

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



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

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## ACLU report condemns work of Meese Commission

On February 23, the American Civil Liberties Union issued a blistering 30-page report charging that procedures used by the Attorney General's Commission on Pornography to gather and evaluate evidence have been "so intellectually indefensible that they taint the integrity and credibility of any final recommendations." The commission's work was previously blasted by civil liberties activists as onesided and overzealous (see *Newsletter*, January 1986, p. 4), but the new report, "Rushing to Censorship," which came at the close of the commission's open hearings and on the eve of an important business meeting, marked a major escalation of criticism. The report was prepared by ACLU legislative counsel Barry W. Lynn, who testified before the commission and closely monitored its activities.

"We do not feel that the data-gathering and evaluation of the Pornography Commission justify" the deference usually accorded to presidential commissions, Lynn wrote. The report warned that unless the panel's methods are critically examined before the release of its final report, it could "generate a steamroller effect in Congress, with adverse impact on First Amendment guarantees." In releasing the report, Lynn allowed that "we were admittedly skeptical of the objectivity of this body from the beginning." But, he declared, "our worst fears have been surpassed. Failure to carefully examine the fundamentally unfair and irresponsible manner in which this Commission has collected and evaluated evidence might lead to an uncritical acceptance of its recommendations later this year. Moreover, the tentative conclusions it has already drawn forecast major challenges to the principle of free expression."

The commission, whose formation was announced May 20, 1985, by Attorney General Edwin Meese III, is empowered "to determine the nature, extent and impact on society of pornography and make recommendations to [the attorney general's] office on ways—consistent with constitutional guarantees—to contain the spread of pornography" (see *Newsletter*, July 1985, p. 101). On July 24, 1985, ALA President Beverly P. Lynch testified before the commission in opposition to censorship, and on June 20, 1985, and again on January 22, 1986, representatives of the Association of American Publishers presented similar testimony (see page 75 and *Newsletter*, September 1985, p. 141; March 1986, p. 34).

The Lynn report charged that the commission's chair, Arlington, Virginia, county prosecutor Henry Hudson—known to local politicians as "Hangin' Hank" for his forthright advocacy of the death penalty—had "set a largely complacent Commission on a rush to judgment without a rigorous analysis of the data they have received or a serious effort to locate the data they are missing. In addition, even though many

(Continued on page 100)

# in this issue

ACLU condemns Meese commission ..... p. 73

AAParagraphs..... p. 75

pornography and rape ..... p. 77

censorship in Wisconsin ..... p. 78

CIA history ..... p. 89

## targets of the censor

### books

*America: Focus on Literature* ..... p. 82

*Came a Spider* ..... p. 80

*Catch 22* ..... p. 78

*The Chocolate War* ..... p. 79

*Deliverance* ..... p. 78

*The Exorcist* ..... p. 78

*Forever* ..... p. 78

*Get Oregonized* ..... p. 83

*Grendel* ..... p. 81

*In the Night Kitchen* ..... p. 78

*In the Spirit of Crazy Horse* ..... p. 91

*Let's Talk About Health* ..... p. 82, 84

*A Light in the Attic* ..... p. 78, 80

*Literature of the Supernatural* ..... p. 82

*Married and Single Life* ..... p. 98

*Monsters* ..... p. 82

*The New Our Bodies, Ourselves* ..... p. 78

*Our Land, Our Time* ..... p. 82

*The Shining* ..... p. 81

*Show Me!* ..... p. 97

*Slaughterhouse Five* ..... p. 78

*Sociology* ..... p. 84

*The Stupids Die* ..... p. 78

*The Thousand and One Nights [Egypt]* ..... p. 99

*Topics for the Restless* ..... p. 82

*Trig* ..... p. 78

*Where the Sidewalk Ends* ..... p. 80

### periodicals

*Anal Leather* ..... p. 90

*Battle of the Stars, Round Two* ..... p. 88

*Fetish Fantasies* ..... p. 90

*Hustler* ..... p. 90

*Minute [France]* ..... p. 92

*The Nationalist Report [Canada]* ..... p. 92

*Newlook* ..... p. 94

*Not for Profit* ..... p. 84

*Penthouse* ..... p. 94, 106

*Playboy* ..... p. 94, 106

*Texas Review* ..... p. 90

*Young Miss* ..... p. 97

### films

*Hail Mary* ..... p. 106

*Hearts and Minds* ..... p. 78

*Rajiv's India [India]* ..... p. 107

*Romeo and Juliet* ..... p. 80

### theatre

*The Good Doctor* ..... p. 78

*Grease* ..... p. 83

*Oh Calcutta! [Israel]* ..... p. 107

*One Flew Over the Cuckoo's Nest* ..... p. 78

*The Persecution and Assassination of Jean-Paul Marat as Performed by the Inmates of the Asylum of Charenton Under the Direction of the Marquis de Sade* ..... p. 78

*Working* ..... p. 78

### speaker

Eleanor Smeal ..... p. 86

### artists

Jeffrey Hull ..... p. 79

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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## AAParagraphs

### writers speak out

When Townsend Hoopes, then president of the Association of American Publishers, testified before the Attorney General's Commission on Pornography on June 20, 1985, in Washington, and again when Heather Grant Florence, vice president and general counsel of Bantam Books, Inc., and then chair of the AAP Freedom to Read Committee, testified on January 22, 1986, in New York, several commissioners asked AAP to document the contention that current obscenity laws have an "overbroad impact" and a "chilling effect" on creative writers. On March 14, AAP senior vice president and director of the Freedom to Read Committee, Richard P. Kleeman, submitted to the commission letters from noted authors John Irving, Susan Isaacs, William Kennedy and John Updike. The Newsletter is pleased to publish these statements in support of intellectual freedom by four of the country's most respected and talented authors.

#### statement by John Irving

John Irving is the author of, among other works, *The World According to Garp* and *Hotel New Hampshire*.

It is a frightening time to be a novelist, and to be an American citizen devoted to the freedom to write—and the freedom to read—throughout the world. As an active member of the Executive Board of P.E.N., I'm very aware of writers who've been imprisoned for what they write, and writers who are tortured for what they write; and I am very aware of the censorship that is standard in the Soviet Union, and in other countries not committed to democracy. I am also aware of an increase in censorship within my own country; but this is not a letter where I will indulge in any political name-calling—I will not suggest, either, that the enthusiasm for censorship among my fellow Americans is solely to be blamed on an increasingly right-wing agenda, influenced by an increasingly self-righteous Moral Majority (so-called). I have seen a rise in censorship of a left-wing inspiration, too—to ban Mark Twain and Faulkner, for example, for alleged "racism"; to ban Bernard Malamud for alleged "anti-Semitism". I find this form of censorship as wrong-headed and as anti-American as the censorship of Kurt Vonnegut or John Updike—or John Irving—because we are "obscene."

I'm translated into more than fifteen languages; I'm both critically acclaimed, as they say, and critically trounced in all those languages, too. And that's as it should be. It's hard to delineate my so-called *themes*;

I've often said that a novel is a search for a victim, or victims—that a novelist's moral and social responsibility is to show who the victims of stories are. In my books, they tend to be women and children; it's difficult to show victims without being explicit. It takes an appalling lack of education to miss hearing the sympathy in the voice that describes those victims—but, of course, critics do this "missing" all the time. And some of them get it right, too. The point is readers can hear the sympathy or fail to hear it for themselves—in this country, anyway. There's rape in my novels; children are hurt, even killed. My last novel was about an obstetrician at an orphanage hospital in Maine, in the first half of this century—when abortion was illegal. The hero of the book is an abortionist. You can imagine how many people there are who'd like to censor the sympathy taken toward such a "hero." But not in America; they can't censor me here.

Not yet.

Here's what Charlotte Bronte wrote in her Introduction to *Jane Eyre* in 1847: "Conventionality is not morality. Self-righteousness is not religion. To attack the first is not to assail the last." She said this because the English critics of her day suggested censoring *her*.

Recently I read that Attorney General Meese was critical of the present Supreme Court. Among the things that the Attorney General sought were ways to protect our constitution, and our laws, from what he called an ideological predilection. I am one hundred percent in favor of protecting us from that, too. And if you legislate against pornography in the United States, *who* is going to tell us what pornography *is*? Someone free of the taint of any ideological predilection, I suppose?

This is the United States, not the Soviet Union; and this is not the United States of Cotton Mather, either. I don't trust a single one of my fellow Americans to tell me what pornography is.

Should the Commission wish to speak with me, in person, on this matter, I would be happy to make myself available.

#### statement by Susan Isaacs

Susan Isaacs is author of the novels *Compromising Positions*, *Close Relations*, and *Almost Paradise*. She is also a screenwriter.

I'm a novelist, screenwriter, and book reviewer. That's my job. But I also have a private life: wife, mother of a twelve-year-old and a fifteen-year-old, member of my (suburban) community, observant Jew. So when I'm speaking out about pornography, I'd like to speak first as an ordinary individual, as any working citizen, and only then as a writer.

Like many of my fellow citizens, I've been troubled by some of what I see, hear and read. The media no longer offers the bright-eyed view of America that it did

when I was growing up in the fifties, and now and then I'm a little taken aback at what's around. *Playboy*, of course, is old hat; and I find its so-called "philosophy" puerile, its retouched photographs foolish rather than shocking. But I was appalled to discover my children watching a music video on cable television that features a woman in a brief but constricting leather dress locked in what appears to be a cage. And I find the photographs in the *Hustler*-type magazines generally repulsive and offensive. (Admittedly, no one ever held a gun to my head and said: "Read *Hustler* or die.")

As for fiction, I have never been in an "adult" book store, but I have read some pornography, and while I have admired a particular writer's style or vision of the world, often I found the prose leaden, the action repetitive, clichéd—and occasionally sickening.

So what is the answer? New guidelines for MTV? A Magazine Oversight committee? A blue-ribbon panel to review pornography? A second blue-ribbon panel to decide which of the forty-five thousand books published each year are pornographic? A third to determine how to protect the public from dirty books and movies? And what about yet a fourth panel, to establish whether or not pornography is bad for us or good, whether it undermines the social fabric or provides a safety valve?

Ever since we have had a First Amendment, we have had people attempting to restrict it. For generations, there have been jurists, clergy, legislators and laymen trying to figure out just what pornography is, and nobody has succeeded. What is redeeming social value after all? Is it a film that's bad for my twelve-year-old but acceptable for my fifteen-year-old? Is it a book my husband and I can read in our suburban bedroom with no bad effect but which might trigger some Manhattan psychopath?

And forget about pornography for a moment, because the larger issue is censorship. Should we burn all copies of *Huckleberry Finn* because the book has been found by some blacks to be offensive? Should we eliminate all productions of *The Merchant of Venice* because of the inevitable protests by certain Jewish groups that its portrayal of Shylock is anti-Semitic? When "good" books disturb us, should we limit their distribution, or just cut out the "bad" parts?

There are two main questions here: where do we draw the line and who is going to draw it? The answer is that I don't know and I don't think anyone else does, either. What's mildly titillating to me may be your absolute filth. Some fellow's pin-up girl may be, to me, a shocking exploitation of women. Or together, you and I and my mother might agree that a book is utterly vile and that anyone who gets beyond the first page is a degenerate. What do we do? Denounce the work? Ignore it? Pass still another law to suppress its distribution or sale? Burn it?

Who is to make these decisions? It's easy to say the law will decide, but someone has to interpret that law. There isn't a person alive who I trust to make these choices for me. Forget the obvious *bete noires* of the anti-censorship forces, the Jerry Falwells of the right, the Andrea Dworkins of the left. Naturally, I don't want those types anywhere near my library or movie theater determining what I can or cannot be exposed to. But no one, not my husband, my editor, my best friend, or my rabbi has the right to decide what I, a free citizen, can see or hear or read.

And I—writer, wife, mother, etc.—should have no power to decide what a Wyoming ranch hand or a Los Angeles sophisticate or my next-door neighbor should have access to. Like all my fellow citizens, I have definite tastes and prejudices and like all of them, I lack the wisdom to make such profoundly personal decisions for other people.

We have laws enough on the books now. Certainly, no one will dispute the right to legislate to protect those unable to protect themselves—children, animals—from being exploited. Legislation can legitimately prevent the distribution of pornography to minors. But do we need more laws to protect adults? I say No.

Legislation already exists to cover the hideous excesses committed in the name of free speech: laws against murder for the so-called "snuff films"; against kidnapping, rape and sodomy in instances where people have been coerced into appearing in pornographic movies.

As a writer, I don't want any laws hanging over my head that define what is or is not "acceptable." I don't want a judge, a librarian or a panel—no matter how blue-ribbon—to tell me what "clean" is.

There are passages in my work that are explicitly sexual. Why? Because sex is part of life, because sex reflects our psyche and our culture. Writing about a person's sexual nature and relations is simply one of many ways to explore personality. Sex can be ennobling, degrading, erotic, loving, funny, pathetic, or even plain silly; a character's sexual thoughts and practices help delineate him.

My novel *Compromising Positions*, was a rather lighthearted whodunit, but also something of a social satire. Judith Singer, a housewife turned detective, investigates the murder of a local roue, the Don Juan of dentists who, before his death, was photographing many of her neighbors in the compromising positions of the title. These women allowed themselves to be defined by sex, and to be used. Judith is different, yet she too has an extramarital affair, one that brings her not misery, but a great deal of joy and fun.

But the Bible says adultery is wrong. I know its wrong. Does that mean my novel is "wrong"? Should my novel have been banned, should a red "A" be put

## pornography and rape

Advocates of censoring 'pornography' have frequently argued that widespread availability of pornographic materials leads to an increase in violent crime, especially child abuse and rape. What, in fact, does research tell us about such a connection?

If the presumption of the censorship advocates was true, a strong correlation between areas with high rape rates and those with wide availability of pornography would be found. But a recent comparison of states, based on those criteria, found no such correlation. Memphis, Tennessee, for instance, has by far the highest per capita number of reported rapes of any city in the United States. Yet Memphis, sometimes referred to as "the buckle on the Bible Belt," has relatively few adult bookstores. Almost no convenience stores or groceries in the city distribute magazines like *Playboy*. Memphis does, however, have the greatest number of churches per capita in the country, a correlation with rape which no one has yet chosen to emphasize.

Moreover, if the porn-rape link were true, we'd also expect rapes to increase as pornography increased in general circulation. Yet research done by Richard Green, a psychiatry professor at the State University of New York at Stony Brook and editor of the *Archives of Sexual Behavior*, suggests this is not the case.

Green analyzed sexual assault statistics in several European countries. He discovered that after antipornography laws were repealed in Denmark in 1967, rape rates remained constant even as nonsexual assaults increased dramatically in frequency. In West Germany, rape rates remained level for seven years after pornography was legalized in 1973, but nonsexual violent crimes increased 127 percent.

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on the jacket, because some of its characters found extramarital sex pleasureable?

The prospect of anyone telling me (or my publisher) how or what I can write is absolutely horrible. I can't do my job as a writer, I can't create people in their world, without writing about a part of their world: sex.

My second novel, *Close Relations*, is a love story set against a background of politics: New York Democratic politics (thus it's a comedy), family, ethnic and, yes, sexual politics. Men and women can and do manipulate each other, destroy each other or love each other—all through sex—and that was part of my story.

In *Almost Paradise*, I wrote about a marriage. It was a large novel, filled with family and social history meant to show where my two main characters, Nicholas and Jane, came from. Neither they nor their forebears came from the cabbage patch.

In the U.S., Green found that from 1970 to 1978, aggravated assaults rose at a higher rate than reported rapes. Moreover, he noted, "If through the raising of women's consciousness during that same period, a higher percentage of actual rapes were reported, the rape rate may have even declined."

Paul Abramson, a psychology professor at UCLA, did extensive research into Japanese pornography. The most prevalent form of erotica in Japan, he found, is much more violent than American equivalents. "One of the best ways to ensure the success of a Japanese film is to include the bondage and rape of a young woman," he and his colleague, Haruo Hayashi, noted.

Yet Japanese rape rates remain much lower than in the U.S. The Japanese committed 2.4 rapes per 100,000 in 1983, compared to 34.5 rapes per 100,000 in the U.S. that year. Abramson and Hayashi postulate that wide accessibility of prostitution in Japan since the 10th century may explain the discrepancy between the two countries. "It is our opinion that sexual availability, void of public condemnation, has contributed to the low incidence of rape," they concluded.

The studies of Edward Donnerstein, a professor of communication at the University of Wisconsin, are widely believed to be the most extensive experimental research in the field. Donnerstein had a series of test subjects alternately view X-rated nonviolent material, X-rated violent material, and R-rated "slasher" films. He then investigated the subjects' attitudes about rape and sexual violence and their feelings about sex.

In six studies conducted from 1978 to 1980, Donnerstein found the same results: after exposure to violent films, male viewers were more prone to say they would

(Continued on page 107)

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Sex is not always about making babies or having pleasure. Sometimes it's downright dirty; sometimes it's filthy: degrading, ugly. But that, too, is part of human experience and it's what I, as a writer, must explore. I need to write about sex just as I need to write about love, social mobility, marriage, economics, religion, and politics. All these forces and institutions, sex included, help define us. They define my characters. They define me, too.

I want my definitions to be as broad, as alive, as possible. I don't want anyone legislating the world into a narrower place.

It is hard enough for us writers, getting up each morning and facing a blank page, facing our own creative limitations; we don't need any more restrictions. The

(Continued on page 99)

## censorship fires burn in Wisconsin

A Neil Simon play, a Studs Terkel best-seller, a film on Vietnam and *One Flew over the Cuckoo's Nest* all have come under fire recently in Wisconsin schools. According to an Associated Press survey, confirmed by reports in the *Newsletter*, school library and curriculum materials censorship is a hot issue across the state.

"I think there's a lot of fear in society right now, when it comes to reading material," Alan M. Tollefson, Beloit city librarian and chair of the Intellectual Freedom Committee of the Wisconsin Library Association, said. "The climate seems to have shifted to the right. More people are advocating restrictions on children's reading. School libraries seem to be operating in a climate of fear."

University of Wisconsin at Stevens Point English professor Lee Burress echoed Tollefson's comments. "There is no question about it. Censorship is worse," he told *The Milwaukee Journal*. "Increasingly, teachers and librarians are subjected to pressures [to ban books] that would never have occurred twenty years ago."

Some Wisconsin examples:

- In Middleton last December, two residents objected at a school board meeting to "vulgar, obscene lines" in a high school production of *One Flew Over the Cuckoo's Nest*. Middleton Schools Superintendent Gene Thielke said he and acting high school principal Doris Schroeder were reviewing the procedure for play selection.

- In Waukesha, a scene from Neil Simon's *The Good Doctor*, which involves a youth visiting a house of prostitution, was rewritten by a theater teacher on advice from the school principal, but the scene was eventually just dropped because of copyright laws (see *Newsletter*, March 1986, p. 45).

- In the West Allis-West Milwaukee School District, "secular humanism" has been a controversial topic for several months, since some school board members said they feared this philosophy was creeping into the schools. Board members have placed restrictions on a psychology text and sought to ban a sociology book (see page 84 and *Newsletter*, January 1986, p. 12).

- In Wauzeka, the school board voted in December to remove a letter of reprimand from the personnel file of drama director Susan Leithold. The board issued the letter because she had distributed uncensored scripts of a play based on Studs Terkel's book, *Working*. Under pressure from parents and other residents, a majority of the student cast dropped out of the production and the play was not staged. Terkel called the Wauzeka critics "ignorant bullies."

- Five women appeared before the Beloit Board of Education and asked to have four books they considered objectionable removed from the library at Cunningham Elementary School, but the request was denied. The books were *A Light in the Attic*, by Shel Silverstein; *In the Night Kitchen*, by Maurice Sendak; *Trig*, by Robert Newton Peck; and *The Stupids Die*, by Harry Allard. The women claimed the books encouraged disrespectful language, nudity and breaking of dishes so they don't have to be dried (see *Newsletter*, July 1985, p. 134).

- The Unified School District of Racine adopted a policy in 1984 to review materials questioned by anyone in the district, but so far no materials have been reviewed. Materials may be restricted that are "pervasively vulgar or obscene, educationally unsuitable for a particular age group, [or] may cause psychological harm to children." In addition, materials considered "a threat to school discipline" will not be stocked. Before adoption of the policy, an administrator turned down requests by school librarians to purchase *Slaughterhouse Five*, by Kurt Vonnegut; *Catch 22*, by Joseph Heller; *Deliverance*, by James Dickey; *The Exorcist*, by William Blatty; and *Forever*, by Judy Blume.

- A Waukesha School Board committee last summer approved a policy that permits the superintendent to censor material in "out-of-the-ordinary" situations. The action followed the superintendent's decision to block showing of *Hearts and Minds*, a documentary about Vietnam that showed two American soldiers in bed with two Vietnamese prostitutes (see *Newsletter*, July 1985, p. 115; September 1985, p. 152; March 1986, p. 42). Recently, the superintendent, George Shiroda, threatened to begin removal procedures against *The New Our Bodies, Ourselves*, which was acquired for a high school library.

- Appleton High School West called off the student presentation of *The Persecution and Assassination of Jean-Paul Marat as Performed by the Inmates of the Asylum of Charenton Under the Direction of the Marquis de Sade*. Parents complained the play was unsuitable for students. Roger Danielson, head of the drama department, said the decision was his own, but he had support from the school board and administration (see *Newsletter*, March 1986, p. 45).

Meanwhile, a proposed ban on obscene material is pending in a state Senate committee. Senate Bill 31, sponsored by Sen. Walter John Chilsen (Rep.-Merrill) would replace a law struck down in 1980 as unconstitutionally vague. At a hearing in the State Capitol, Tollefson called the bill dangerously vague. "The freedom to read is under constant and repeated attack," he told the lawmakers. Reported in: *Janesville Gazette*, January 20.

## censorship dateline



## libraries

### Fitzgerald, Georgia

Officials at the Fitzgerald-Ben Hill County Library closed an art exhibit January 16, two weeks ahead of schedule, because city officials wanted two nude paintings in the collection moved to a less conspicuous part of the building. The cancellation of Athens, Georgia, artist Jeffrey Hull's one-man show of twelve works was the final volley in a battle over censorship between the library and city officials which began almost as soon as the first painting was hung January 7. Earlier a compromise between Library Director Carl Heffington and City Administrator Alvie Dorminy left the pictures in their original places, but covered by paper tablecloths.

Heffington said the initial opposition to the paintings came from "one particular minister who saw the works, and he thought they were pornographic." Further opposition was organized by the Ben Hill-Irwin Baptist Association, a coalition of 25 churches, but the association members never contacted the library to lodge a complaint. Instead, Dorminy asked Heffington to drape the paintings so that only those who wanted to could see them.

According to Heffington, the covering satisfied the association, but some city councilmen remained unhappy. Alderman James Sowell moved January 14 to order the paintings removed, and the motion carried in a 6-3 vote. The council said the paintings could be placed in a meeting room where no minors would be allowed. The room would have to have a sign posted saying the works were offensive, and the library board decided instead to cancel the entire exhibit.

"It goes against the grain with me because I am against censorship, and the artist arranged the exhibit the way he wanted it," said library board chair Patty Parrish. "Besides, those two large paintings of nudes really would have looked out of place by themselves in the meeting room. It's wrong to give children the idea that this type of art is bad," she continued. "When they see the Great Masters, will they think this is porn, too?" Reported in *Albany Herald*, January 15, 16; *Macon Telegraph & News*, January 15, 17.

### Hyannis, Massachusetts

Calling it obscene, profane "trash," about ten angry parents and taxpayers February 10 asked the Barnstable School Committee to ban *The Chocolate War*, by Robert Cormier, from Barnstable High School classes. The novel is presently used in sophomore English classes and is available at the Barnstable Middle Schools library.

The drive to remove the book was launched by Charles and Frances Derrick of Hyannis, parents of sophomore Sandra Derrick. They enlisted the support of the National Federation for Decency and local clergy. In addition to asking that the book be removed from the school system, the group asked that a committee of parents, taxpayers and teachers review all books used in the schools.

Patrick Todoroff, of the decency federation, said he objected to the book because of its profanity, "obscene references to masturbation and sexual fantasies," and "ultimately" because of its pessimistic ending. The book, he said, fosters negative impressions of authority, of school systems and of religious schools. Todoroff suggested that *The Diary of Anne Frank* and *Light a Single Candle* could be used to teach students the same literary skills being taught with *The Chocolate War*.

Walter Wannie, high school principal, said he objected to an ad hoc committee deciding what books will be used in classrooms or shelved in the library. "People in this book are bad, and students in Barnstable High School are going to run into bad people," Wannie said. "You face bad people in the *Diary of Anne Frank*, including people who burn books. Tragedy is part of literature—such as the tragic story of *Romeo and Juliet*. And I don't think we have many books more salacious than *Macbeth*."

School officials said that no book is "required" reading. As with Sandra Derrick, provisions are made to provide alternative assignments if someone finds a book objectionable. When *The Chocolate War* is discussed in class, Sandra goes to the school library. Reported in: *Cape Cod Times*, February 11.

### Monroe, Michigan

A suspected link between alleged devil worship and the February 2 slaying of a Monroe County teenager sparked the seizure of books on witchcraft and Satanism from county school libraries. County sheriff's officials said February 19 that the slaying of 17-year-old Lloyd Gamble by his younger brother, a student at Airport High School, was "the acting out of a satanic sacrifice." Chief Investigator Lt. Michael Davison said groups at three area high schools were involved in devil worship, although he called the slaying an "isolated incident."

Robert Rowe, superintendent for the Airport Community Schools, said officials were trying to determine if certain books and materials, including those seized by sheriff's deputies, in school libraries have satanic links. If so, he said, books with "no scholarly value" may be pulled from the shelves.

One parent, Debbie Rod, who has a son at Cantrick Middle School and a daughter at Monroe High School, said she was "really upset" that her children had seen books with satanic undertones in school libraries. "I read this thing they call the 'Satanic Bible.' It's really bizarre," she said. "It shows everything . . . a step-by-step process [on] how to call up the devil. It promises great powers. It shows you how to conjure up images. And the pictures. You see devils, demons and monsters from hell. I could see where a kid's mind could be warped by something like that. I don't think those kind of books should be available to kids."

Rowe said concern among parents that children could be exposed to satanic rituals at school had sparked unwarranted fear. "Certainly, you can't underplay someone's death," he said. "But the aftermath . . . has been blown way out of proportion."

Eric VanVeelen, administrative assistant for the Monroe Public Schools, the county's largest system, said officials would consider removing books, but cautioned that such action might spur controversy over constitutional rights. Reported in: *Detroit Free Press*, February 21.

### Minot, North Dakota

Two children's books by Shel Silverstein were pulled from the shelves of the Minot Public Schools library to be reviewed in the wake of some complaints, a school district official revealed in late February. School officials did not receive a formal complaint about the two books, *A Light in the Attic* and *Where the Sidewalk Ends*, but there were verbal complaints, said Lowell Latimer, assistant superintendent for the Minot School District.

An anonymous source cited by the *Minot Daily News* said the complaint came from a school employee. "That's possible," Latimer said, adding that the district expected to receive a complaint from a parent regarding one or both books. Latimer said that at least one of the books had been in each library of the grade schools, junior and senior high schools.

Under district procedures, a formal complaint would be handed over to a review committee, consisting of a librarian, teachers, parents and others. The committee could recommend removal, restricted access or retention without restriction. Last year an unofficial book review committee headed by school board member Zoanne Flickinger called for the removal of at least forty titles from school libraries, although the Silverstein titles were not on that list (see *Newsletter*, May 1985, p. 78; January 1985, p. 9; November 1984, p. 185). Reported in: *Fargo Forum*, February 26.

### Edmond, Oklahoma

At its regular meeting on February 21, 1986, the Executive Board of the Oklahoma Library Association, at the initiative of the OLA Intellectual Freedom Committee, adopted by unanimous vote a resolution opposing the removal from classrooms in the Edmond public schools of the film *Romeo and Juliet* by the Edmond Board of Education. The film was removed from the curriculum following a parental complaint and an ad hoc review. The Edmond Board of Education declined to reinstate the film as an optional resource despite parental requests.

The resolution declared "that the action taken by the Edmond Schools' mid-high ad hoc due process committee to ban the optional film *Romeo and Juliet* . . . is an act of censorship and against the welfare of students, teachers, librarians and all citizens of Oklahoma." The resolution also called on the Edmond Board of Education to "place the responsibility for selection of free-choice books with professional educators trained and employed to do this work, establish policy and procedures regarding requests for removal of library and/or curriculum materials as well as a more representative due process committee with regularized procedures and guidelines and provisions for appeal." Reported by Oklahoma Library Association.

### Spokane, Washington

*Came a Spider*, by Edward Levy, may return to the shelves at Freeman High School library from which it was removed in February, but only if its availability is limited to students with written parental permission. That was the unanimous recommendation of a three-person school district hearing board March 10. Freeman

superintendent Dennis Przychodzin had ten days to accept, reject or modify the recommendation. *Came a Spider* is about a mutant strain of tarantulas that multiply into a swarming pack of killers.

The controversy began when parent Claudia Low and her husband Jerry filed a complaint against the book because it contained a two-page description of teenagers engaged in sexual intercourse. The book was pulled from the shelves, and Low's complaint was taken to the hearing board. On February 20, Mrs. Low asked the board, "Do you really, seriously consider that appropriate for a school library. If you say you shouldn't censor that, then why don't you have *Playboy* in the library too?"

The board also heard testimony from supporters of the book. "The fundamental issue here is, 'What should a library be in an open society?' " testified Norma Trefry, Freeman High School librarian. "Parents have the right to guide their children in choices they make . . . [but] parents do not have the right to choose what others do or do not read." The book, Trefry reported, had been checked out 28 times by students before it was pulled from the shelves.

"The U.S. Supreme Court has historically ruled a book can't be judged by only one passage," the librarian continued. "[*Came a Spider*] is not unfit to have in school."

"We're not talking about 'hell' and 'damn' in books," Mrs. Low responded. "That would be unrealistic." But when the library's copy of the book is opened, she claimed, it "falls right to pages 51 and 52 [the sexual passage in question]. That shows why it is a good book, why the kids read it. Why do you think we have so many kids having kids? It is just garbage in and garbage out. What do you expect when you feed them this junk?" she asked. Reported in: *Spokane Spokesman Review*, February 21; *Spokane Chronicle*, March 11.

#### **Vancouver, Washington**

Junior high school students in the Evergreen School District will no longer find the horror novel *The Shining*, by Stephen King, on school library shelves. By a 3-2 vote March 10 the school board sided with a Cascade Junior High reading aide who argued that the book's "descriptive foul language" made it unsuitable for teenagers.

The board stopped short of banning the novel from all school libraries, however, as aide Karen Venema requested. Instead, the book was removed from the district's four junior highs but allowed to remain in the two high schools.

Board members Wendy Flint, George Houser and Sharon Long voted for the move. Margaret Wadsworth-Kinney and board President David McKenzie opposed

it. The vote marked the first time the board had been asked to ban a library book since last summer, when controversy erupted over the novel *Don't Tell Me Your Name* (see *Newsletter*, July 1985, p. 133). A decision to keep that book prompted Flint and Long, vocal opponents of the novel, to make a successful run for the school board.

Venema filed a complaint against *The Shining* with district officials in January after a student selected the novel to read to her. The district's nine-member Instructional Materials Committee voted 5-2, with two abstentions, to keep the book. Venema then appealed to the board.

The board heard two hours of testimony on both sides of the issue before reaching its decision. "The profanity and subject matter is inappropriate," Venema told board members. Students are disciplined for using the same words at school that are found in the novel, she said, concluding, "We are teaching confusion." One parent said *The Shining* was not worth reading, and warned that board approval of the book might hurt support for upcoming school tax and bond measures.

Others, however, countered that removing the book could set a dangerous precedent. Several district employees, including four school librarians, urged retention of the book, and a petition with signatures of more than 160 school staffers was presented. "A library book is not required reading," said Barbara Wills, Cascade librarian. "To remove it because a few people find it distasteful is presumptuous and even arrogant."

Board members spent little time debating the issue themselves, although Flint said she had "counted the cuss words" and found that "22 different" expletives were used "156 times." Reported in: *Vancouver Columbian*, March 9, 11; *Portland Oregonian*, January 16, March 11.

## **schools**

#### **Wasco, California**

In the wake of a 1985 controversy over one book, John Gardner's *Grendel*, Wasco High School adopted a "restricted book" policy which the ACLU of Southern California called an "exceptionally dangerous" form of censorship. The policy allows individual parents to, in effect, dictate the content of courses at the school.

Wasco High English teacher Lee McCarthy used *Grendel* in her college preparatory classes off and on for a few years, but in January, 1985, Wasco Principal Douglas Fletcher read the book and deemed it unsuitable for classroom use. Fletcher found Gardner's

work, a retelling of the Beowulf legend from the monster's point of view, too profane.

Soon after Fletcher found *Grendel* objectionable, the Wasco Union High School Board of Trustees announced the new policy which holds that before any book on the "restricted list" can be discussed or analyzed in a classroom, every single student in the class must have parental permission. So far *Grendel* is the only book on the list, but the policy allows a single student's parent to determine the reading material for an entire class.

Indeed, when Lee McCarthy sent home with her students permission slips for *Grendel*, all but one student gained permission to study the book. Because every student did not have permission, however, the book was banned from the class. Eventually, McCarthy's class was allowed to study *Grendel*, but only on a technicality. The one student who did not have parental permission turned out to be over 18, so that student gave herself permission to study the book.

The Wasco policy was challenged in court by the ACLU and a preliminary ruling has fashioned a new policy whereby students who object to discussing *Grendel* are free to leave the classroom during discussions of it. Under the policy suggested by the court, no penalty of any sort may fall upon any student who is so absent. Wasco administrators have objected to the court's proposal, however, and continue to argue for retaining the "restricted book" system adopted last year. Reported in: *Bakersfield Northside News*, January 22.

#### Jefferson County, Colorado

In early March the Jefferson County School District received four challenges asking that three district textbooks be banned from classrooms. Gary and Faith Kildow of Broomfield filed a Citizen's Request for Reconsideration of Learning Resources challenging the book *Literature of the Supernatural*. The following week, Richard and Pat Miller of Arvada, representing the Citizens for Excellence in Education, filed three additional challenges against *Literature of the Supernatural* and two other texts, *Topics for the Restless* and *Monsters*. The Millers' challenges were accompanied by petitions against each book with from 59 to 101 signatures, depending on the book.

The books were among the proposed texts protested by parents at a January meeting of the Board of Education. The board approved all of the books, but on the condition that those against which protests had been made be removed temporarily from the curriculum if any official challenges against them were filed.

*Literature of the Supernatural* is a collection of stories written by such authors as Edgar Allen Poe, O. Henry, H. G. Wells, Ray Bradbury, Dante and Shakespeare. The parents objected to many of the stories, which treat death, suicide, ghosts and Satan.

The Millers wrote that "we are concerned about what these authors say. The evil, occult message the stories carry is far too concentrated." The complaints also focused on the book's accompanying teacher's guide and many of its suggested learning activities.

*Topics for the Restless* is a collection of stories and essays designed to promote critical thought among high school students. Among the selections the Millers found "most objectionable" were from *The Feminine Mystique*, which they said was too favorable to the Equal Rights Amendment; a story on Marilyn Monroe; "Death with Dignity," which discusses what children should be taught about death; and "Hiroshima—Death and Rebirth I and II," stories they claimed "make Americans feel guilty about bombing Hiroshima."

*Monsters* is a junior high text of monster stories including several out of Greek mythology on the Cyclops, the Minotaur and Medusa, as well as several more modern monsters such as King Kong, Dracula and Frankenstein's monster. Reported in: *Westminster Sentinel*, March 6.

#### Boise, Idaho

A Jerome, Idaho, state legislator has proposed a bill that would require that two members of the 13-member state Textbook and Improvement of Instruction Committee not be professional educators. Rep. Jerry Callen (Rep.-Jerome) said his proposal would spell an end to school books some people find objectionable. The legislation would also require school boards to create district textbook committees that are one-fourth non-educators.

Callen pointed to the following examples of books which he believed should not have been adopted. They were brought to his attention, he said, by Concerned Women of America and the fundamentalist Christian Coalition Association:

- *Our Land, Our Time: A History of the United States*, approved by the Boise School Board, gives the Soviet Union and the United States equal weight, instead of emphasizing America's position, Callen charged.

- *America: Focus on Literature*, approved by the state committee contains overly morbid and depressing stories and poems.

- *Let's Talk About Health*, also approved by the state committee, allegedly presents abnormal sexual practices as normal.

Callen said educators acquire "tunnel vision" as they become absorbed in their work and lose their suspiciousness of materials. "Consequently, I don't know if they might spot things a parent might spot in a book. They just generally rubber-stamp things," he said, adding that he was stunned when informed the committee did not reject any textbooks.

This was Callen's second attempt to have non-educators placed on the state committee. Last year, his bill and a resolution by Rep. Liz Allan (Rep.-Caldwell) recommending that school books promote traditional American values sank in the House Education Committee. Instead, the committee wrote the State Board of Education to ask that it place a parent on the state textbook committee. The board declined, however, because it was a committee request and not from the entire Legislature.

This year, Rep. Dorothy Reynolds (Rep.-Caldwell) resurrected the idea, and submitted a resolution recommending that the state board place a parent on the state committee. Her effort, endorsed by the state Board of Education and the Idaho Education Association, failed to get out of the education panel.

"This legislation appears to be starting a fire that isn't there," said Mike Jacobsen, superintendent of the New Plymouth School District, adding that no parent had ever questioned a book in his district. The state's largest district, the 21,400 student Boise Independent School District, already has a selection process allowing for greater parental involvement than that called for in the bill. Reported in: *Boise Statesman*, February 10.

#### Severna Park, Maryland

*Grease*, the second longest running Broadway musical and hit movie, will not be presented at Severna Park High School this year despite a unanimous vote of the school's drama club to stage it. Club members submitted the musical to the Materials of Instruction Committee for approval in early December. About two months later, school principal Oliver Wittig decided the play was inappropriate for performance in a public school because it advocates "sex, booze and rock 'n' roll." The drama club will perform *Barefoot in the Park* instead.

According to a newspaper column written by drama club members Miriam Wolfe and Jennifer Tawes, the committee is headed by vice principal Barry Buck and consists of one parent, one student and three faculty members. This group, they charged, misinterpreted the play as a literal portrait of adolescence in the 1950s, "rather than as the satirical comedy it was intended to be." The musical was performed successfully at nearby Annapolis High School in 1985, but, according to the students, Buck claimed that the two communities were not comparable, with Severna Park conservative and Annapolis liberal. Reported in: *Annapolis Capital*, March 10.

#### Salem, Oregon

Setting aside most of the criticism hurled at the textbook *Get Oregonized* as anti-environmental and unbalanced in favor of industry, the Oregon State Board of Education voted 6-1 March 6 to adopt the controver-

sial fourth-grade social studies book in its original version. After the vote, however, board members gave varying interpretations of whether they expected the book to be revised, and Oregon State University education professor Rod Fielder, the book's editor, said he was unsure whether the board intended for him to go ahead with planned technical, grammatical and substantive revisions.

Fielder worked with the Environmental Education Association of Oregon to develop new wording, deletions and additions to the text's treatment of such controversial issues as timber clear-cutting, the value of wilderness, coyote control, public land policy, recreational use of sand dunes and reasons for the decline of salmon runs in Oregon waters. "I'm not precisely certain at this point about what limitations there will be on the changes," Fielder said. "It appears the book was accepted as is."

State School Superintendent Verne A. Duncan, however, recommended that the board adopt the book based on written "assurances" from the dean of the OSU-Western Oregon State College School of Education that grammatical and factual errors would be corrected and that changes in treatment of sensitive environmental issues would be made.

The original version of the book is already in use in 26 school districts in the state, including Corvallis. Funded by industrial, farming, timber and other business interests, its alleged anti-environmental bias sparked "perhaps the most heated education issue in Oregon in recent memory," according to the *Los Angeles Times*, "far hotter than sex education, creationism and other controversies." The controversy has largely pitted urban Portland environmentalists against smaller rural communities who, in alliance with business interests, charge that environmental legislation has nearly destroyed their livelihoods.

The text initially came under fire from Sonja Grove, a Portland teacher, a board member of the Oregon Environmental Council and a member of the Oregon State Textbook Commission, which earlier approved the book by a 4-2 vote. "This is so anti-environment," Grove said. "Always the conclusion is, 'We're sorry we have to spray herbicides, but it has to be done. We're sorry we have to burn fields, but it has to be done. We're sorry we have to harvest timber, but it has to be done.' Nothing that it's damaging. It goes on and on and on. The book was so poor in quality. That's what bothered me."

The intense scrutiny of the book prompted by the environmentalists' criticisms revealed a host of grammatical and factual flaws and Fielder agreed to work with the critics to improve the text. Reported in: *Los Angeles Times*, March 6; *Eugene Register-Guard*, January 11; *Portland Oregonian*, March 7.

### Salem, Oregon

Sex education continues to be a steamy issue in the Salem-Keizer School District, with parent groups demanding a say in the review of a middle school textbook. After an hour of testimony and a lengthy board discussion March 11, the parents got their way.

Board chair Mike Holland said that in addition to studying a consultant's report prepared by an Oregon State University educator, he would gather opinions from parents who have opposed *Let's Talk About Health*, which is used in seventh and eighth-grade classes. "It would be unwise of us, in a whole lot of ways, to not respond to a group of parents who are sincere," he said.

Original plans called only for board review of the consultant's report, but about ten parents showed up at the board meeting to condemn that process. "I know you have been busy," Janice Womak told the board. "I know the budget has taken a lot. I admire you. But I truly feel you have swept us under the carpet."

Womak opened the controversy last fall with a written complaint about the book's handling of issues such as dating, premarital sex, homosexuality and masturbation. Opposition soon grew to the book, with many parents pulling their children out of sex education classes. Complaints centered around an alleged lack of concern in the book for family values and moral guidance.

Ken Myers, associate dean of the joint Oregon State/Western Oregon State College School of Education, completed a study of the book at no cost to the district. He concluded that it "has a good match" with district sex education curriculum. But board member and textbook opponent Jim McComb lashed out at Myers' findings. "I would in fact flat-out challenge whether or not he read the book," McComb said. Reported in: *Salem Statesman Journal*, March 12.

### West Allis, Wisconsin

After a protest involving about two hundred teachers and vocal criticism of school board members March 3, the West Allis-West Milwaukee School Board voted to ask the state attorney general's office for a legal opinion on questions related to the selection of a sociology textbook. The board delayed a decision of whether to approve the book, *Sociology*, partly because of concern that the book espouses "secular humanism." Board member Alfred Szews said he objected to the text because it "clearly is a Marxist-oriented book" that does not discuss the pitfalls of Marxism.

The board voted 6-1 to ask the attorney general for opinions on the following questions: Would using the textbook violate state law? Would use jeopardize federal funds? Has the Supreme Court defined secular

humanism as a religion? Do children and their parents have rights to determine what is taught, and are these rights reinforced by legal reference or case law?

Before the March 3 meeting began, nearly 200 teachers picketed outside the meeting site to protest the board's attitude toward teachers, said Lloyd Hauge, president of the West Allis-West Milwaukee Education Association. The teachers had been working without a contract since last June. More than 300 people were in the auditorium for the meeting at which Hauge criticized board members for attacking teachers' professionalism and moral character.

Teacher Marianne Knudson challenged the board to name the teachers who were teaching secular humanism or to drop the issue. "In my opinion, that secular humanism issue has been a smoke screen to cover [board member Ernest Terrien's] real underlying purpose for being on the board—that is, for the detriment of public education and for the advance of parochial schools," she said.

Terrien was one of the most outspoken opponents of the sociology book and in August led a board majority in banning another text, *Understanding Psychology*, that some claimed was not supportive of "family values" (see *Newsletter*, January 1986, p. 12). Reported in: *Milwaukee Sentinel*, March 4.

## student press

### St. Petersburg, Florida

*Not For Profit* is an "independent" newspaper published by high school students in Pinellas County. Its pages poke fun at everyone from Ronald Reagan to the Pinellas School Board and its articles are peppered with juvenile gutter expletives. Many copies of the first edition were distributed at county schools in November, but at some schools they were confiscated by school administrators. The official reason: the publishers failed to ask high school principals for permission to distribute on campus.

When the second issue was printed in January, editor Manny Sferijos, a student at Thom Howard Academy, "sent a letter to the school board, telling them of our plan" to distribute. The board voted 7-0 to ban distribution of the magazine on school grounds. Students were warned that they faced suspension if caught distributing the publication on school grounds. At some schools, teachers and administrators confiscated copies of the magazine from students who were merely carrying them. School officials say they can ban the magazine because it contains filthy language and poor grammar. Reported in: *St. Petersburg Independent*, January 30; *Come-Unity*, February 1986.

## universities

### Stanford, California

A mural unveiled in mid-January which depicts the destruction of Stanford University's Hoover Tower by irate Latin Americans, South Africans and Stanford students, enraged Hoover Institution scholars and quickly emerged as the latest focus in an ongoing campus controversy over the connections between the mostly conservative think tank, the Reagan administration and the university.

The mural, entitled the "Spirit of Hoover," was painted by seven students on the wall of a third-floor lounge in Casa Zapata, a residence where almost half of the 90 students are Hispanic. "It's saying that everything connected with Hoover is causing problems in other parts of the world," said Gilbert Mesa, a senior who lives in Casa Zapata. "There's a lot of anger in it," added David Romo, a resident adviser who helped plan the mural.

Hoover research fellow Robert Wesson called the mural "an expression of radical, anti-establishment sentiment" and "a gross misrepresentation as far as any activity of the Hoover Institution goes." In a letter to the *Stanford Daily*, Hoover African specialist L. H. Gann asked, "What would liberals and radicals have said had the Hoover Institution commissioned artists for a mural showing Stanford militants as lackeys who serve the lords of Moscow's Gulag Archipelago?" Gann called the mural "both foolish and unfair," but said that "people have a right to free expression, and if they wish to make fools of themselves, that is their constitutional right."

Emilio Rodriguez, a freshman who helped paint the mural, said students were surprised at the controversy the work generated. "We didn't think it would bring such bad blood between us and Hoover," he said. Residence fellow Jose Antonio Burciaga, for whom the students executed the mural as course work, told the *Stanford Daily* that Hoover scholars were thin-skinned. They "know how to dish it out, but they can't take it," he said. Reported in: *San Jose Mercury*, January 28.

### Boulder, Colorado

As of early March, 1986, students at the University of Colorado had still not received copies of the school's 1985 yearbook and it was growing increasingly doubtful they ever would. The problem concerned censorship.

Among the many pictures included in the 416-page volume was one taken at an anti-CIA rally on campus. The photo showed a woman student wearing a T-shirt with the words "Fuck Reagan" emblazoned across the

front. Initially, publishers of the annual airbrushed the word out, but the yearbook editor protested so vehemently that the photograph was restored. By that time, however, production was already several months behind schedule.

Then Hugh Fowler, a conservative university regent and former Republican state senator, stepped in. He called the Topeka, Kansas, yearbook publishing company, and as a representative of the governing body of the university and an elected official [although no vote of the regents was taken on this issue], demanded that the picture be removed entirely. The publishers agreed to keep the whole yearbook under wraps. Reported in: *Denver Post*, March 6.

### Washington, D.C.

A leading Catholic University professor of moral theology announced March 11 that Vatican officials had recently implied he would be removed from his 20-year post because he has refused to retract controversial positions on sexual and moral issues. The Rev. Charles E. Curran, the subject of extensive investigations by the Vatican's Sacred Congregation for the Doctrine of the Faith since 1979, said his dissent from the church on moral issues was "neither rebellious nor radical."

At a press conference Father Curran said the Vatican has objected to his views on issues such as contraception, abortion, sterilization, euthanasia, homosexuality, and divorce. "My posture is neither defiant nor disrespectful," he declared. "I continue to hold my basic position that dissent from authoritative, non-infallible church teaching is possible and in certain cases justified. It is a position with longstanding tradition. I cannot and do not retract this position."

In a September 17 letter to Father Curran, Cardinal Joseph Ratzinger, head of the Vatican's Sacred Congregation for the Doctrine of the Faith, said the professor's positions on "various important elements of moral doctrine are in open contrast with the teaching of the Magisterium." With the approval of Pope John Paul II, the letter invited Curran to "reconsider those positions which violate the conditions necessary for a professor to be called a Catholic theologian." Father Curran said he was given two months to retract, but refused, declaring he was "convinced of the truthfulness" of his position.

Nearly 100 years old, Catholic University is the only pontifical university in the United States. It is chartered and accredited by the Vatican. In a statement, Archbishop James Hickey, university chancellor, said that although he was not in a position to comment on the decisions regarding Father Curran's dismissal, he hoped that "some solution could be found which would

safeguard the teaching of the Church while being sensitive to the interests of Father Curran."

In 1967, Father Curran was dismissed from the faculty for his public dissent on Pope Paul VI's ban on artificial birth control. Students staged a protest strike, and Father Curran was reinstated after five days. Reported in: *Washington Times*, March 12.

#### **Washington, D.C.**

Catholic University officials said January 30 that Eleanor Smeal, president of the National Organization for Women, would not be allowed to use university facilities to give a public lecture to students. It was the second time in less than two weeks that a speech by Smeal at the school was canceled.

John Joseph Murphy, the university's executive vice president, issued a brief statement saying that proper procedures were followed when a student government group took action that led to the cancellation of a speech by Smeal scheduled for January 28. His action effectively blocked Smeal from speaking to a group of law students, who invited her because they were opposed to the cancellation of her first speech.

Smeal, whose organization supports a woman's right to choose an abortion, signed a \$1,000 contract for the first speech. Her fee was to be paid from an annual lecture fund operated by the student activities office. "The students reconsidered their invitation based on a lot of grievances filed by students, faculty and staff," said Greg Stewart, assistant dean of students. "They raised objections based on positions that Smeal and NOW have taken on the issue of abortion."

Much of the opposition to Smeal came from students in the Human Life Council, an anti-abortion group of about twenty students, although some students believed the administration also pressured student leaders to withdraw the invitation. The protests led the student government to pass a resolution urging that a speaker with a different point of view be invited to share the podium with Smeal. After the resolution, however, the program committee notified Smeal of the decision to cancel.

After the second cancellation, Smeal charged that "a large proportion of students want" her to speak and that the university administration is "determined to try to stop discussion of one of the crucial policies of our country. It is clear the administration has stepped in and is trying to prevent it. But it's a losing battle because free speech is part of our land."

Third-year law student John Gilmore said the university chapter of the National Lawyers Guild, which sought to sponsor Smeal after the first cancellation, would meet with attorneys to determine whether to file

suit against the university. He charged that the university was "bound and determined never to have her on campus no matter what the proper procedures were. It was preordained from the beginning. This is an unacceptable infringement of our rights." Gilmore said the chapter would sponsor a speech by Smeal February 25 off campus.

Vice president Murphy responded that the university had "a very strong record" on free speech. However, he added, "a private university is different from a public university and has different standards by which it evaluates these things." In 1971, Catholic University banned radical feminist Ti-Grace Atkinson from speaking on campus. Student groups protested and ultimately won a court ruling that said Atkinson was constitutionally guaranteed access to a platform at the university. Reported in: *Washington Post*, January 24, 31.

#### **Rochester, Michigan**

An Oakland University professor, charged with teaching distorted material on Nicaragua by a group monitoring professors for what it alleges is liberal/radical bias, met her accuser January 16 and agreed to consider giving her students a U.S. State Department report critical of the Nicaraguan government.

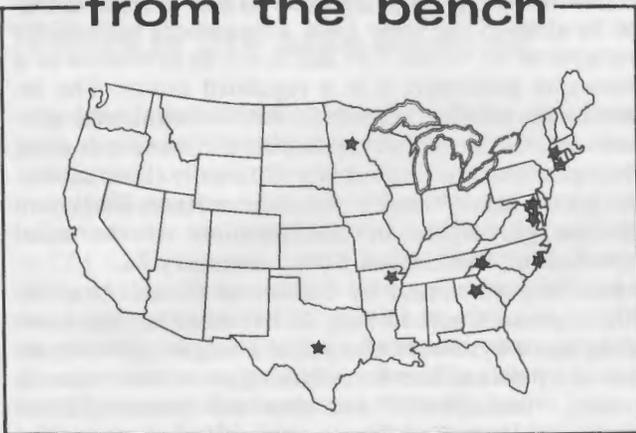
Mary Karasch, an associate professor of history, met for a half hour with Les Csorba III, executive director of Accuracy in Academia, a self-appointed watchdog group. Csorba was at the campus for a seminar on academic freedom organized by the university after his group began investigating Karasch's course, Introduction to Latin America, last fall. The group said two students complained that Karasch was biased toward Nicaragua's Sandinista government.

At a news conference Csorba said, "These professors are entitled by academic freedom to teach in the classrooms. They are not entitled, however, to claim immunity from public criticism." Csorba debated the issue of academic freedom with arts and sciences dean Brian Copenhaver and Robert Waters of the student government.

Students, professors and administrators have rallied around Karasch, who has taught at Oakland since 1970, although she said some colleagues criticized her for cooperating with the watchdog group. Karasch said she agreed to review the State Department report because "I do think it's important to look at many viewpoints." She admitted, however, that Accuracy in Academia's

*(Continued on page 106)*

## from the bench



### U.S. Supreme Court

In a 6-3 decision, February 24, the U.S. Supreme Court held unconstitutional the Indianapolis ordinance that defined pornography as “graphic sexually explicit subordination of women, whether in pictures or words” and that categorized pornography as a violation of women’s civil rights. The decision in *Hudnut v. American Booksellers Association*, issued without an opinion, affirmed rulings of lower federal courts that the law violated First Amendment free speech rights (see *Newsletter*, January 1985, p. 3; November 1985, p. 197).

The challenge to the ordinance by the Freedom to Read Foundation, the American Booksellers Association, the Association of American Publishers and others who claimed the law was unconstitutionally vague was filed May 1, 1984, the day it was signed into law by Indianapolis Mayor William Hudnut, 3d. The American Library Association, Indiana Library Association and Indiana Library Trustee Association filed an *amicus curiae* brief (see *Newsletter*, July 1984, p. 119). The ordinance was seen by its supporters as an “innovative and promising” way to help women, children and “victims” of pornography.

The Court’s decision reaffirmed that the First Amendment protects most sexually explicit books, magazines and movies from outright suppression. The traditional *Miller* test—that a work must, as a whole, appeal to prurient interests and have no serious literary, artistic, political or scientific value in order to be considered “obscene”—remains in effect.

Chief Justice Warren E. Burger, and Associate Justices William H. Rehnquist and Sandra Day O’Connor dissented from the ruling, saying that the case should have been set for oral arguments. Because the

majority’s decision did not explain its rationale, lower courts will view it as a narrow ruling in future cases. Nevertheless, the Court explicitly affirmed the August 1985 decision by the U.S. Court of Appeals for the Seventh Circuit in Chicago, which saw the Indianapolis law as a form of “thought control” which violated the First Amendment.

In that decision, Judge George Easterbrook described the ordinance in the following terms: “Speech treating women in the disapproved way—as a submissive in matters sexual or as enjoying humiliation—is unlawful no matter how significant the literary, artistic, or political qualities of the work taken as a whole. The state may not ordain preferred viewpoints in this way. The Constitution forbids the state to declare one perspective right and silence opponents.” Easterbrook questioned “how Indianapolis would treat works from James Joyce’s *Ulysses* to Homer’s *Illiad*; both depict women as submissive objects for conquest and domination.”

The ordinance was first declared unconstitutional by U.S. District Court Judge Sarah Evans Barker in November, 1984. Reported in: *OIF Memorandum*, March 1986.

The Supreme Court held February 25 that local zoning officials have broad powers to restrict the location of movie theaters showing sexually explicit films. Extending a 1976 decision that allowed Detroit to prevent concentrations of adult theaters by dispersing them around the city, the Court ruled that a town may limit such theaters to a small area away from homes, schools, churches and parks.

In the case of *Renton v. Playtime Theaters*, the seven-justice majority rejected arguments by a theater owner that the zoning ordinance in Renton, Washington, might effectively ban adult theaters altogether by restricting them to an industrial area where no “commercially viable” sites were available. While the First Amendment guarantees sexually explicit entertainment facilities “a reasonable opportunity to open and operate,” Associate Justice William H. Rehnquist wrote for himself and five others, it does not require zoning under which they “will be able to obtain sites at bargain prices.”

The ruling reversed an appellate decision that struck down the zoning ordinance as a violation of the First Amendment rights of the owners of two theaters in downtown Renton who wanted to show feature-length adult films (see *Newsletter*, March 1985, p. 53). “The city’s pursuit of its zoning interests here was unrelated to the suppression of free expansion,” Rehnquist wrote. He added that “the ordinance by its terms is designed to prevent crime, protect the city’s retail trade, maintain property values” and generally to protect “the quality of urban life.”

Rehnquist argued that the ordinance was not

“aimed at the content” of the films or designed to silence “unpopular views,” but was concerned with “the secondary effects of such theaters on the surrounding community,” including harm to children and “neighborhood blight.”

Justice William J. Brennan Jr., joined by Justice Thurgood Marshall, dissented, calling the Renton ordinance “plainly unconstitutional.” The ordinance “selectively imposes limitations on the location of a movie theater based exclusively on the content of the films shown there,” Justice Brennan said. He said its language, history and effect all showed a design “to suppress the content of adult movies” because residents were offended by them.

Brennan said the notion that the zoning restriction was necessary to prevent neighborhood blight was a “purely speculative conclusion,” unsupported by evidence and used as a “pretext.” He also disputed the majority’s assertion that the ordinance left a reasonable opportunity for adult theaters to operate.

Justice Harry A. Blackmun voted with the majority, but did not join in Justice Rehnquist’s opinion. Reported in: *New York Times*, February 26.

A divided Supreme Court ruled February 25 that the First Amendment protects businesses from being forced to include in monthly mailings statements from dissident groups contrary to the opinions or policies of the company. In overturning a California utility commission ruling, the Court further detailed the protections available to commercial speech, saying that corporations not only have the right to speak when they choose, but have the right to decide what they want to say.

By a vote of 5-3, the court endorsed the position of the Pacific Gas and Electric Co., a San Francisco utility, which contended it should not be forced to spread a message with which it disagreed. For the past 62 years, PG&E has distributed with its monthly bill a newsletter, which includes features, energy conservation tips and editorials. In 1980, a consumer group that has pressed the California Public Utility Commission to set lower rates complained that the public should not be footing the bill for the company’s political mailings. The commission then decided that the monthly billing package was not actually property of the utility but of its customers. As a result, the commission ruled, space in the envelope should be divided evenly among interested parties. PG&E was compelled to include the consumer group’s newsletter in its billing four times a year.

“Compelled access, like that ordered in this case (*Pacific Gas and Electric v. Public Utilities Commission*), both penalizes the expression of particular points of view and forces speakers to alter their speech to conform with an agenda they do not set,” Justice Lewis F. Powell Jr. wrote for the majority.

Justices Rehnquist, Byron White and John Paul

Stevens dissented. They maintained that PG&E should not be allowed the same First Amendment protections available to the media. “PG&E is not an individual or a newspaper publisher; it is a regulated utility. The insistence on treating identically for constitutional purposes entities that are demonstrably different is as great a jurisprudential sin as treating differently those entities that are the same,” they wrote. Justice Harry Blackmun did not participate in consideration of the case. Reported in: *Washington Times*, February 26.

Rejecting an appeal by California prosecutors, the U.S. Supreme Court January 22 left intact a lower court ruling that a bystander who yelled a vulgar epithet in the face of a police officer investigating an accident was exercising “free speech” and thus was protected from criminal charges. San Diego authorities had contended that the epithet represented “fighting words”—beyond constitutional protection—and that a state appeal court had wrongly overturned the conviction of the bystander merely because the officer did not react violently.

The Court, in a brief order, bypassed an opportunity to further define a venerable 1942 ruling that put “fighting words”—along with obscene and libelous remarks—outside First Amendment guarantees. In that case, the court upheld the conviction on charges of breach of the peace of a defendant who called an officer a “goddamned racketeer” and a “damned Fascist.” Reported in: *Los Angeles Times*, January 22.

## obscenity

### Wilmington and Asheville, North Carolina

North Carolina’s new obscenity law (see *Newsletter*, January 1986, p. 17) is batting .500. In the first test of the law, William Jackson, a clerk at the Video Center in Wilmington, New Hanover County, was found not guilty January 21 of disseminating pornography after selling an undercover agent a videotape of a movie titled, *Battle of the Stars, Round Two: East versus West*.

“I don’t think after one trial and one jury verdict we can throw in the towel and say this is a bad blow,” said New Hanover District Attorney Jerry Spivey. “As other cases are developed—and I’m sure other charges will be filed—we have to keep presenting them to the jury and determine what our community standards are in the state of North Carolina.”

Spivey’s prediction proved correct. Less than a week later in Asheville, Buncombe County, a jury in the

(Continued on page 90)

## Supreme Court version of history in CIA case disputed

In a landmark 1985 decision, the U.S. Supreme Court gave the Central Intelligence Agency (CIA) absolute authority to keep all of its sources of information secret, even if the sources are not confidential and even if the information is not classified. Writing for a 7-2 majority in *CIA v. Sims, et. al.* Chief Justice Warren E. Burger declared that Congress had been quite "plain" about the matter when it created the CIA in 1947 and that the "legislative history" clearly indicated that the CIA director had been given "very broad authority to protect all sources of information from disclosure."

Now a scholar has revealed that there is no "legislative history" behind the provision the court so firmly embraced—in fact, no indication that Congress ever debated or discussed the matter. And what history there is outside congressional records indicates that the provision in question was really an anti-CIA restriction devised to keep the agency from revealing a very narrow set of secrets. The research supporting these findings was done by Thomas F. Troy, a highly respected, retired CIA historian, who is far from a critic of the agency and who initially applauded the decision in *Sims*.

The National Security Act of 1947, which established the CIA, placed three restrictions on its work. The first was the so-called anti-Gestapo clause, providing that the agency "shall have no police . . . or internal security functions." The second reassured other intelligence agencies that they could continue their work. The last proviso stated that "the director of central intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."

In 1977, John Sims and Sidney Wolfe sued under the Freedom of Information Act for the names of individuals and institutions that had done research for the CIA's 1953-66 MK/ULTRA project, which became notorious for what Justice Burger called "untoward results," including the deaths of at least two unwitting individuals unknowingly given dangerous drugs by agency operatives. The CIA refused under the requirement to "protect intelligence sources and methods," arguing that an "intelligence source" was any source of information at all.

The U.S. Court of Appeals disagreed with the agency's broad interpretation of this proviso, but the Supreme Court handed the CIA a complete victory, going so far as to label the agency's definition of "sources and methods" "the definition . . . fashioned by Congress." Burger's opinion relied heavily on the argument that "plain statutory language" undeniably indicated that Congress gave the CIA "sweeping power" to

"simply and pointedly protect all sources of information."

Troy noted, however, that neither Justice Burger "nor anyone else cited one scintilla of evidence that any congressman, any committee or any caucus—or anybody anywhere—ever thought or said anything about the words ['sources and methods']." In fact, the "sources and methods" provision was concocted in early 1945 following joint military discussions in which Army and Navy officials were opposed to any new intelligence agency. Troy said that when they recognized the inevitability of having to share information with the "new, untried, distrusted CIA," they decided to concentrate on keeping their special secrets safe.

According to Troy, Rear Admiral Joseph R. Redman devised the "sources and methods" formula in a January 8, 1945, memo. Redman's office was involved in the wartime business of intercepting, decoding and disseminating enemy radio communications [called in intelligence jargon "commint"], and, Troy said, that is what the admiral wanted to protect. To "commint" experts, the word "sources" referred to particular kinds of intercepts and thus, the Japanese army, navy and air force were so many "sources." Similarly, "methods" referred to code books, ciphers and the like.

The Joint Chiefs of Staff incorporated the idea in an overall plan for central intelligence approved September 18, 1945. It provided for sharing military secrets with the CIA, but also made the CIA responsible "for fully protecting intelligence sources and methods which, due to their nature, have a direct and highly important bearing on military operations." The language was later abbreviated, and finally enacted by Congress in 1947, with no discussion and no debate.

"Knowing no history and reading only words, the Supreme Court came up with a theoretically plausible but historically untenable view of 'sources and methods,'" Troy concluded. "What the court would have us believe is that an alert, all-seeing Congress, worried about our intelligence secrets, gave CIA, entrusted CIA, helped CIA and vested in CIA what CIA needed to carry out its mission—namely, virtually unlimited power to protect all sources, no matter how commonplace and public—even newspapers, public libraries, road maps and telephone books . . . What the court failed to learn is that the phrase came from . . . a body of people who simply did not want a CIA. . . ." Simply put, Troy said, "the phrase was imposed upon the new CIA by a U.S. military fearful that the new agency might compromise 'commint'."

The court decision will, of course, remain in force even if the reasoning behind it has been shown to be based on inaccurate history. Reported in: *Washington Post*, February 24.

(From the bench . . . from page 88)

second test of the law found Todd Jason Hawkins, a Stone Mountain, Georgia, native, guilty of six counts of conspiracy, sale and possession with intent to sell magazines described by the prosecution as pornographic.

The materials in question included copies of *Fetish Fantasies* and *Anal Leather* which were sold to an undercover detective from Asheville News, a business which he began. Detective Deidre Robinson testified she paid 25 cents to join a private club and signed several documents and releases before she was allowed into the "members only" section of the store. Magazines in the section were divided into several categories, she said. All were sealed in plastic, but the covers were clearly visible and depicted various sex acts. "You name it, they showed it," she said.

On January 30, the 22-year-old Hawkins was sentenced as a youthful offender to serve up to two years in prison and fined \$2,500. He also received a consecutive three-year suspended sentence and was placed on supervised probation for five years. Hawkins' status as a committed youthful offender means he will serve an indeterminate sentence, one based on his behavior and record in prison. He will appeal. Reported in: *East Carolinian*, January 23; *Asheville Citizen*, January 29; *Asheville Times*, January 31.

## universities

### Athens, Georgia

A jury awarded \$2.57 million in back pay and damages February 12 to a former University of Georgia instructor who said she was fired for speaking out against academic favoritism for student athletes. A federal court jury found Jan Kemp's right to free speech was violated when she was demoted and then fired by the university.

"This is primarily a victory for academic integrity," said Kemp, an English instructor. The central question in the case was whether Kemp's demotion from English coordinator in the developmental studies program and her later dismissal as an instructor were in retaliation for her protests against preferential treatment of athletes. But the trial became a national forum on the way student athletes are admitted, graded and promoted in universities.

The award to Kemp included \$79,680 in back pay, \$200,000 in compensation for mental suffering, \$1 for damage to Kemp's reputation, and a total of \$2.3 million in punitive damages against two university of-

ficials. Reported in: *Minneapolis Star & Tribune*, February 13.

### Austin, Texas

A conservative student organization temporarily won a fight February 14 to distribute its newspaper on the University of Texas campus. State District Judge Bob Jones granted the Texas Review Society, which publishes the *Texas Review*, a temporary restraining order against the university.

The students are trying to overcome a university regulation which says publications with paid advertising may be distributed only in vending machines in designated areas. The areas are on the edges of the campus, said Brent Johnstone, editor of the *Texas Review*, one of the students who filed suit. Johnstone said his group wants to distribute on the mall, a main area on the campus. Only the *Daily Texan*, the official student newspaper, is exempted from the policy, he said.

Susan Dasher, an attorney representing the students on behalf of the Texas Civil Liberties Union, said the policy apparently is aimed at keeping publications with ads for such enterprises as massage parlors off campus. But, she charged, the policy amounts to prior restraint of speech and an unconstitutional limitation on a free press. Reported in: *Austin American-Statesman*, February 15.

## mail to Congress

### Washington, D.C.

The U.S. Postal Service may not constitutionally prohibit *Hustler* magazine publisher Larry C. Flynt from sending complimentary subscriptions of his sexually explicit publication to members of Congress, a federal judge ruled March 11. U.S. District Court Judge John H. Pratt said, despite members' "understandable dislike for *Hustler* magazine," Flynt's First Amendment rights outweigh the members' rights "to be let alone."

Members of Congress, Pratt noted, "are not forced to read the magazine. . . . We cannot imagine that congressional offices all lack wastebaskets."

The case stemmed from Flynt's September 1983 decision to mail free copies of *Hustler* to members of Congress so that representatives and senators would be "well informed on all social issues and trends." More than 260 complained to the Postal Service, which ordered Flynt to refrain from further mailings under a law permitting recipients to halt mail they find

“erotically arousing or sexually provocative.” Flynt continued the practice, and 56 members of Congress and the Postal Service brought suit.

In his decision, Pratt found that while the Postal Service may halt mailings to people's homes to shield minors and protect privacy, members of Congress have more limited privacy rights. “As elected representatives of the people, they cannot simply shield themselves from undesirable mail in the same manner as an ordinary addressee,” he said. Mailings, he argued, offer one of the few methods by which Flynt may effectively exercise his right to “petition government for redress of grievances.” Moreover, he said, even if the restriction against further mailings were limited only to the magazine, “the expression of diverse views, including those presented in *Hustler* magazine, furthers vigorous public debate.” Reported in: *Washington Post*, March 12.

## demonstrations

### Fayetteville, Arkansas

A Fayetteville city ordinance making it unlawful for any person or persons to engage in demonstrations of any type or to picket before or about the residence or dwelling place of any individual did not violate the First Amendment, U.S. District Court Judge H. Franklin Waters ruled February 11. The street or sidewalk in front of a residence, he argued, is not the kind of public place triggering First Amendment protections for those who would use such locales to advance their views. The court ruled, however, that the ordinance was invalid to the extent that it imposed penalties exceeding those allowed under state law. Reported in: *West's Federal Case News*, March 21.

## church and state

### Greenwich, Connecticut

On December 10, U.S. District Court Judge Ellen B. Burns granted a preliminary injunction barring display of a cross on a Greenwich firehouse. Burns said that plaintiffs in the case had established the likelihood of success on the merits of their claim that a display of the cross violated their First and Fourteenth Amendment rights. The only purpose served by the display, Burns ruled, even in the context of the Christmas holiday, was to express religious sentiment. The primary effect of the display was thus to give the appearance of governmental endorsement of particular religious views. Reported in: *West's Federal Case News*, January 31.

## libel

### Minneapolis, Minnesota

A second libel suit against Peter Matthiessen, author of *In the Spirit of Crazy Horse*, and Viking Press, was filed in Minneapolis by former FBI agent David Price. An earlier suit against the book by South Dakota Governor William Janklow was reinstated in December (see *Newsletter*, March 1986, p. 52).

In late January, U.S. District Court Judge Diana Murphy of Minneapolis dismissed three of four counts of Price's suit. An especially significant part of the ruling was the court's rejection of Price's allegation of “group libel.” He claimed that passages in Matthiessen's book critical of the FBI had thereby defamed him personally, as well. Murphy disagreed. An individual member of a large group cannot sue under these circumstances “unless the context of publication raises a reasonable presumption of personal allusion,” she said.

Viking counsel Martin Garbus hailed the decision, pointing out that the notion of “group libel” is an especially dangerous one. “It limits criticism of government agencies because anybody can sue, even people you don't mention in the book.” Reported in: *Publishers Weekly*, March 1986.

## freedom of information

### Hartford, Connecticut

The Connecticut state Freedom of Information Commission was thrown into “chaos” and its decision-making power in hundreds of pending cases placed “at risk” by a state Supreme Court ruling February 3, according to Mitchell W. Pearlman, commission executive director and general counsel. The court upheld the North Haven Zoning Board of Appeals in a battle with the commission over a 1982 secret meeting between the board and its attorney.

The principal issue in the case was whether the time limits set by state law for commission action on citizens' appeals are mandatory or merely advisory. Also at issue was whether the zoning board had the right to meet in secret with its attorney. The Supreme Court unanimously ruled that the commission's time limits are mandatory and that its failure to act within its deadlines rendered its decisions invalid. The court also supported the zoning board's claim that it did not violate the state Freedom of Information Act by exercising its attorney-client privilege.

Pearlman said the ruling showed “a philosophic antipathy toward open government.” Reported in: *New Haven Journal-Courier*, February 4.

## moonlighting

### Baltimore, Maryland

A former Baltimore policeman, fired last year after refusing to stop performing off-duty as an entertainer in blackface, will probably try to get his job back after a federal appeals court ruled the department violated his free speech rights. The U.S. Court of Appeals for the Fourth Circuit in Richmond said Robert M. Berger's off-duty impersonations of singer Al Jolson were protected by the First Amendment and that the Police Department could not claim any overriding public interest in ordering him to stop these performances.

The December 23 decision overturned a 1984 ruling by the U.S. District Court in Baltimore that the department had the right to bar the white officer's performances in order to protect its relations with the black community. The appeals court said the lower court should rehear the case on a separate issue of whether the department can limit an officer's paid off-duty work.

"Public employees retain the full panoply of First Amendment rights enjoyed by all citizens," the appeals court said. "One of the fundamental rights secured by the amendment is that of free, uncensored artistic expression—even on materials trivial, vulgar or profane. We hold that Berger's conduct in performing public entertainment in blackface was constitutionally protected speech and that the defendants as public employers were not justified by any sufficiently weighty countervailing state interest in taking disciplinary action."

"I'm delighted," said Barbara Mello, an ACLU attorney who represented Berger. "This is not a racial issue. It's always been about free speech, about whether our government can regulate speech simply because it offends some people." But Emmett Burns, Maryland regional director of the NAACP said Berger's rights should be "subservient to the rights of citizens who take offense at that blackface routine." Burns indicated the NAACP would appeal to the Supreme Court and Millard S. Rubenstein, the department's lawyer, said the police might do the same. Reported in: *Baltimore Sun*, December 24.

## foreign

### Toronto, Canada

Two Toronto men convicted of wilfully promoting hatred were sentenced to jail terms December 13 by a district court judge who described their magazine advocating white unity and power as an "idiotic pursuit."

Donald Andrews, publisher of *The Nationalist Report*, received a one-year jail term. The magazine's editor, Robert Smith, was sentenced to seven months.

Judge Edward Wren said the men were guilty of wilfully promoting hatred against an identifiable group—non-whites, including blacks and Asians. "Parliament has decided that this is an abuse of the right of freedom of speech . . . and has made it a criminal activity," Wren said. The Judge said the Nationalist Party of Canada, which Andrews founded, is a neo-Nazi organization "advocating the supremacy of the white races." The magazine was published six to ten times a year from December, 1980, to March, 1984, as the official organ of the party.

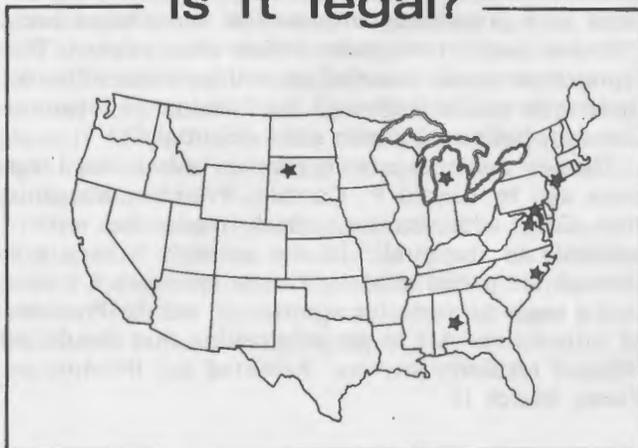
Andrews and Smith were granted bail, pending appeal. Under the bail order they were barred from participating in the publication or distribution of any materials. In passing sentence, Judge Wren characterized as inadequate a \$5,000 fine imposed earlier in the year on former Alberta school teacher James Keegstra, who was convicted of wilfully promoting hatred against Jews. The Andrews-Smith conviction was just the third under the section of the Criminal Code barring expression which promotes hatred.

In a related case, Ernst Zundel, convicted last year of publishing anti-Jewish material, asked the Ontario Court of Appeal February 24 to lift an order prohibiting him from writing or commenting on the Holocaust. Zundel was sentenced to fifteen months for publishing a booklet claiming that mass extermination of Jews by Nazi Germany was a hoax. As a condition of his bail pending an appeal, Zundel was ordered to refrain from writing or speaking on the issue. Reported in: *Toronto Globe and Mail*, December 14; *Montreal Gazette*, February 25.

### Paris, France

A French court February 27 barred sales of a right-wing weekly magazine carrying nude photographs of the wife of then-Prime Minister Laurent Fabius. Legal sources said a court in Nanterre ruled that the periodical, *Minute*, must withdraw all copies of the issue. Fabius ordered his lawyer to take action against the weekly on grounds that publication of holiday poolside pictures of his wife was a breach of privacy. A representative of the 170,000 circulation *Minute*, which is linked to the extreme right-wing National Front Party, said the photos showed the premier's striking, dark-haired wife "stark naked." Reported in: *Washington Times*, February 28.

## is it legal?



### broadcasting

#### Washington, D.C.

The Federal Communications Commission (FCC) proposed a 24-point legislative package January 30 involving sweeping changes in federal communications law, including doing away with fairness, equal time and reasonable access requirements for broadcasters. The proposals also call for a limit on the right of citizens to ask the commission to revoke a radio or television license and for an increase to \$1 million from \$20,000 in the maximum fine the commission can impose against a broadcaster.

FCC officials conceded that no one in Congress had agreed to introduce the legislation. "If Congress won't do anything, I hope the courts will," FCC chair Mark S. Fowler said during a discussion of the Fairness Doctrine.

Last August, the FCC labeled the Fairness Doctrine constitutionally "suspect" and said it "chills and coerces speech" and inhibits coverage of major issues. The Radio-Television News Directors Association has asked the U.S. Court of Appeals to force the FCC itself to repeal the doctrine, but most legal observers believe only Congress has the power to repeal it (see *Newsletter*, November 1985, p. 201; May 1985, p. 68-71).

The Fairness Doctrine requires a station to cover controversial issues and to allow all sides time to discuss them. The equal-time provision requires a station to offer the same amount of air time at the same price to all candidates and forces stations to sell or give time to candidates for federal office.

In the broadcast area, the FCC wants Congress to allow casinos and other lottery promoters to advertise gambling if the gambling is legal in the state in which it is conducted. It also wants Congress to clarify that the commission may grant licenses on an area-wide basis, rather than requiring a broadcaster primarily to serve a particular community within its coverage area. Reported in: *New York Times*, January 31.

#### New York, N.Y.

Since late 1984, W. R. Grace & Co., a New York-based chemicals conglomerate, has conducted an advertising campaign against the federal deficit. Recently, however, the three television networks refused to air the company's latest ad because they found the spot too controversial.

The networks based the decision on their interpretation of the so-called Fairness Doctrine, the basic federal regulation governing television, which has itself become a subject of considerable controversy in recent years. The Fairness Doctrine states that stations presenting one side of a public controversy have an obligation to grant the other side reasonable time.

"Controversial issues are best handled in news and public affairs programs where they can be presented by experienced journalists without axes to grind," said Richard Gitter, NBC vice president. Others familiar with television advertising, however, suggest that the case illustrates longstanding network policies discouraging public debate and restricting controversy to those programs the networks control.

"To say they are going to suppress advocacy advertising and address these issues in their news coverage just places much more power in their news coverage," said Michael P. McDonald, general counsel of the American Legal Foundation, a conservative Washington foundation concerned with media. "It is a kind of private censorship."

Grace's previous ads in the series called attention to the growing size of the deficit. The new ad suggests, however, that the deficit may lead to economic collapse, a position which many economists disagree with. Grace argued, nonetheless, that the ad was "not controversial because nobody was in favor of deficits that we could think of."

CBS disagreed. "We do not accept advertising that promotes an advocacy position on controversial issues of public importance," explained George Schweitzer, a CBS representative. "If you take corporate ads that go beyond goods and services into editorializing, those companies with the ability and the money to buy TV time can skew the public debate," added Alice Henderson, CBS vice president for program practices.

"This is what we call an 'advertorial,' " an ad that advocates a position on a public issue, said John F.

Banzhaf III, the George Washington University law professor who forced cigarette ads off television by invoking the Fairness Doctrine. "And with advertorials, the Fairness Doctrine applies." But, Banzhaf added, "running a few ads on the deficit, say ten a month, is more than balanced by [NBC anchor Tom] Brokaw and company talking about it every night on the news."

"My personal view is that the networks tend too much to shy away from robust debate on public issues," Banzhaf said. "Having to give some time occasionally under the Fairness Doctrine is not all that bad." Grace offered to compensate NBC for any time it provided opposing views under a fairness argument, but the network declined.

Actually, all three networks said that if the Fairness Doctrine were abolished they would retain the policies that led to rejection of the Grace ad. "In our opinion, the spot employs scare tactics which we believe to be problematic in the presentation of a highly complex subject," said ABC representative Jeff Tolvin. Reported in: *Los Angeles Times*, February 17.

## freedom of information

### Washington, D.C.

The inspector general's office at the General Services Administration (GSA) wants to end a 5-year-old "open door" policy that made the agency's audit reports freely available to the public. In its place, the officials have ordered a new process that one internal critic called "idiocy" because it will stifle public disclosure of controversial reports by the agency's auditors.

In a memorandum written January 28, Eugene Waszily, deputy inspector general for auditing, said all contract and internal audit reports must now be marked "For Official Use Only" and can be released only with written approval of senior inspector general officials.

"This new policy will take GSA back to where all audits or investigations which had the potential to embarrass anyone or anything were covered up and suppressed," a senior GSA official said. "This same idiocy led to the infamous GSA scandals of the late '70s." A 1978 investigation led to indictment or conviction of nearly 200 government officials and contractors on charges of defrauding the government.

A GSA representative said the purpose of the new procedure is "to protect the proprietary information of American businessmen GSA deals with, as we are re-

quired to do by several statutes." But another GSA official said proprietary information had always been "blacked out" from audits before their release. The representative said that "all these documents will continue to be available through the Freedom of Information Act, but possibly with some deletions."

The new policy apparently reverses orders issued five years ago by Gerald P. Carmen, President Reagan's first GSA administrator, which made the reports available to the public in the agency's library and through the public affairs office to reporters. Carmen said it made no sense for reporters to use the Freedom of Information Act to get information that should be released regularly anyway. Reported in: *Washington Times*, March 18.

## periodicals

### Montgomery, Alabama

On March 17, the Council for Periodical Distributors Associations, the International Periodical Distributors Association, the publishers of *Penthouse*, *Playboy* and *Newlook* magazines, and Montgomery citizen Martin McCaffery filed suit against the city of Montgomery, its police chief, John H. Wilson, and his sometime deputy Thomas O. Kotouc, and against James E. Evans, district attorney for the Alabama Fifteenth Judicial circuit. The suit charged that sometime "prior to December 10, 1985, Evans, Wilson and Kotouc made the arbitrary and unilateral decision that plaintiffs' publications and certain others violated the provisions of the Code of Alabama . . . without benefit of any judicial hearing or process of any kind." According to the suit, the defendants prepared a list of allegedly obscene publications which was circulated to businesses which distributed them and threatened a public nuisance action and/or criminal prosecution "if those establishments did not voluntarily cease to offer for sale the listed publications and all future issues of those publications."

In addition, Evans invited retail vendors to a meeting on December 20 at which he and Wilson "displayed copies of those magazines which they had unilaterally, without benefit of judicial hearing or process of any kind, determined were obscene and stated that those had been purchased by investigators at local stores." At a second meeting on February 25, 1986, Evans declared "that his office intended to pursue criminal prosecution of vendors of listed publications, including *Playboy*, *Newlook* and *Penthouse*."

The suit charges that "as a result of these threats and intimidation made by Evans, Wilson and Kotouc, certain of the business establishments . . . ceased to offer for sale certain of the magazines . . . causing loss of revenue to plaintiffs and the vendors and depriving plaintiff McCaffery of his constitutionally protected right of access to First Amendment protected publications."

"The actions of defendants constitute a deprivation of plaintiffs' right to freedom of speech and of the press," the suit declared. The plaintiffs seek injunctive relief, \$100,000 in compensatory damages and \$2,000,000 in punitive damages.

## science

### Washington, D.C.

A U.S. government policy that would limit access by Soviet-bloc scientists to federally financed supercomputers is being held up by a debate over whether to allow exceptions to the proposed rule. Members of a government interagency committee that has been working for almost a year to establish a policy on supercomputer access reached tentative agreement last fall on other aspects of a proposal to restrict access to the machines by visiting scientists and exchange students from Warsaw Pact countries if compliance is policed by the government.

However, the National Science Foundation, which has established supercomputer centers at five universities, is holding out for provisions that would allow Warsaw Pact scientists to work with American counterparts on the supercomputers under certain circumstances. Universities regard the exceptions as vital to protecting academic freedom and the free exchange of information, according to Charles H. Herz, general counsel to the foundation. Defense Department officials, on the other hand, want to deny access to Soviet-bloc scientists without exception.

John F. Burness, vice president of university relations at Cornell University, which has one of the five NSF-financed supercomputer centers, said that "people's ability to do research and communicate with one another" had to be balanced against the "remote" possibility that someone may get access to a supercomputer and use it in a way that threatens national security. "The free flow of information in society has served science—and America—well," he said. "It is an important issue as a matter of principle." Reported in: *Chronicle of Higher Education*, February 19.

## rock music

### Annapolis, Maryland

By a margin of greater than 3 to 1, the Maryland House of Delegates approved a bill February 14 that would ban the sale to minors of records with lyrics considered obscene. Obscene lyrics are "probably the worst kind of child abuse we've got," said Del. Joseph Owens (Dem.-Montgomery), chair of the Judiciary Committee.

"This is mass child abuse," said Owens. "That's what it is. This is slime affecting children." During floor debate over the measure, however, Owens acknowledged that he had never listened to the kind of music described in testimony as objectionable.

The House debated and passed the bill by a 93-31 margin as high school students serving as pages in the chamber gasped on the sidelines. "I'm 17," said page Richard Nesler. "I can go into D. C. and buy records. Or you can get anybody to buy them for you."

The bill was sponsored by Del. Judith Toth (Dem.-Montgomery) who said she patterned it after the efforts made by the Parents Music Resource Center last summer (see *Newsletter*, July 1985, p. 138; September 1985, p. 183; November 1985, p. 189; January 1986, p. 3). "We're not talking about references to sex," she said. "We're talking about references to incest that say: 'Do it kids, it's fine.'"

Frank Zappa, a rock musician who testified at Congressional hearings last summer, said the Maryland action smacked of McCarthyism. "People are trying to create an illusion that music is pornographic and that musicians are pornographers," he said. "I don't think that's logical at all. I don't think there's a very good reason for it except politics."

The bill's fate in the state Senate is unclear. State Sen. Thomas V. Mike Miller Jr. (Dem.-Prince George's) who heads the committee that would consider the bill, said that "as the father of four teenagers, I think it's the worst bill this session. I wasn't even going to give it a hearing, frankly," he continued. "If listening to rock 'n' roll music with unfavorable lyrics was the only thing my kids did that was bad, I would consider myself successful." Reported in: *Washington Post*, February 15.

## Bibles in school

### Holland, Michigan

The Holland Public Schools District is ending a traditional distribution of Gideon Bibles to fifth graders, but several other districts in the area are allowing the practice to continue. "I don't have a problem with the distribution of Bibles, in that we have Bibles present in

all our libraries anyway," Hamilton Public Schools Superintendent John Graves said March 13. "Distribution of a book that is already in schools and throughout society anyway, I don't have a problem with. If we were forcing them on people, that would be different."

For thirty years, Holland school officials allowed local members of Gideons International to distribute the Bibles. But school officials have decided the practice likely is "a violation or close to being a violation of the separation of church and state," Superintendent George Rolph said.

West Ottawa Public School officials also were concerned about the legal implications of Bible distribution in the classroom, Superintendent Peter Roon said. He said the district began limiting distribution by the Gideons about eight years ago and now allows it only before or after school hours, and it sends a note to parents to alert them of the distribution.

Members of Gideons International are also allowed to distribute Bibles in Zeeland Public Schools, but only outside the classroom. "We do allow the Gideons to set up a table in the lobby and the children can take one if they want to," Superintendent Ken Harper said. "I would say about forty percent do. It's a voluntary thing . . . [but] maybe we shouldn't even have them at all. I haven't given it much thought." Reported in: *Grand Rapids Press*, March 14.

## gay rights

### Wilmington, North Carolina

A Wilmington-area gay organization filed a complaint with the telephone company because the company, BellSouth, will not allow the group to place an ad in the Yellow Pages using the words "gay" and "lesbian." The organization, called GROW, is now listed in the directory as a human relations counseling agency.

Bobbie Lane, manager of corporate communications for BellSouth Advertising and Publishing Co. in Charlotte, said company policy forbids use of the words. "We have a set of standards that prohibit the use of words that might be offensive to the general public," she said. "We really have to be very careful about the things we allow to appear in our directories. It is a very difficult decision, but it is a company-wide policy."

Leo Teachout of GROW said he considers the current entry confusing. "Some of the calls we've gotten were from young children, 11 and 12, not related to sexual orientation. We just generally refer them to somebody else." Teachout said he sent a complaint to the North Carolina Utilities Commission, but was informed that the commission may not have authority to

regulate Yellow Pages advertising. "One of the more controversial issues in our area is abortion and that's the first listing in the Yellow Pages," he added. "I'm sure that offends some people." Reported in: *Wilmington Morning Star*, January 23.

etc.

### Cheyenne River Reservation, South Dakota

Brenda Dupris, court administrator of the Cheyenne River Reservation in central South Dakota, was fired from her job after being quoted in the *Minneapolis Star and Tribune* as saying the reservation's criminal court is "just a circus." A copy of the article was attached to the letter dismissing Dupris, court administrator since 1981. The letter was signed by Chief Tribal Judge Melvin Garreau, whose son, Morgan, is tribal chair.

Morgan Garreau said Dupris' dismissal was partly related to her quotes in the newspaper but said the primary reason was that she had come to work intoxicated the day she was fired. The dismissal letter did not mention drunkenness.

The newspaper's three-day series of articles detailed problems in courts on many American Indian reservations. According to the series, many reservation courts are plagued by political meddling by tribal officials, civil rights abuses and a lack of training of key court personnel. Dupris was quoted in one article as saying, "A lot of due process rights [are being violated] because judges don't have training . . . Everybody thinks they can be the judge, and they get in there and they can't do the work." Reported in: *Minneapolis Star & Tribune*, January 21.

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## success stories



### libraries

#### Hayward, California

The Alameda County Library Commission refused February 5 to remove a controversial sex education book from library shelves, reasserted a library policy allowing children access to all books, and called on the County Board of Supervisors to endorse the ALA *Library Bill of Rights*.

The controversy over the book, *Show Me!*, which features photographs of naked children and adults, flared after John Eric Smith, pastor of Eagle's Nest Christian Church in San Ramon, checked the book out of the Dublin library branch in an effort to get it declared obscene. Smith did not return the book for several months while he circulated it to various law enforcement agencies. Some county supervisors sought his prosecution for theft of public property, but no charges were filed (see *Newsletter*, March 1986, p. 37).

Smith told the library commission that by allowing *Show Me!* to remain on the shelves, "We are giving the pedophile a platform on which to stand. The issue is not the First Amendment. What we are dealing with is the sexual exploitation of children." Out of a crowd of about 175 people, however, only a handful of sign-carrying supporters agreed with Smith. Dozens of others—librarians, doctors, educators, labor leaders, feminists and parents—paraded to the podium to support the book and the library's open access policies.

Dr. Paul Walker, a San Francisco psychiatrist who treats child molesters and their victims, said *Show Me!* is a valuable sex education tool for families. "I have

never known it to be used by child molesters," he added.

County Librarian Ginnie Cooper said the open access policy is necessary because children frequently use adult materials. Cooper said *Show Me!* is kept with adult medical books and that children are unlikely to request it. "Only a parent should limit [his or her] child's reading," she said.

The only library commissioner to disagree with that view was Robert Rohrer of Castro Valley. Rohrer said children should be denied access to some things, just as there are laws against children working in mines or drinking liquor. He moved to place *Show Me!* on reserve, so it could be used only at the library, but got no second for that proposal. He thus cast the lone negative vote of fifteen against the motion to support the *Library Bill of Rights* and current access and selection policies. Reported in: *Hayward Review*, February 6; *Hayward Enterprise*, February 9.

#### Gwinnett County, Georgia

Using courtroom procedures, complete with witnesses and cross examination, the Gwinnett School Board heard testimony March 11 for and against the magazine *Young Miss*, then voted 5-0 to keep the publication on school library and classroom shelves. Ed Snell of Snellville wanted the magazine removed from elementary school media centers. He charged that it contains material that is too mature for and which could be emotionally damaging to young girls. "*Young Miss* is not pornographic and it is not a totally worthless magazine," he told the board, "but it is clearly inappropriate for children."

Snell said he discovered the magazine at the school after browsing through the library when he was a member of the school's advisory committee. A parent of an 8-year-old child who was removed from classes and is attending school at home, he lost two previous appeals to remove the publication from Grayson Elementary Schools before the local school media advisory committee and the systemwide media advisory committee.

Last year, Gwinnett County was the scene of a bitter fight which resulted in the removal of *Deenie*, by Judy Blume, from elementary school libraries. After that controversy, an irate parent 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; March 1986, p. 57). Reported in: *Gwinnett Daily News*, March 12.

## **schools**

### **Tallahassee, Florida**

Despite impassioned protests by religious leaders and other conservatives, Florida Governor Bob Graham and members of the state Cabinet voted March 4 to approve 23 controversial new textbooks for use in public schools.

One book, *Married and Single Life*, is for home economics and life style classes. The protesters claimed it advocates immoral behavior because it includes sections about and calls for classroom discussion of such issues as premarital sex, venereal diseases and living together before marriage. The other 22 books are for biology classes.

At the Cabinet's February 18 meeting, protests were filed against 19 biology texts on the grounds that their presentations of the scientific theory of evolution did not pay adequate attention to the biblical explanation of the origins of life. "There is censorship in the classroom," declared Randy Brien, a Tallahassee parent who has fought unsuccessfully to install creationism in science classes. He, along with James Brady of Escambia County and Dr. C. B. Subramanyam, a Florida A&M University professor, contended the texts treated evolution as an established fact and ignored alternate theories.

At the earlier meeting, Gov. Graham led a move to defer approval of all 23 books until Cabinet members and aides could review them more carefully. While saying he does not personally believe in creationism, Graham, a U.S. Senate candidate, said he thought school should be "an open marketplace of ideas." But at the March 4 session, the governor offered no comments.

At that meeting several dozen protesters, wearing yellow buttons declaring "Protect Parents' Rights," called out "Amen" and applauded wildly as speaker after speaker attacked the books. Brien presented state officials with petitions signed, he claimed, by 11,000 opponents of the books. "Textbooks have been affected by feminists, homosexuals and ethnic minorities, so why not creationists?" he said. "As a board of education, you have an opportunity and a responsibility, as elected officials, to today make a statement that will be heard around this country. We are fed up with the evolutionary establishment shoving their 'religion' down our children's throats."

Graham and the Cabinet moved to approve the books with little discussion, however. The vote was 5-0. Secretary of State George Firestone noted that, in the case of the life style text, the classes in which it will be used are elective, "so any parent who did not want their

child exposed to that information could elect not to have their child in that course." David C. Ashburn, who coordinates the state education department's textbook approval process, said the books will be placed in the state's list of approved teaching materials, from which each district can make selections. Reported in: *Miami Herald*, March 5; *Tampa Tribune*, February 19.

### **Cazenovia, New York**

The Cazenovia Middle School rejected a request by two parents in January to revise or drop a home economics course being taught in seventh grade on grounds it undermines children's traditional values. The parents are members of a local group called Citizens for Excellence in Education, which has filed three complaints with the Cazenovia Central School District over classroom topics including evolution, nuclear war, career options and witchcraft.

The complaint filed by David and Susan Craig argued that a home-and-career-skills course did not actively encourage students to seek advice and help from their parents in making career decisions. The Craigs and other group members claim elements of "humanist" philosophy are creeping into school curricula. They say this philosophy asserts that individuals are the final arbiters of right and wrong and must form their personal values independently of religious or traditional teachings.

"It's anti-parent and presents a warped view of life," said Susan Craig. "It poses open-ended questions that make a child confused and depressed." The course is being piloted as a replacement for traditional home economics. A response from the school district said that a committee of faculty, administrators and parents formed to study the course "did not find" the class to be "anti-parent."

"The proposed New York State syllabus for home-and-career skills is appropriate for the educational competencies students should develop . . . to learn and accept individual responsibilities," the report said. It added that the Craigs were free to withdraw their child from the class on days on which topics were discussed that they found objectionable. "We really don't find any sufficient grounds for rejection of what we are teaching in the home-and-career-skills class," said school Superintendent Donald Squires.

Susan Craig said she and her husband would wait for responses from other complaints their group filed before "making a decision on what to do. I was very distressed by their decision, even though I didn't really expect anything else," she said. "It's a real dilemma. We thought about moving, but you can't get away from it [humanism]. It's a national problem that has to be changed at the level of the federal government." Reported in: *Syracuse Herald-Journal*, January 31.

## Cairo, Egypt

The Morals Court of Appeal January 23 overruled a lower court that found an edition of the literary classic *The Thousand and One Nights* pornographic, declaring that it would not arouse lust in anyone who was not sick already.

The government charged in May that three booksellers violated Egypt's strict pornography laws by importing, printing and distributing a version of the classic to which they allegedly added pornographic paragraphs. Officials confiscated 3,000 copies of the book, and the defendants were each fined (see *Newsletter*, July 1985, p. 120).

"The impounded book cannot be considered a sex book and was not written with the intention of breaching public decency," said appeals court Judge Sayed Mohammed Youssef. Youssef said the impounded edition was a cleaned-up version of the original *Thousand and One Nights*, which he conceded contains "phrases breaching public decency if they are taken alone. . . ." He noted, however, that "the book was a base for literary wonders by well-known scholars . . . a fact negating the accusation that [it] arouses undesirable feelings and lust in its readers . . . The decision to allow this book to be sold and read is because of its literary value and because it is part of our folklore." Reported in: *Philadelphia Inquirer*, January 29.

(AAParagraphs . . . from page 77)

minute a writer begins to work with an audience in mind, be it smut-buyers, Supreme Court justices, college English departments, or critics, the writer is compromising his talent. With each restriction, with each compromise, the talent shrivels a little more.

Life is infinitely complex. I know I can't capture even a part of its richness, but I have to feel free to try.

## statement by William Kennedy

William Kennedy's novel *Ironweed*, part of his *Albany* series, won the Pulitzer Prize for Literature in 1985.

On the matter of restricting language in books, on grounds that it serves the cause of anti-pornography, may I please differ? What such legislation would do is restrict a writer's ability to reflect the truth of his time; for language is one of the major instruments that defines time.

Mark Twain's nineteenth century novel, *Huckleberry Finn*, is an indisputable masterpiece of that century and this, yet the book is under fire for its recurring use of the word "nigger". Had Twain used more polite language in the telling of Huck's and Jim's odyssey, the novel today would very probably belong to the Nice Nelly literature of that age: which is to say, it would be in the discard pile as false history. The word "nigger," as it was and is used in the English vulgate, has no equal in being expressive, terrible, and historically significant, and Twain, in using it, was railing against its significance as the supreme epithet of slavery.

Closer to our own day, Ernest Hemingway, in the 1920s and 1930s, because of the laws and mores of that period, was unable to use the language of his choice in his novels. Through the use of dashes, or circumvention, he occasionally suggested such words, but that suggestion was a compromise with fidelity to the truth of his time and himself. We know from Hemingway's letters, recently published, what a vulgar and bawdy man he was, his obscenities capable of surprising even the most sophisticated modern reader. But that never entered into his published fiction. It fell to the writers of World War II—Norman Mailer, James Jones and others—to truly convey the way it was, in speech, for men at war. Hemingway is a great and innovative stylist, a wonderful storyteller, but his language is the vulgate whitewashed, and therefore only half true. One cannot say this of the greatest of writers, Shakespeare, whose unbridled poetry enshrines both the glory and the grossness of the Elizabethan world.

American writers should be free to emulate the bard in whatever large or small way their talents allow. They should have no legalistic fetters that confine the imagination as it seeks to define the raw and radiant truths of the age. If lawmakers feel so strongly about the language, let them use it themselves; let them write their own books and compete in the marketplace for the attention of the public mind. In resorting to censorship they not only imprison writers, they imprison readers as well, denying them the right to know. Censorship is pernicious, it is un-American, and it is stupid.

## statement by John Updike

John Updike is the prize-winning author of many best-selling novels including *Rabbit, Run*.

Since around 1960, when Vladimir Nabokov's *Lolita*, Henry Miller's *Tropic of Cancer*, and D. H. Lawrence's *Lady Chatterly's Lover* were published in this country and made available in bookstores, American writers have been free to attempt sexual realism—to describe sexual events and transactions between people in as much detail as seems appropriate, in the language that

people actually use. Please do not take this freedom from us, or from artists of any kind, or from those therapists and scientists who wish to address in printed form the subject of sexuality.

Any legislation or ruling which abridges this freedom of expression is regressive, and will not succeed in stamping out pornography, which will flourish underground, but in making the publishers, writers, and editors of this country timid and self-censoring in an area where the dominant standard for twenty-five years has been honesty and vividness and understanding in portraying this important side of human activity.

I think that the relative sexual openness of recent times, including the public sale of magazines and books which many consider reprehensible, has made my fellow-Americans more tolerant and genial, less condemnatory and ignorant than they were before, in these long-shrouded areas of human intimacy. It would be a great step backwards to rescind this openness, and to strengthen the dark forces for censorship. Already these forces, in the shape of school librarians, local vigilantes, and groups informally pressuring bookstores and newstands, are too powerful. They would make our society less adult and less free. As a person and as a professional writer. I deplore any abridgment of our First Amendment rights as presently interpreted.

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*(ACLU report . . . from page 73)*

commissioners concede they have only a rudimentary understanding of the law, they continue to spend more time discussing bizarre sexual practices than in learning anything about the First Amendment."

The report documented six specific deficiencies in the commission's work. These were:

- Witness lists heavily weighted in favor of anti-pornography witnesses, a skew effectuated by harsh and irrelevant cross-examination of anti-censorship speakers, lopsided efforts to locate expert witnesses, and procedures which opened pornography industry representatives to potential criminal liability.

- Inordinate focus on aberrant sexual practices and criminal activity designed to establish that sexually explicit material leads to widespread "victimization" of consumers, models, and the general public.

- Recommendations of dozens of extreme law enforcement initiatives without serious consideration of constitutional issues and without even defining the universe of material to be so regulated.

- Unjustified focus on limited social science research tending to establish connections between pornography

and negative effects, combined with a decision to use additional non-research bases for determining "harms" of pornography.

- Deliberate failure to require the commissioners to establish a credible basis for balancing and reconciling conflicting evidence or to provide a reasoned basis for their recommendations, a technique which allows anti-pornography biases to flourish.

- Use of expansive definitions of "child pornography" and "organized crime" in order to connect virtually all sexually-oriented material to child abuse and criminal activity.

#### **composition of the panel**

The ACLU report charged that "a review of the publicly available information about the views on pornography of the eleven members of the commission reveals that they were carefully selected to insure the outcome sought by the President and the Attorney General. Contrary to Mr. Meese's assertion that members of the commission did not 'come to the task with their minds made up,' six members of the commission had supported anti-pornography efforts. Two others had staked out positions on key issues critical to any effort to limit the distribution of sexually explicit materials. The remaining three members had no clearly defined positions regarding the issues facing the commission. Not a single person was appointed to the commission who was known to be skeptical about the evidence linking pornography to violence or to be concerned about the First Amendment implications of anti-pornography legislation."

Lynn identified Hudson as first among those members "with a clear anti-pornography bias." As Commonwealth's Attorney for Arlington County, Virginia, Hudson eliminated all "adult-bookstores and theaters and in 1983 began a series of well-publicized actions against local video stores which rented X-rated tapes along with general fare. In a debate at the Cato Institute in Washington last July, Hudson said that the commission was "more interested in the commercial market than what someone does in the privacy of his own residence." But as Lynn pointed out during the same debate, "If [Hudson isn't] interested in what's going on in the privacy of someone's home, [he] ought to take absolutely no interest in the fact that video stores are renting out little black and brown boxes with the tape inside that have no visible image unless you happen to have a VCR hooked up to your television."

Commission vice-chair Harold "Tex" Lezar, a well-known figure in conservative circles and a former aide to William F. Buckley and former attorney general William French Smith, according to Lynn, was "instrumental in creation of this commission." Only three

months into the commission's investigation, he sent fellow commissioners a long letter detailing dozens of new law enforcement proposals against pornography.

The report also identified commissioner Dr. James Dobson, a pediatrician and president of Focus on the Family, an organization "dedicated to the preservation of the home and the family and the traditional values growing out of the Judeo-Christian ethic," with preconceived anti-pornography views. "The indiscriminate release of sexual energy outside the boundaries of the family is potentially catastrophic," wrote Dobson in his 1982 book, *Dr. Dobson Answers Your Questions*. "I have a personal dislike for pornography and all that it implies," he told the *Washington Post*.

Commissioner Father Bruce Ritter, founder of a runaway shelter in New York, the report noted, demanded a police crackdown on the "sex industry" as early as 1979. In a 1984 article, Ritter chastized government for its failure "to recognize the role which adult pornography can play in harming our young." He also charged, with little evidence, that "organized crime" dominates the sex industry. While serving on the commission Ritter's runaway shelter received a \$1.25 million grant from the Justice Department Office of Juvenile Justice and Delinquency Prevention which has previously funded research on pornography which social scientists and members of Congress have found highly dubious.

Judge Edward Garcia had been a county prosecutor of obscenity cases in Sacramento, California, and as a municipal judge sentenced people for violation of obscenity laws. Nonetheless, Garcia noted at a Chicago meeting that he was 'surprised' to see some of the material shown. Hence, the report concluded, "as a public official, then, he was already suppressing far 'tamer' material than he has been exposed to during the commission's work."

As vice-mayor of Scottsdale, Arizona, commissioner Diane D. Cusack supported numerous planning efforts, such as restrictive zoning measures and regulation of "public dancing" where liquor is served. She recently told a group of anti-pornography advocates that they should photograph customers and record license plate numbers of patrons of an adult theater in order to drive the theater from the community.

In addition to these six, the report identified "two other members of the commission apparently chosen for their strong support of particular positions which would be helpful in legitimation of any censorship efforts." Frederick Schauer of the University of Michigan law faculty argued in the *Georgetown Law Journal* that pornography is not protected by the First Amendment because "the prototypical pornographic item on closer analysis shares more of the characteristics of sexual activity than of the communicative process." He made a

similar argument in his 1982 book *Free Speech: A Philosophical Inquiry* where, employing a bizarre sort of circular reasoning, he wrote: "Failing to impose sanctions on regulable pornography weakens the assumed public interest in regulating pornography." Park E. Dietz, a psychiatrist and sociologist at the University of Virginia, is a social learning theorist concerned that when young males masturbate to particular images involving "deviant" or criminal behavior they may develop sexual disorders. Dietz has written that he accepts the view of some observers that "sadism and masochism, in the broadest sense, play a role in all pornography."

According to the ACLU, only commissioners Ellen Levine, editor of *Woman's Day*; Deanne Tilton, president of a consortium of child abuse groups in California; and Dr. Judith Becker, a Columbia University psychologist, "had no known preconceptions on the pornography issue." As a result, Lynn concluded, "the so-called 'tentative findings' of the commission to date were not generated as the result of a clash of truly divergent viewpoints."

"Moreover, the lack of 'moderating' influences on the commission at the outset allowed the chairman to exercise inordinate influence . . . Even now," the report charged, "the agenda set is largely his own and the commissioners—with rare exception—can be faulted for their general complacency and unwillingness to force rigorous analysis of the data. These problems are exacerbated by inadequate funding levels which make expenditures for original research or preparation of serious alternative staff drafts on legal issues impossible."

#### witness lists weighted

"Although it is not accurate to claim that 'anti-censorship' groups or individuals were barred by the commission," the report acknowledged, "a number of factors helped guarantee that an anti-pornography witness skew was generated." Of 208 witnesses before the commission, at least 160 (77%) urged tighter controls over sexually explicit material. These included 68 law enforcement officers; eight elected officials; thirty alleged "victims" of pornography; fourteen representatives of anti-pornography citizen groups; eight representatives of national groups with anti-pornography policies; ten prominent individual anti-pornography activists; and 22 clinicians or social science researchers. Only forty witnesses (19%) urged repeal of existing laws on obscenity or even suggested that no new censorship efforts be undertaken.

Lynn charged that anti-pornography and anti-censorship witnesses were treated differently. Most anti-censorship witnesses only appeared late in the second day of two-day hearings. "Serious cross-examination of

anti-pornography witnesses was virtually non-existent" while "anti-censorship witnesses were grilled about a variety of tangential issues."

The report detailed several examples of unfair or unequal treatment:

- "Edward Donnerstein, whose research showing a connection between laboratory aggression and viewing of certain violent pornography is often cited by anti-pornography groups as proof of pornography's 'harm,' rejected such facile conclusions and did not urge the commission to impose new censorship laws. This visibly annoyed commissioners who then grilled Donnerstein on whether he had been paid for a recent *Penthouse* interview [he had not] and whether the 'pornography industry' has tried to 'influence' his work 'through financial support of research or travel' [he indicated no . . .]

- "ACLU Women's Rights Project Director Isabelle Katz Pinzler was repeatedly questioned by the chair about whether her project had ever received money from the Playboy Foundation [it had received modest grants several years earlier], as if this fact destroyed the legitimacy of her testimony about how censorship laws may actually hurt the cause of women's equality.

- "There was perhaps no more telling a difference in cross-examination than that between ex-*Playboy* Playmate Micki Garcia and ex-*Penthouse* Pet of the Year Dottie Meyer. Garcia accused Playboy Enterprises and publisher Hugh Hefner of sexual harassment, illegal job discrimination, unlawful drug use, murder, attempted murder, prostitution, rape, and other assorted crimes. She further testified that she believed her own life and that of her family were in jeopardy because of her appearance before the commission. Despite the serious nature of these accusations, there was no effort during her brief questioning to obtain details or evidence to support these allegations.

- "On the other hand, after Meyer testified that her *Penthouse* appearance was beneficial to her, there was extensive cross-examination. Commissioner Dietz, who had obtained a copy of her *Penthouse* pictorials and the captions reportedly indicating her interests, insisted on knowing whether 'you like your men rough and tumble, living on the edge of danger' ['yes', she replied, 'I married a policeman'] and then inquired whether she ever made love in a car and had a 'personal collection of vibrators' . . . This kind of treatment, whether viewed as wholly irrelevant or merely tasteless," the report concluded, nonetheless "confirmed in the minds of potential witnesses from the 'pornography industry' that they would not be treated seriously or fairly."

- "At the hearing in Los Angeles in October, 1985, the commission expressed specific interest in hearing from witnesses from the pornography industry. However, the hearing coincided with an effort in that city to use existing pandering and prostitution laws to

criminally charge pornography producers and actresses under the theory that payment was being made for 'sex' and not 'acting.' Since the commission has no authority to immunize witnesses from criminal prosecution, it is not surprising that individuals were reluctant to discuss their activities and perhaps provide evidence for further legal initiatives by Los Angeles prosecutors," the report concluded.

According to Lynn, "commission investigators went out of their way to locate anti-pornography witnesses, sometimes even going so far as to help write the statements of 'victim' witnesses. On the other hand, testimony from major writers' groups and other elements of the creative community was not sought. In fact, several prominent organizations were denied an opportunity to speak, according to the commission due to lack of time on the schedule in New York, even though lengthy slots continued to be filled by prosecutors, religious groups, and anti-pornography organizations."

An official of the American Society of Journalists and Authors told Martin Morse Wooster, Washington editor of *Harper's* magazine, whose article on the Meese Commission appeared in the April 1986 issue of *reason* magazine, that the commission "certainly didn't encourage us" to testify. "When we first asked to testify, we were told to submit a curriculum vitae and a copy of our testimony," the official reported. "They said they'd examine it and give us an answer." The organization protested that such a requirement was like an "audition," and the commission relented.

Hudson told the *Washington Post* that he could not find any "alleged beneficiaries" from pornography. "If you know of one, would you let us know?" he said. But, the ACLU report responded, since the commission began with the assumption that pornography is a "national problem," it is hardly surprising that "only two persons who might be characterized as avid 'consumers' of the material stepped forward to testify. . . . Who, after all, wants to discuss one's reading habits with a group of persons who believe them to be a national problem?"

#### **inordinate focus on aberrant practices**

"The commission's absorbing fascination with bizarre sexual practices and criminal activity," the report contended, "is designed to establish that sexually explicit material leads to a widespread 'victimization' of consumers, models and the general public." This was attempted through two procedures.

The first method the report dubbed "the search for the most offensive image." The commission heard testimony from a large number of witnesses who 'presented slide shows allegedly depicting the extant universe of sexually explicit material as encompassing

an increasingly violent and bizarre range of sexual conduct. This barrage of imagery was, not surprisingly, designed generally to show the most extreme or grotesque examples of specific sub-genres. Obviously these pictures exist. However, longitudinal studies sampling the universe of sexually-oriented material do not support a conclusion that they represent a significant percentage of available material . . . It is as if by finding the single most despicable scene of sexual conduct ever photographed the commission would be justified in urging suppression of all sexually-oriented material."

The second procedure used by the commissioners the report called "the 'victimology' approach," that is, "extensive presentation of testimony by persons allegedly 'hurt' by pornography. In one extreme case, a witness claimed that discovering a deck of pornographic playing cards caused him to develop an 'obsession' with stealing *Playboy* magazines and also led him to sexually abuse the family dogs. Others actually appeared anonymously behind translucent screens. There is no question that many of the life-histories of these individuals are sad tales of sexual abuse," the report acknowledged. "There is serious doubt, however, as to how significant a role 'pornography' played in their worlds which were frequently marked by many abusive practices including drug problems, alcoholism, physical assault and broken homes. Moreover, when a 'victim-witness' failed to give a sufficiently crisp connection between his or her problem and pornography, the chair would drive home the connection through such extraordinarily leading questions as 'Do you think there came a time in your life when you were almost obsessed with the consumption of pornography?'"

According to Martin Wooster's article, Lois Lee, director of Children of the Night, a group helping teenage runaways and prostitutes in Hollywood, charged that commission investigators came to her office with their minds already made up. "Ed Chapman [a commission staffer] came to me and asked to see teenagers who started turning tricks after their fathers showed them *Playboy* and *Penthouse*. I told him, 'Look, none of our kids got started turning tricks because their fathers started using pornography. None. They may have run away from home because their fathers beat them, or because their fathers were drunk, but not because of pornography. Even if you got rid of all the pornography in the world, you wouldn't get rid of abusive or drunk fathers.'"

#### sweeping enforcement initiatives

"In spite of tentative approval of roughly twenty major changes in law and law enforcement policy about

'obscenity' and 'pornography,' concepts which routinely merge in the language of the commissioners, the members have still failed to determine precisely what types of material they want regulated or suppressed," the report charged.

After several false starts, the commission agreed on the following tentative proposal for a "working definition" of pornography: "any representation . . . which is designed to be sexually arousing and portrays children, pain, humiliation or sexual abuse, conduct, or organs as a dominant theme." The definition contrasts sharply with the current *Miller* legal definition of "obscenity," and, according to the ACLU, "truly covers almost everything written, photographed or filmed which deals with human sexual conduct." Although several commissioners expressed dissatisfaction with this construction, and commissioner Dietz in particular proposed an arrangement in "tiers" of increasingly "harmful" material, Hudson "steadfastly refused to allow serious discussion of alternative definitions."

On the basis of this vague definitional foundation, the report said, "the commission has given 'tentative' approval to virtually every law enforcement change to control sexually explicit material suggested by even a single witness to the commission. These include such recommendations to legislators and law enforcement officials as:

- "treating any second conviction as a felony, which generally includes the prospect of longer (or mandatory) prison sentences, and higher fines.
- "adopting forfeiture laws to seize the assets of any business engaged in sale of proscribed materials, actions which could permit the seizure of an entire commercial store if it profited by the sale of a few 'illegal' magazines.
- "eliminating the requirement that material be transported interstate before it becomes a federal crime, substituting a presumption that it—like loansharking and drugs—"affects" interstate commerce.
- "using pandering and prostitution laws against producers, actors and actresses in pornography. . . .
- "construing the use of models under the age of 21 as 'child pornography.'
- "using state racketeering laws and the federal racketeering statute (RICO) to obtain seizures of sexual materials.
- "removing doors on film booths in adult stores.
- "making it a federal crime even to 'possess' any child pornography."

The commission, it should be added, only voted by a narrow margin against a proposed statute which would declare dildoes and vibrators as always obscene. The chair, however, treated the negative vote as simply a deferral of the issue to a later meeting. Moreover, "in the area of new technologies, the commission agreed to

consider sweeping new proposals, already endorsed in staff drafts, to restrict consensual sexual conversations over the telephone, cable television transmission of much R-rated material, and computer services offering sexual information."

"Many of these approaches," the ACLU concluded, "represent extreme measures which raise weighty and complex constitutional problems, issues which have been studiously avoided in the commission's agenda to date." The report charged that the commission's "basic understanding of the legal issues involved is rudimentary" and that commission "staff memos on constitutional issues are so spotty that they do not adequately illuminate the state of the law." For example, a draft on so-called "dial-a-porn" failed to acknowledge that a series of 1985 FCC regulations were enjoined by a federal court because they raised serious constitutional issues.

Moreover, commission calls for "unshackling" law enforcement efforts against pornography ignore the fact that even prior to Meese, the Justice Department's war on pornography was already formidable. Between September 1978 and March 1985, the FBI launched 2,484 investigations into pornography, resulting in 118 convictions and \$7.1 million in fines and confiscated property. In 1985, the Customs Service confiscated 3,725 pieces of sexually explicit material. On the "research" front, Robert O. Heck, second in command at the Office of Juvenile Justice and Delinquency Prevention, proposed in 1983 to spend \$5 million over two years to "scientifically identify and define 'pornography' and its variable effects upon adults and juveniles."

#### **limited research base**

The report branded the commission's handling of social science research "peculiar." The commission has appropriated "only those parts of the 'social science' literature which tend to establish 'negative' effects from pornography" while ignoring studies which suggest the contrary (on such research see page 77). On this basis the commissioners agreed to accept four "tentative" conclusions derived from "research," all of which suggest harmful effects of pornography. Yet when the commission considered endorsing the view that sexually explicit materials may be helpful in sex therapy and education, a view endorsed by more than a few studies, this conclusion was criticized as based on "anecdotal case history" and, more important, dismissed because it could "be read as though we are saying, in effect, pornography has a very widespread beneficial impact."

The report warned that the tentative conclusions reached by the commission are "highly problematical and misleading. It is conceivable that narrative material in the final report will clarify these statements and con-

cede the limitations of the few studies upon which these conclusions are based." Nonetheless, as outlined the conclusions are based on slender evidence derived almost exclusively from highly questionable laboratory experiments, almost all with college students.

#### **failure to reasonably evaluate evidence**

"The commission frequently operates as if all evidence is of equal weight and that there is no reason to explain why or how conclusions are reached," the report charged. "Even the assertions of a single 'victim-witness' frequently show up as 'facts' in staff drafts of 'tentative findings.'" Moreover, "since no anti-pornography witnesses are seriously cross-examined there is little public testing of the truth of anyone's account."

Noteworthy and troubling, the report stated, was a draft section of the final report which "casually mentioned that evidence showed that major American companies including CBS, Time Inc., Ramada Inns, RCA, Coca-Cola, and Warner Publisher Series were 'marketing porn' through cable services. Alleged 'marketers' of pornographic magazines were listed and include: Rite-Aid, K-Mart and nine other firms. The director and chair, under mild criticism by several commissioners reluctantly agreed that these named companies should have an opportunity to respond. It was decided that they would have thirty days to answer, and that 'lack of a reply would indicate they did not differ' from the allegations!"

#### **"child pornography" and "organized crime"**

The commission's use of the terms "child pornography" and "organized crime" is characterized by a mode of ever-expanding and circular definition which, the report charged, "seems designed to connect virtually all sexually-oriented material to child abuse and criminal activity."

In 1982, the Supreme Court exempted child pornography from the purview of the First Amendment, defining the concept as the visual depiction of actual minors engaged in sexual situations. According to Lynn, however, the commission obscured this more narrow definition by melding into the debate a variety of "child-related" issues including "use of sexually explicit material involving adults to 'teach' children about sex or 'seduce' them into sexual activity; use of 'child images' in cartoons or dressing or posing adult models to appear 'child-like;' and access of children to adult material in cable television, 'dial-a-porn' and other new technologies."

One example cited in the report of how the commission merged these various concepts was a discussion of "dial-a-porn" services in which "several commissioners asserted that a frequent subject of these recorded

messages was 'incest'. This intra-familial sexual theme was then referred to repeatedly as 'child pornography.'" Of course, no witness "ever asserted that minors are used to produce these recorded comments."

Although the commission expressed repeated concern about use of children in pornography, the report noted that this did not prevent them "from screening hundreds of slides of children in their public hearings." A Los Angeles detective showed the commission "an explicit slide of a nude young girl and stated: 'We are lucky enough to seize this entire film and it never got into the market.' Needless to say," the ACLU report added, "the slide was at that moment being exposed to the entire audience at the public hearing, and to at least four video cameras belonging to the press covering the event, all without consent from the child."

The commission has similarly twisted the definition of organized crime, the ACLU charged. A former FBI agent who devoted most of his career to pornography investigation told the commission, "It is practically impossible to be in the retail end of the porno industry without dealing in some fashion with 'organized crime.' This, of course, would presume the dealing in materials which would be determined by a judge or jury to meet the three part test of obscenity under *Miller v. California*. My reason for making such a statement is this: Where else but from 'organized crime' would a retailer obtain sexually explicit materials to sell to the customers he may possess?"

Apparently the reasoning accepted by the commission is this: since pornography is, ipso facto, criminal in nature if legally obscene, and since (in the commission's parlance) obscenity and pornography are virtually interchangeable terms, and since production and distribution of such materials in today's world must of necessity be organized, then clearly this is "organized crime!"

#### response to the report

As expected, commission chair Hudson blasted the ACLU report. He said the panel has taken a balanced approach and made "a scrupulous effort" to hear witnesses on both sides, but that many invited witnesses declined to appear. "Every diverse viewpoint is being argued and seriously considered," he said. "There have been no final conclusions and no findings of fact . . . I think it's premature to comment until a final report is filed."

Nonetheless, in separate remarks on the eve of the Lynn report's release, Hudson dismissed in advance the ACLU viewpoint, characterizing it as supporting the idea "that any restrictions on pornography, irrespective of harm or irrespective of whether it's of a child or adult nature, is violative of the First Amendment.

That's their viewpoint, so existing laws violate their viewpoint."

Moreover, at a meeting in Scottsdale immediately after publication of the ACLU charges, the commission decided to cease making public its draft reports and working papers, which were used by Lynn in preparing his report. "I know many members of the commission would like to cover up pornography," Lynn said, "but that is no reason for the commission itself to operate behind a brown paper wrapper."

Lynn charged that the decision violated federal law requiring such government commissions to release their working papers. The commission staff asked the Justice Department for an exemption from that requirement, however, suggesting that "'organized crime' would be interested in these documents and even that release of these documents could jeopardize the safety of the staff of the commission," Lynn reported.

In fact, events at the Scottsdale meeting suggested that the ACLU charges had, perhaps, struck a raw nerve. Many decisions were made at that meeting, but, according to press accounts, disagreements among the members often ran deep. The commission agreed to recommend more than two dozen criminal law revisions, many of which were outlined in the Lynn report, but divisions emerged over the question of depiction of explicit sex acts without accompanying violence or degradation and over to what extent pornography is a symptom and to what extent a cause of sexual abuse. Commission members will apparently prepare independent opinions on these questions.

At Scottsdale, the commission also authorized a last-minute study by Surgeon General C. Everett Koop summarizing scientific research on the effects of pornography. Koop offered to do fact-finding for the commission when he testified before it last June. Hudson said that the commission agreed to accept the offer, but acceptance was delayed while funding was sought from the Public Health Service for the study. Commissioner Schauer, however, said the delay resulted in part from concern about Koop's vehement anti-pornography statements which some commissioners believed would compromise the objectivity of the proposed study.

Theodore O. Cron, assistant to Koop, said it was his understanding that the new study would examine possible health effects pornography may have on people—"what sort of long-term emotional, psychological and physical effects take place, and how those feelings are transmitted to others."

Koop said that he was asked by the attorney general's office to provide for inclusion in the commission's report "scientific background that is provable about the harmful effect of pornography on children. I plan to do that on the basis of a one-day workshop—to assemble

the country's experts in the social sciences, our own people at the National Institutes of Mental Health, Maternal and Child Health, and so forth, and do what we can."

As of March, the commission planned to complete its report in June, and then to reopen its preparation to accommodate changes indicated by the Koop study.

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(Censorship dateline . . . from page 86)

investigation made her more cautious in preparing for her classes and charged that the group had "destroyed an atmosphere of trust which is very important in the classroom" by subtly inhibiting the free flow of ideas. Reported in: *Detroit Free Press*, January 17.

## periodicals

### Alexandria, Virginia

Peoples Drug Stores announced February 21 that it would stop selling adult magazines at all 810 of its stores because of customer complaints and changing standards of morality. "Times are changing and we have to change with them," said Joseph A. Pollard, vice president of public relations for the corporation, which has its headquarters in Alexandria. In a letter to Fairfax County Board of Supervisors Chair John F. Herrity announcing the company's decision, Peoples' chief executive officer Sheldon W. Fantle added, "We believe the social mores in the communities in which we do business have evolved from the freer thinking 1970s to a social structure with greater respect for fundamental traditions and values."

Peoples has 400 stores in the region extending from Pennsylvania to North Carolina and operates additional outlets, many under other names, in Ohio and Georgia. Adult magazines account for \$3 million to \$4 million of the chain's annual sales—less than 0.5 percent of revenues, Pollard said. Peoples believes it will recoup the revenue with increased business from customers who had stopped shopping at the stores because they were offended by adult magazines on display.

The decision by Peoples was the latest victory for campaigners against adult magazines such as *Playboy* and *Penthouse*. High's Dairy stores, with more than 300

stores in the mid-Atlantic states, stopped selling the magazines at the beginning of the year.

Richard J. Enrico, founder of Citizens Against Pornography, which lobbies to stop magazine sales in Northern Virginia, said his group, whose membership includes Virginia Gov. Gerald L. Baliles, had a major role in persuading the two chains to drop the magazines. "It's a tremendous victory and I just thank God for it," he said. Reported in: *Washington Post*, February 22.

## film

### Detroit, Michigan

The controversial movie *Hail Mary*, by French director Jean-Luc Godard, opened to sell-out crowds, bomb threats and minor violence at Wayne State University March 12, as three hundred protesters circled outside of the auditorium chanting rosaries and carrying angry signs. More than ten bomb threats were made against the showing, according to Capt. Dennis Reefer of the Wayne State Public Safety Department.

Inside the auditorium, the first showing of the movie was interrupted after twenty minutes when a man climbed on stage with a banner and shouted the rosary while another attacked the film projector. The two were arrested, charged with disorderly conduct and released on bond.

The film is a modern retelling of the birth of Jesus. In it, Joseph is a taxi driver, the Angel Gabriel is a foulmouthed drifter and Mary is a gas station attendant who struggles incessantly with her own sexuality. Pope John Paul II has condemned the film as sacrilegious.

In a letter to Wayne State President David Adamany, Rev. Edmund Szoka, archbishop of Detroit, called the film "blasphemous and a source of great personal pain to many thousands." In a statement, Adamany said he wrote Szoka to apologize for the distress the movie may cause, but said he could not suppress its showing on ground of academic freedom. Reported in: *Detroit Free Press*, March 13.

## foreign

### Brasilia, Brazil

Less than a year after Brazil's new civilian government announced the end of all censorship, French director Jean-Luc Godard's controversial film *Hail Mary* was banned from exhibition at the request of the Roman

Catholic Church. President Jose Sarney, who did not see the movie, personally ordered the ban in early February after receipt of a telegram from Pope John Paul II and appeals from the country's Catholic hierarchy. He was immediately criticized by many Brazilian intellectuals for undermining newly acquired political and artistic freedoms.

One best-selling author and politician, Fernando Morais, said that he would ask the Supreme Court to overturn the ruling. "I'm moved by outright indignation," he said. "I think it's absurd that the president should be deciding what films I can or cannot see."

Ivo Lorscheiter, head of the National Council of Brazilian Bishops, said a work purporting to be artistic that attempted to destroy the Christian version of the virgin birth was unacceptable. He said moral censorship for the public good could not be compared with political and ideological censorship imposed by the former military government.

That distinction was not accepted by everyone, however. The Justice Minister, Fernando Lyra, who is formally in charge of the Censorship Office, inherited from the dictatorship and destined for dismantling, was among those opposing the ban. Even the head of the Censorship Office, Coriolano Fagundes, who signed the order, said he did so "with sadness" and he criticized those who "in a hateful and medieval way, for supposedly religious motives, have adopted an absolutely intransigent and intolerant stance in relation to the work under examination." Reported in: *New York Times*, February 10; *Boston Globe*, February 7.

#### New Delhi, India

The broadcast of a scheduled U.S. television documentary critical of former Prime Minister Indira Gandhi was canceled in February on instructions from members of the governing Congress Party, Indian newspapers charged. *Rajiv's India*, a film made by syndicated columnist Jack Anderson, was scheduled to be shown on state-run television. It was taken off the air shortly before broadcast "due to unforeseen circumstances," a Government announcement said. But the influential *Times of India* and other papers reported that the film was canceled because members of Prime Minister Rajiv Gandhi's Congress Party objected to criticism of his mother's policies. "Reports have it that the film was canceled following protests . . . by some Congress leaders. If this is in fact the case it reflects very poorly on how decisions are taken," the *Times* wrote. Reported in: *Los Angeles Times*, February 13.

#### Jerusalem, Israel

A government censorship board reversed itself and tentatively decided to permit the nude theatrical revue *Oh Calcutta!* to open in Israel, the show's producer said February 25. The board had earlier rejected a request to let the play be performed in Israel, saying the nudity would offend religious Jews and Arabs. "I'm ecstatic," said the producer, Norman Kean, who defended the play before the Public Council for Theater and Movies.

The government-appointed council decided February 3 to bar *Oh Calcutta!* as "pornographic and obscene." But after Kean's appearance, the committee voted 8-7 to cancel the ban pending agreement on what were described as "cosmetic" changes. "We've won a partial victory," Kean said. A final decision was deferred pending further negotiations. Reported in: *Los Angeles Times*, February 26.

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(porn and rape . . . from page 77)

commit violent acts against women. However, when subjects viewed X-rated *nonviolent* material, Donnersstein told the Meese Commission, "if you look strictly at the data in which subjects saw only the sexual nature of the material, there were no increases in aggressive behavior and there were no increases in callous attitudes. According to Prof. Joseph Scott of Ohio State University, a three-month study there found that X-rated films were "the least violent of any type of movie."

According to Sol Gordon, professor of child and family studies at Syracuse University, "There is absolutely no evidence of a causal relationship between pornography and sexual acting out. I haven't seen it in sexual molestation or in rape. You can always get an incident. The newspapers will always help. You may find one rapist, and they found pornography in his room. And that means that pornography caused it. They also found milk in his refrigerator!" Conversely, Gordon notes, erotic magazines and videos could also be found in the homes of millions of men and women who have never committed rape or sexual abuse.

As Martin Wooster has written, "The only firm conclusion that we can draw from sexual research is that we can't say one way or the other whether exposure to pornography causes people to 'act out' violent sexual behavior. Science tells us that the verdict on pornography is 'not proven' rather than 'not guilty.'" Reported in: *reason*, April 1986.

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