all points of view, while just 23 percent defined it as the press's right to report what it chooses.

Two-thirds of those surveyed said they would still favor publication of the Pentagon Papers, but only 35 percent favored publication of an article (published in *The Progressive*) describing how to build a hydrogen bomb. Two-thirds said criticism by the media "keeps leaders from doing things that should not be done," while only 17 percent said it "keeps leaders from doing their jobs." A majority, 51 percent, said such criticism "keeps our nation militarily prepared," compared to 31 percent who said it "weakens the country's defense." Reported in: *Washington Post*, January 16.

study notes increasing press harassment

Violence against journalists increased dramatically worldwide in 1985 and the result was more self-censorship and intimidation of news organizations, ac-

ording to Leonard R. Sussman, executive director of Freedom House, a watchdog group based in New York.

According to a report by the organization issued December 20, thirty journalists were killed in 1985, thirteen were held hostage or disappeared and 76 were "beaten, bombed, wounded and otherwise harassed." In 1984, 21 journalists were killed, five held hostage and 31 beaten or harassed. Freedom House based its statistics on press and government reports and data from specialized agencies.

Sussman said that half of those killed in 1985 were in the Philippines and most had been outspokenly critical of the military there and of the government of President Ferdinand E. Marcos. The worst areas for violence against journalists were Africa, except for Nigeria, and Asia. There was, however, "a distinct improvement" in South and Central America. The press in the Soviet Union and the Eastern bloc states remains "under complete control," Sussman said.

According to Sussman, increased violence made press censorship less necessary. "Overt acts of censorship seemed to diminish as violence and threats of violence increased," he said. "Physical assaults on journalists effectively generates caution, even self-censorship, in covering controversial events or personalities." Reported in: *New York Times*, December 24.

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