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ALA council condemns FBI "library awareness" program

Meeting in New Orleans at the American Library Association's Annual Conference, the ALA Council voted July 13 to "go on record in condemnation of the FBI Library Awareness Program and similar programs, and all that they imply in relation to intellectual freedom principles." The resolution, proposed by the Intellectual Freedom Committee, called for "immediate cessation" of the program and "all other related visits by the Bureau to libraries where the intent is to gain information, without a court order, on patrons' use." The Council pledged to use "all of the appropriate resources at its command to oppose the program and all similar attempts to intimidate the library community and/or to interfere with the privacy rights of library users by the FBI." (For the full text of the resolution see page 184). The ALA resolution followed passage in June of resolutions criticizing the program by the Special Libraries Association and the Association of Research Libraries.

"It is vital that people go into libraries and use the information without fearing the FBI is supervising and overseeing their use," ALA President F. William Summers, dean of the library school at Florida State University, declared.

The action by the ALA Council capped a series of developments in the rapidly escalating controversy over the FBI program in which agents have sought the cooperation of librarians in identifying potentially hostile foreign agents among library patrons (see *Newsletter*, November 1987, p. 215, 241; May 1988, p. 79; July 1988, p. 113. A "Background Report" on the controversy and a chronology of events in its development appear on page 146). At the New Orleans Conference, the ALA Executive Board approved the IFC's request to file a lawsuit seeking to compel release of "full documentation regarding the FBI's Library Awareness Program, of all FBI library visitations, and of all related activities." A similar suit was filed under the Freedom of Information Act June 2 in the U.S. District Court for the District of Columbia by the Washington-based National Security Archive with the assistance of the People for the American Way Legal Defense Fund. At New Orleans, the Executive Board also approved an IFC request for supplementary funds to permit members of the committee, the ALA President, and ALA's counsel to travel to Washington to accept a May 18 invitation by the FBI for a meeting to discuss the Association's concerns about the program.

In Washington, the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary, chaired by Rep. Don Edwards (Dem.-Calif.), continued hearings

(continued on page 174)

Published by the ALA Intellectual Freedom Committee, C. James Schmidt, Chairperson.

in this issue

ALA council condemns FBI program . . . . p. 143

ALA testimony on FBI program . . . . p. 145

FBI "library awareness" program
- background report . . . . p. 146
- chronology . . . . p. 146
- bibliography . . . . p. 147

IFC report to council . . . . p. 148

FTRF report to council . . . . p. 148

censorship in Wisconsin schools . . . . p. 149

Margaret Truman looks back . . . . p. 149

school boards split on Lake City appeal . . . . p. 150

Church Hill footnote . . . . p. 150

censorship dateline: libraries, schools, student press, film, video, periodicals, foreign . . . . p. 151

from the bench: U.S. Supreme Court, government secrecy, press freedom, telephones, copyright, libel . . . . p. 161

is it legal?: libraries, films, broadcasting, press freedom, church and state, artists' rights, T-shirt . . . . p. 169

success stories: libraries, schools . . . . p. 177

targets of the censor

books
A Day No Pigs Would Die . . . . p. 151, 177
Adolescents Today . . . . p. 153
The Adventures of Huckleberry Finn . . . . p. 152
Bare-Faced Messiah: The True Story of L. Ron Hubbard . . . . p. 165
Boys and Sex . . . . p. 178
The Catcher in the Rye . . . . p. 177
Fields of Fire . . . . p. 178
The Golden Book of the Mysterious . . . . p. 178
I'm Mad At You . . . . p. 151
Killing Mr. Griffin . . . . p. 179
Lord of the Flies . . . . p. 152
Of Mice and Men . . . . p. 154
Salem's Lot . . . . p. 152
Spycatcher [Australia] . . . . p. 156
Witches, Witches, Witches . . . . p. 178

periodicals
Cosmopolitan . . . . p. 156
Glamour . . . . p. 156
Life . . . . p. 156
Los Angeles Times . . . . p. 164
Mademoiselle . . . . p. 156
Tartar Shield [Compton C.C.] . . . . p. 154
Vogue . . . . p. 156

films
The Last Temptation of Christ . . . . p. 154
Private Lessons . . . . p. 170

television
Mighty Mouse . . . . p. 155

video
This Note's For You . . . . p. 155

artist
David Nelson . . . . p. 171

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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ALA testimony on FBI "library awareness" program

The following is the text of a statement by C. James Schmidt, Executive Vice President, Research Libraries Group, Inc. and Chair of the ALA Intellectual Freedom Committee, before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary concerning the Library Awareness Program of the Federal Bureau of Investigation delivered in Washington June 20, 1988.

My name is C. James Schmidt. It is my pleasure to represent the American Library Association at this hearing, in my capacity as Chair of the Association's Intellectual Freedom Committee.

The American Library Association, founded in 1876, is the oldest and largest national library association in the world. Its concerns span all types of libraries: state, public, school and academic libraries, as well as special libraries serving persons in government, commerce and industry, the arts, the armed services, hospitals, prisons, and other institutions. With a membership of over 45,000 libraries, librarians, library trustees, and other interested persons from every state and many countries of the world, the Association is the chief spokesman for the people of the United States in their search for the highest quality of library and information services. The Association maintains a close working relationship with more than seventy other library associations in the United States, Canada, and other countries, and it works closely with many other organizations concerned with education, research, cultural development, recreation, and public service.

The Intellectual Freedom Committee was established in 1940 by ALA's governing body—the ALA Council. The Committee's statement of responsibility reads, in part, "To recommend such steps as may be necessary to safeguard the rights of library users, libraries, and librarians, in accordance with the First Amendment to the U.S. Constitution and the *Library Bill of Rights* as adopted by the ALA Council."

Ours is a constitutional republic—a government of the people, by the people, and for the people. But in order for this form of government to function effectively, its electorate must be able to be informed—the electorate must have information available and accessible. The role of libraries as impartial resources providing information on all points of view is essential for this type of government and society, and must not be compromised.

Indeed, libraries are perhaps the greatest resource a free people can claim. They most definitely are the *only* places in our society where every person can find materials representing all points of view concerning the problems and issues confronting them as individuals and as a society. In addition, libraries make these materials available and accessible to anyone who desires or requires them, regardless of age, race, religion, national origins, social or political views, economic status, or any other characteristic.

The ethical responsibilities of librarians are central to the ability of libraries to fullfill the role I have described. In addition to observing professional standards of service and behavior, librarians must provide service equally to all who seek it and "must protect each user's right to privacy with respect of information sought or received, and materials consulted, borrowed, or acquired." [*Statement on Professional Ethics*]

The American Library Association has had a "Policy on Confidentiality of Library Records" since 1970. This informal policy was adopted at that time in response to attempts by U.S. Treasury agents to examine circulation records in a number of cities. The Introduction to the policy reads equally well in the present context:

> . . . the efforts of the federal government to convert library circulation records into suspect lists constitute an unconscionable and unconstitutional invasion of the right of privacy of library patrons and, if permitted to continue, will do irreparable damage to the educational and social value of the libraries of the country.

Since 1970, thirty-eight states and the District of Columbia (see list p. 147) have enacted "Confidentiality of Library Records" statutes. These statutes have been interpreted by the Intellectual Freedom Committee of the American Library Association to encompass database search records, reference interviews, interlibrary loan records and all other personally-identifiable uses of library materials, facilities and services.

Background on the FBI's Visits to Libraries

The program of visits by FBI agents to libraries as part of the Bureau's domestic surveillance of alleged Soviet and other intelligence agents has been described by the Bureau in its unclassified report, *The KGB and the Library Target, 1962-Present* (1988), and in the transcript of "FBI Presentation to U.S. National Commission on Libraries and Information Science" (January 14, 1988; released February 19, 1988). There have also been numerous reports published in the media on the Bureau's activities, e.g., "The FBI's Invasion of Libraries" (*The Nation,* April 9, 1988, p. 497-502; March 27, 1988; and the *Wall Street Journal,* May 19, 1988.)

In general terms, the Library Awareness Program has been justified by the FBI as falling within its statutory responsibility for counterintelligence activities. The Bureau claims that libraries have in the past been used as recruiting grounds by KGB agents and that library staffs, as well as library users, have been the targets of such recruitment.

Since the initial publicity given to the Program in September, 1987, the Bureau has offered four reasons in defense of it:

(continued on page 174)

FBI "library awareness" program

a chronology of events

The following is a chronology of major events in the continuing controversy over the FBI's so-called Library Awareness Program.

June 11, 1987—Columbia University's Director of Academic Library Services met with FBI agents after a library clerk was approached by them. They explained the FBI's "Library Awareness Program" in New York and stated that the FBI was seeking information about library use by citizens of nations hostile to the United States.

July 1, 1987—Judith Drescher, Chair of the American Library Association's Intellectual Freedom Committee, wrote to the FBI inquiring about the Library Awareness Program.

July 10, 1987—The National Security Archive (Archive) made a FOIA request to the FBI seeking access to any records concerning the Library Awareness Program.

August 3, 1987—Dr. Helen Flowers of the New York Library Association, wrote to the FBI asking for an explanation of the Library Awareness Program.

August 21, 1987—FBI responded to the Archive's FOIA request by stating there is "no record" responsive to the request.

August 24, 1987—FBI responded to Dr. Helen Flowers explaining the existence of the Library Awareness Program and that an agent would contact her in the future to answer further questions.

Sept. 16, 1987—The Executive Director of the New York Library Association sent a letter to the managing editor of the *New York Times* asking the *Times* to investigate the FBI's Library Awareness Program.

Sept. 18, 1987—The first public account of the program appeared in the *New York Times:* "Libraries Are Asked By FBI to Report On Foreign Agents."

Sept. 18, 1987—An administrative aide to Congressman Major Owens (Dem.-NY), a former librarian, contacted the Office for Intellectual Freedom regarding a possible inves-

(continued on page 172)

a background report

The following report summarizing available information about the FBI's Library Awareness Program was prepared by People for the American Way and released June 1.

On June 8, 1987, two agents from the Federal Bureau of Investigation (FBI) approached the clerk at the Math/Science Library at Columbia University in New York, asking for information about the use of that library by "foreigners." The agents were directed to Paula Kaufman, Columbia's Director of Academic Information Services, and again requested information on library patrons from countries "hostile to the U.S., such as the Soviet Union." Outraged, Kaufman informed the Americian Library Association (ALA) of the incident. Three months later, the *New York Times* broke the story on the FBI's "Library Awareness Program," a program which until that time had been kept secret from the American public.

Since then, investigative journalists have exposed a sweeping effort by the FBI to turn librarians into unofficial "spies," gathering information for the Bureau on the reading habits and activities of foreigners and other broad categories of "suspicious" individuals. Most alarming are reports of "fishing expeditions," in which the FBI is asking librarians to produce circulation records of books, interlibrary loans, and data base requests.

The FBI has attempted to defuse public pressure by making limited statements on the program, including a closed briefing to the U.S. National Commission on Libraries and Information Science. Many of the official FBI statements on the program, however, have been contradicted by other FBI officials, by library officials approached by the FBI, as well as by testimony before Congress. Efforts by non-profit organizations such as the National Security Archive and the American Library Association to gain access to information on the program through Freedom of Information Act requests have been fruitless. Official requests for information by Congress have also been ignored.

Since this country was founded, there has always been a tension between the need to protect our nation from the threat of hostile forces and the need to protect the constitutional rights of our citizens. This conflict is reflected in the different descriptions of the "Library Awareness Program." The FBI describes it as a "narrowly focused" project necessary for maintaining our "national security." The American Library Association, however, calls it "an unwarranted government intrusion upon personal privacy."

confidentiality protection state by state

The following states have statutes protecting the confidentiality of library circulation records: Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Virginia, Washington, Wisconsin, Wyoming.☐

At a minimum, the American public has the right to know the full story about this program. The limited information that has already been uncovered shows a program that threatens basic constitutional liberties, including the right to privacy and intellectual freedom. The project also raises broader questions of government secrecy and government intrusion into the private lives of American citizens—problems which have increased dramatically under the Reagan administration. In short, the Library Awareness Program appears to threaten some of the very freedoms it purports to be protecting.

What We Know—And Don't Know—About The Library Awareness Program

Our present knowledge of the FBI's "Library Awareness Program" is limited and often contradictory. There is no agreement, for example, on basic facts such as when the program was initiated. Various accounts, including those from the FBI, put the start at one year ago, ten years ago, and twenty-five years ago. The following section explores some of the information that has become public over the past year including information drawn from media accounts and official FBI statements on the program.

The actual scope of the "Library Awareness Program" is unknown. According to newspaper reports, FBI agents have been approaching librarians and clerks in both public and academic libraries around the country, asking broad questions about the reading habits of their patrons, and requesting librarians to report any "suspicious" activities they encounter. Those interviewed have reported that the FBI's requests concerning circulation records and their descriptions of who is "suspicious" are so broad and vague that they invite abuse. The requests have been condemned as an unwarranted invasion of privacy and confidentiality of all library patrons.

(continued on page 166)

a media bibliography

The following is a bibliography, arranged in order of appearance, of some important articles appearing in the national news media on the FBI's Library Awareness Program since the program's existence was first publicly disclosed in the New York Times *on September 18, 1987.*

"Librarians Are Asked by FBI to Report on Foreign Agents," *New York Times,* September 18, 1987, p. 1.

"FBI Agents Ask NY Librarians to Spywatch," *Library Journal,* October 15, 1987, p. 12.

"Harvard and City University of New York Voice Opposition to FBI Snoopery," *Library Hotline,* November 2, 1987.

"FBI Asks Librarians to Help in the Search for Spies," *Philadelphia Inquirer,* February 23, 1988, p. 1.

"FBI Official Defends Contacting Libraries to Counter Foreign Intelligence Efforts," *Daily Report for Executives* (BNA), February 26, 1988, p. A8.

Gerald Shields, "Academic Librarians Must Oppose Federal Surveillance of Their Users," *Chronicle of Higher Education,* March 23, 1988, p. A48.

"Librarians Want FBI to Shelve Requests About Foreign Readers," *Washington Post,* March 27, 1988, p. 3.

Natalie Robins, "The FBI's Invasion of Libraries," *The Nation,* April 9, 1988, p. 1.

"FBI Presents 'Library Awareness' to NCLIS at Closed Meeting," *Library Journal,* April 15, 1988, p. 16.

Editorial: "Libraries and Gumshoes," *Los Angeles Times,* April 25, 1988.

"Longtime Soviet Espionage Effort Targets U.S. Libraries," *Washington Times,* May 18, 1988, p. 6.

"FBI Recruits Librarians to Spy on 'Commie' Readers," *Wall Street Journal,* May 19, 1988.

Opinion Page, *USA Today,* May 24, 1988, p. 10A. Includes: Editorial: "Don't Ask Librarians To Be Spy Catchers;" Steve Marmel, "Security and Resolve Will Protect Us;" C. James Schmidt, "This Program is Useless, Dangerous;" Phyllis Schlafly, "It's Librarians' Duty to Help Catch Spies;" Milt Ahlerich, "Soviets are Exploiting the USA's Libraries."

"Soviet Espionage Efforts Have Targeted U.S. Research Libraries and Staff Since 1962, FBI Charges in Report," *Chronicle of Higher Education,* May 25, 1988, p. 1.

"Spying in the Stacks," *Time,* May 30, 1988, p. 23.

"Talk of the Town," *The New Yorker,* May 30, 1988, p. 23.

"Library Groups Protest FBI's Efforts to Recruit Staff Members to Spy on Agents of Soviet Union," *Chronicle of Higher Education,* June 1, 1988.

"ALA Executive Board Tackles FBI and Other Issues," *Library Journal,* June 1, 1988, p. 31.

(continued on page 160)

ALA conference

IFC report to ALA council

The following is the text of the Intellectual Freedom Committee's report to the American Library Association Council, presented on behalf of IFC Chair C. James Schmidt by IFC member Barbara Cooper July 13 at the 1988 ALA Annual Conference in New Orleans. Resolutions proposed by the Intellectual Freedom Committee and passed by the Council follow the report.

Two pieces of legislation have recently been introduced in Congress, both of which would, if passed, have dramatic effects on libraries. I will report, first, on the bill that would have a very positive impact—the Video and Library Privacy Protection Act. The Video and Library Privacy Protection Act (S.2361) would create a federal information privacy right in library records and in video rental and sale records. Library records would include circulation records as well as database search records, reference interview records, interlibrary loan records—in short, any library record that contains personally identifiable information revealing an individual's use of library materials or services. This privacy protection would extend to every library that receives Federal funds. We are pleased with this development and testimony will be presented on ALA's behalf at hearings.

Another piece of legislation, if passed as it is now written, will have a substantial negative impact on library collections—the Child Protection and Obscenity Enforcement Act of 1988 (S. 2033 & H.R. 3889). On February 4, 1988, sixteen Senators joined Sen. Strom Thurmond in introducing a complex bill (S. 2033) covering both child pornography and interstate "trafficking" in materials found, *after the fact*, to be obscene. On April 28, Rep. William J. Hughes convened hearings on an identical House measure (H.R. 3889). Two subsequent hearings have been held on the House bill and more are anticipated this summer. ALA will testify at one of these.

The proposed law would make it a crime "knowingly to receive or possess with intent to distribute any obscene book, magazine, picture, paper or film, videotape . . . or any other matter which has been shipped or transported in interstate or foreign commerce." Some sections of the bill would have both a direct and an indirect "chilling" impact on materials that are integral to every library collection in the country and would affect such library activities as participation in cable and distribution of video materials. We will keep you apprised of developments with the legislation.

(continued on page 183)

ALA conference

FTRF report to ALA council

The following is the text of the report of the Freedom to Read Foundation to the Americian Library Association Council, presented by FTRF President Judith Sessions, July 10, at the 1988 ALA Annual Conference in New Orleans.

The most public and visible challenge to the freedom to read—and to have what one reads or views kept private—certainly has been the visits to libraries by agents of the Federal Bureau of Investigation under what is known as the FBI Library Awareness Program. This challenge is one that is of great concern to both the American Library Association and to the Freedom to Read Foundation.

As you well know, ALA filed two Freedom of Information Act requests and has received documents in response to one of these. At its Annual Meeting, the Board of Trustees voted to file a Freedom of Information Act suit regarding the FBI Library Awareness Program and related activities. The American Library Association will be lead plaintiff and, in conjunction with the Freedom to Read Foundation, will file suit both to appeal the vast amounts of deleted information in the documents ALA *has* received and to force the Bureau to respond to ALA's second request.

The Foundation's Board carefully examined the possibility of taking a more activist action in regard to the FBI, that of filing a suit for an injunction to force the Bureau to cease and desist. We would love to be able to do this and to invite ALA to join with us in such a suit. The reality, however, is that *at this point* we do not have enough information to file such a suit.

The reason that the information we do have is insufficient has to do with how the courts treat "suppression of speech" that results from governmental activities. Where the governmental purpose is to suppress speech—as in the *Playboy* in braille case—the courts will almost always find that the government's activities violate the First Amendment.

But if the governmental purpose is to achieve some other purpose—for example, the clearly legitimate purpose of enforcing the criminal laws preventing espionage—any *incidental* suppression of speech that results from governmental efforts to achieve that other purpose will *not* violate the First Amendment, unless these governmental efforts are "wholly gratuitous" and are not reasonably related to achieving that other purpose.

The FBI has denied any purpose to suppress speech, and we do not presently have any really compelling evidence to the contrary.

Thus, in order to win a suit against the FBI, we would

(continued on page 175)

censorship in Wisconsin public schools, 1980-1987

by Lee Burress, Professor of English, University of Wisconsin-Stevens Point; Chair, Committee Against Censorship, Wisconsin Council of Teachers of English

In 1980, Susan Brant put together a report of censorship cases in Wisconsin between 1974 and 1980 under the title, *Wisconsin Dateline*. It was made available in mimeographed form, and a map showing the distribution of censorship cases across Wisconsin. In 1987, with funds from the Wisconsin Council of Teachers of English, a questionnaire was sent to members of three groups: The Wisconsin Council of Teachers of English, the Wisconsin Educational Media Association, and the Wisconsin Library Association, those groups that are members of the Wisconsin Intellectual Freedom Coalition. Approximately 200 responses were received from the questionnaire. The questionnaire asked if there had been challenges to school learning material in the previous five years. It seemed doubtful if useful information could be obtained for a period greater than the previous five years, though, in fact, several persons did make reports for the years between 1980 and 1987.

The purpose of the questionnaire was to obtain as much information as possible about censorship pressures in the period following 1980. In addition to the questionnaire, an extensive file of newspaper clippings and communications from individual teachers and librarians was used. Information from the People for the American Way, and the National Coalition Against Censorship was also used.

There is a considerable degree of intimidation concerning censorship pressures on the part of some teachers, librarians, and administrators. They still have the notion that censorship episodes should be kept quiet.

Some teachers are fearful of punishment by their administration if they resist censorship pressure, or if they report a censorship event. That number is probably small, but it was indicated by the extreme care some respondents to the questionnaire took to eliminate any evidence of the source of the report. Probably also some unknown number of respondents who knew of censorship pressures did not reply to the questionnaire. Nevertheless, the approximately 200 reports did include much interesting information.

In 1963, the Wisconsin Council of Teachers of English sponsored a survey of censorship pressures, which was

(continued on page 158)

ALA conference

Margaret Truman looks back

The following is the text of remarks delivered by author Margaret Truman at a program sponsored by the ALA Intellectual Freedom Committee and the AAP Freedom to Read Committee at the 1988 ALA Annual Conference in New Orleans.

When I look back on my life, I am amazed: I have had so many careers: Concert singer. Radio and television performer and interviewer. Actress. And now my latest occupation, the one that brings me here. As of this date, I have 13 book titles to my credit, and there will be another before the year is out. The first was a book of memoirs, called *Souvenir*, published 32 years ago. The latest is another Washington murder mystery—*Murder At The Kennedy Center*—soon to be delivered to the bookstores by Random House, my nice publisher.

What I bring to these books, most of all, is the fact that I was there. As the daughter of a Senator, Vice President and President of the United States, and, later, as the wife of the *New York Times* bureau chief, I spent many of the most dramatic years of the 20th Century in Washington, and I knew the cast of characters—the heroes and the villains. I never set out to be a writer. It just happened, with the help of some wonderful and talented friends and associates. I originally ran away from home to be a singer. That expression "ran away from home" is a manner of speaking. I actually ran away from the White House.

My father longed for but never had a college education (like Abraham Lincoln, he educated himself), and he insisted that I had to have a college degree. So, I enrolled at George Washington, a good university I could get to in a White House limousine. Once I had that G.W. diploma in my little hot hand—presented to me by the proud father himself—I lit out for the Big City, and a career of my own choosing. I said they'd have to pay me to go back to Washington. And they did. Joe Allbritton put me on the board of directors of the Riggs Bank, the biggest in Washington, and I get paid for going to board meetings.

I do not get paid for attending sessions of the Episcopal Church Pension Fund in New York, but I enjoy the company of my distinguished fellow-trustees, as I enjoy Joe Allbritton and his impressive colleagues. And I suppose I am the only woman in New York who habitually has dinner from time to time with a dozen or so bishops.

To get to the point, I've had a fascinating life, and traces of it—sad, serious, and funny, tragic and triumphant—can be found on tens of thousands of bookshelves and bedside

(continued on page 179)

Florida school boards split on Lake City appeal

Decrying censorship, the Dade County School Board voted July 13 to side with North Florida parents protesting the Columbia County School Board's banning of two literary classics because of their "vulgar language." The Lake City board's 1986 decision banning a text with excerpts from *Lysistrata*, by Aristophanes, and *The Miller's Tale*, by Geoffrey Chaucer, was upheld in U.S. District Court in January. The case, *Vergil* v. *School Board of Columbia County*, was appealed to the U.S. Court of Appeals for the Fourth Circuit in Atlanta (see *Newsletter*, September 1986, p. 153; November 1986, p. 207; November 1987, p. 223; May 1988, p. 81, 98).

"The plaintiffs (who are supported by, among others, the Freedom to Read Foundation [see page 176] argue that the school board should not have the right to snatch a piece of literature out of the curriculum," Dade board attorney Frank Howard told board members. "The school board argues local control, that the works are vulgar, bawdy and unsuitable for students."

The Florida School Boards Association and the National School Boards Association—of which both the Dade and Columbia boards are members—are supporting local control. But Dade board member Janet McAliley said she was horrified when she read their briefs. She was particularly incensed by one sentence: "Unlike colleges and universities, the public school is not a 'marketplace of ideas'."

"The courts have determined that constitutional principles override local control," McAliley said, agreeing with the plaintiffs that the First Amendment prohibits boards from suppressing ideas. "School boards frequently argue for local control," she added. "Had they prevailed, we would not have desegregation, gender equity, and programs for the handicapped."

Prompted by McAliley, the Dade board voted 6-0 with one abstention to join the brief on behalf of the parents and to write letters of protest to the two school boards associations. The Dade board thus joins Florida Commissioner of Education Betty Castor and organizations such as the B'nai B'rith, the Council of Chief State School Officers, People for the American Way, the American Association of University Professors, and the National Council of Teachers of English in protesting the Lake City censorship. Reported in: *Miami Herald*, July 14; *Miami News*, July 14.□

Church Hill footnote

The curtain has finally fallen on the Church Hill, Tennessee, textbook drama. On July 12, a three-judge panel of the U.S. Court of Appeals for the Sixth Circuit overturned a jury's decision to make the Hawkins County Board of Education pay $70,000 in damages to textbook protester Vicki Frost. Frost had sued the board after she was arrested, allegedly for trying to take her daughter out of school when reading textbooks, to which she objected, were being used.

The 1983 incident came before a separate suit was filed against the textbooks by Frost and seven other fundamentalist families. They claimed the reading textbooks violated their religious beliefs and U.S. District Court Judge Thomas G. Hull agreed, allowing their children to "opt out" of reading classes. He also awarded $50,000 in that case, but his decision was overturned by the appellate court and the U.S. Supreme Court declined to grant further appeal.

The July ruling came on a suit Frost filed over her November 23, 1983, arrest at Church Hill Elementary School after she tried to remove her daughter from a second-grade reading class. The suit contended officials had no grounds for the arrest. A U.S. District Court jury ruled in March, 1986, that Frost deserved damages from the school board but not from public officials.

The appeals court, however, said Frost's rights were not violated when she was arrested. The justices also rejected her claim that the school board prevented her from taking custody of her daughter.

Joe Ashbrook, former Church Hill police chief and an original defendant in the suit, who had remained silent pending resolution of the case, told his side of the story after the appellate decision was announced. "I don't think she deserved anything," he said.

Ashbrook recalled that Frost was not arrested because she was trying to take her daughter out of school. "She was arrested for being disorderly in the principal's office and for refusing to leave," he said, adding that, in his opinion, Frost "wanted to be arrested."

He said Frost was asked several times to get her daughter and leave, but she refused. He said when he told her she was under arrest, "she wanted to take the child with her to jail and I wouldn't let her." He also noted that Frost had called his office the day before the incident and left a message with the officer on duty requesting that Ashbrook be at the school when she arrived.

"The ruling means the school board can decide what is lawful and unlawful business, and that puts any parent at risk to be arrested," Frost said of the decision. "The ruling also upholds the arrest of a parent who was not committing any unlawful act according to state code."

Greenville attorney Nat Coleman, who represented the school board, said the decision "marks the end of the line" of the nationally publicized textbook controversy. Reported in: *Knoxville News-Sentinel*, July 14.□

censorship dateline

libraries

Golden, Colorado

A challenge to a book about a barren pig has given birth to an idea that parents say could have national implications and school officials call censorship. A group of mothers from Jefferson, Adams and Denver counties, frustrated in their efforts to remove objectionable books, said they would turn to the state Legislature in hopes of obtaining a law requiring schools to rate library books in much the same manner as the motion picture industry rates movies.

"We are concerned that some materials brought into schools are inappropriate, against our morals and the way children are brought up," said Bonnie Ferguson, the Lakewood mother who founded Parents Advocating Rights for Educational Necessities and Teaching Students (PARENTS). "We don't want to censor a thing, but if these books have to be there, they should be rated," she said.

Ferguson previously lost an appeal to the Jefferson County Board of Education to have *A Day No Pigs Would Die*, by Robert Newton Peck, removed from elementary school libraries. She objected mainly to violence in the book, especially a pig-mating scene she said read more like a description of a rape (see *Newsletter*, July 1988, p. 139).

Jefferson County Superintendent of Schools John Peper called the rating proposal a form of censorship. "We would wind up creating a sense of fear of books," he predicted, adding that even if such a system were adopted "we don't have the staff to do it. We want to spend our money on the books themselves, not on rating them," he said. Board member Kirk Brady promised Ferguson, however, that the district would at least consider the proposal. But Ferguson said the system should cover more than one district. "I'd even like to see it go nationwide," she said. Reported in: *Rocky Mountain News*, May 16; *Westminster Sentinel*, May 19; *Wheatridge Sentinel*, May 25.

North Kansas City, Missouri

A decision to restrict access to a book of poetry in North Kansas City School District elementary libraries sparked cries of censorship from a school librarian—and sharp denials from administrators. A book of poems called *I'm Mad At You*, compiled by William Cole, was placed on "restricted access" on the recommendation of a three-member committee supported by Supreintendent Gene Denisar, who made the final decision. Linden West Elementary School librarian Jean Kern charged that the decision amounted to an incident of censorship, setting a dangerous precedent. She appealed to the school board.

I'm Mad At You is a book designed to help children deal with anger. The parent who challenged it found parts objectionable because some poems contained "pretty violent kinds of things" that were allegedly anti-family. Assistant Superintendent Tom Cummings said that some children might not understand the book's use of humor and sarcasm. District officials also expressed concern that the book did not support the elementary schools' counseling program.

Kern countered, however, that while some children might not understand the book, others would—and that one parent's objection should not make the book virtually unavailable to all children.

"Each child has the right to freedom of inquiry and access to information," Kern told the school board. "Responsibility for abridgment of that right is solely between an individual child and the parents of that child. It is not ours."

Kern said the book was available only to third through fifth graders. She said she had never heard a complaint from a student about it.

Assistant Superintendent Cummings said the dispute was not about censorship. "It wasn't necessarily that we were supporting the idea that the book was vile or bad," he said. "It was just felt like in the interest of not confusing some kids." Cummings said that educators have "a right and a responsibility" to ensure that books in school libraries are age and ability appropriate. He said it is not an educator's responsibility to provide "access to anything."

But Kern argued that once a librarian has, on the basis of professional judgment, made a book available to a child, the decision to read the book is the child's. "I realized I never tell a child what he can have," she said. "I never take a book and put it in their hand. They make their choice, even from the beginning."

Kern also questioned the way the challenge was handled. According to policy, a three-member review committee—the librarian, building principal, and director of elementary education—can decide whether a book should be removed

once it is challenged. But Kern said she had little input before receiving a memo from elementary education director Al Spencer telling her to remove the book. Eventually, the district decided to place the book on a "restricted access" shelf.

According to Cummings, although there was not a "sit-down meeting" between the principal, Spencer, and Kern, the two administrators had already agreed that the book should be pulled—a 2-1 vote of the "committee."

Kern was supported by the North Kansas City chapter of the National Education Association, fellow district librarians, the ACLU, the Greater Kansas City Association of School Librarians, the Missouri Association of School Librarians, and the American Library Association.

"This [protesting censorship] is a librarian's job," Kern said. "I feel strongly about that, and I take my job seriously." Reported in: *Kansas City Press-Dispatch*, May 18, June 22.

Goochland, Virginia

Salem's Lot, a 1975 horror novel by Stephen King, was banned from the Goochland High School library May 10 because of sexually explicit language. Reversing the verdict of two review committees, the Goochland School Board voted 3-2 to remove the book after a complaint by a parent, who had sent copies of what she said were objectionable pages to board members.

Board member Louis Melton, who made the motion to remove the King novel, called the segments "just too sexually explicit to keep on the shelf."

School Board policy stipulated that book challenges must go through a review process that begins at the school level. In the case of *Salem's Lot*, a five-member committee was appointed by Goochland High Principal Davis Francis. The committee recommended that the book remain in circulation. The offended parent appealed to School Superintendent Charles Nunley, who assembled a three-member district committee to again review the book. That committee also recommended that the book remain in the school.

After the board decision, Goochland High senior Dara Anderson decided to read the book "to see what it was all about. The only thing they did by taking the book out of the library was to make people want to read it." She liked the book, and thought the removal unfair. Soon, she had collected 232 signatures of students and teachers on a petition calling for a reversal of the board ruling. On June 3, she sent the petition and a letter to each board member and the superintendent. Only the superintendent responded.

"I'm just going to try to talk to the school board," Anderson said. "I had planned to have a sit-in, but now that school's out, I don't think that's a good idea." She said students would be unable to reverse the ban without parental support because "students don't have many rights."

"It took one parent to take it out but I don't know how many it will take to put it back in," she said. "If the parents would call up or write letters to the school board it would make a lot of difference. They took our rights—the First Amendment. It's not right. I want the book back in the library."

Anderson will attend Virginia Commonwealth University. She hopes "to be a school teacher at a school system that doesn't ban books." Reported in: *Richmond Times-Dispatch*, May 20; *Richmond News-Leader*, May 20, June 15, 29.

schools

Toronto, Canada

A committee of the Toronto Board of Education ruled June 23 that the novel *Lord of the Flies*, by Nobel Prize winner William Golding, is racist and recommended that it be removed from all schools. Parents and members of the black community complained about a reference to "niggers" in the book and said it denigrates blacks.

The committee's recommendation that all board schools be strongly urged not to use the book was not enough for many of the parents. "The evidence is quite clear that this is racist," Tom Bribriesco said. "Get rid of it." However, board member Bernie Farber said forcing a ban would spark attempts by members of other ethnic communities to ban other books. During the debate, no one defended the book. Reported in: *Toronto Globe and Mail*, June 24.

Rockford, Illinois

The Adventures of Huckleberry Finn, the Mark Twain classic about a young white boy and his black friend Jim, will no longer be required reading in Rockford public schools. William Bowen, director of secondary education, said the decision followed more than two years of controversy over the book's treatment of race relations. Bowen said the majority of complaints centered on use of the word "nigger."

"We discussed these complaints with parents and teachers and talked about a lot of things including the language and the time period the book was written," Bowen said, "but it comes down to an emotional issue. I respect that point of view."

Rather than mandatory reading for high school juniors, *Huck* will be an option. Beginning this fall, students will be able to choose to read two titles from a list of three including *Huck*, as well as *My Antonia*, by Willa Cather, and *The Crucible*, by Arthur Miller.

Michael Williams, the only black member of the Rockford Board of Education, agreed with the decision. "I would not have supported banning the book," he said. "I read it in high school and can't remember any problems, but I attended an all-black high school. The problems in Rockford are different. White students are apparently freely using the word 'nigger' in a taunting way because it is so acceptable in the book. It has also been read aloud in class, and that has caused some problems."

David Kurlinkus, an English teacher at Jefferson High School, said, "I've been here twelve years. It's been on the list at least that long, but we decided this would be the best solution. I've spoken with blacks who think it is a great American novel. We are not saying it is not a good book, we are providing an alternative."

But Robert Hamm, director for member services of the National Council of Teachers of English, disagreed, calling the decision "frightening."

"I taught that book for sixteen years," Hamm said, "and every year my appreciation for it grew. I don't like the 'n' word either. I won't even say it, and my students knew that was the one word that would get them kicked out of class. I agree that the complaints need to be aired, and it can be badly taught, but have those who want this book censored read it?" he asked.

"Where do you draw the line?" Hamm continued. "This book has been controversial since it was first published. The ironic thing is that when it first hit the streets about 100 years ago, it was white people who objected. They didn't like the idea that a black man was the hero of the book. They didn't like a white helping a black escape slavery. It's unfortunate this decision has been made. I think the book is one of the best books ever written." Reported in: *Rockford Register Star*, May 28.

Troutdale, Oregon

The Reynolds School Board voted 5-2 June 8 not to include a controversial textbook series in the district's language arts library. The decision came after two weeks of controversy. At the May 25 board meeting, almost 200 parents packed the room and more than 20 objected to the books.

They complained that the series, published by Holt, Rinehart & Winston, advocated Satanism, the occult and witchcraft, and also undermined parental authority. The parents also criticized negative and frightening illustrations, poor grammar, and use of British spelling in the texts, which were published originally in Canada.

Stories and student activities that advocate spell-casting and chanting "are religious practices, and that goes against my belief in separation of church and state," said Linda Davis.

Several parents said they had learned about the books either through a letter passed out at church or through church friends who had called them. "I acknowledge it's not right to push my religious beliefs on the school," said Darlene Maroney, "but the texts should not make fun of Bible stories children are taught in the home."

Board member Barbara Mefford said her concerns, based on her experience as an elementary school teacher, stemmed from the way reading was taught rather than the content of the stories. "I do not feel that our teachers would ever sit around and teach our children witchcraft nor teach them to . . . go home and question their parents' authority," she said.

However, Mefford and two other board members said they were concerned that the series had not been approved by the state. Several board members said they were also wary of adopting the series before they had seen a proposed revised edition.

Board members Kathy Scharpen, Michael Wetherby, and James Whitehead said they were disturbed by the content of some of the stories. Scharpen said she felt many were too negative and "in direct opposition to the drug program we have . . . where we're trying to have children have a positive self-image."

Although Whitehead said he did find a "preoccupation with what I personally believe to be the occult," Weatherby said witchcraft was not the issue. "You can find witches in Macbeth and in many of the stories our children grow up with," he said. However, he said some of the stories were offensive. Reported in: *Portland Oregonian*, May 26, June 9.

Norwin, Pennsylvania

Students who wish to opt out of health class discussions of topics like homosexuality, masturbation, and transsexualism may do so, according to an agreement reached between school officials and parents in June. The proposed agreement, to be submitted to a U.S. District Court for approval, came in settlement of a lawsuit over use of the controversial health textbook *Adolescents Today.*

In the suit, parents charged that the text, a college-level psychology book, cast self-discipline and sexual abstinence until marriage as "improper value choices," taught homosexuality as a natural stage of development, and recommended masturbation as early as four years of age.

"I consider it a victory in that students have now received the right to opt out of the course that uses the textbook *Adolescents Today,*" said Roxanne Sakoian Eichler, attorney for People Concerned for Quality Education. At the outset, the school district maintained it had the right to select and establish the curriculum, but Eichler said they eventually softened their position, allowing for the right of students to opt for an alternative.

"I don't think ours was a hard-nosed position," Eichler said. "We did not ask the book be removed; we just asked for another option." While the course unit is mandatory, Eichler said, the subject content in dispute was not. "It's my understanding many school districts permit the right to opt out of sensitive areas," she said.

Eichler said many of the plaintiffs were evangelical Christians, who espouse traditional moral values and were offended by the text's treatment of such topics as gang masturbation, transsexualism, and values clarification. Four school board members, including board president Richard Hensler, voted against the agreement. Reported in: *Greensburg Tribune Review*, June 29.

Marion County, West Virginia

A delegation of angry Fairmont Senior High School English teachers approached the Marion County Board of Education May 16 to object to the manner in which a student's complaint about *Of Mice and Men*, by John Steinbeck, was handled. The teachers said they were unhappy about "the lack of professionalism shown when due process was not followed for the textbook questioned this past February."

The novel came into question when a student brought the book to the attention of board member James "Rat" Saunders, who is a youth pastor. The student objected to language in the book and Saunders publicly attacked it, declaring that he hoped the board would ban it if the teachers did not (see *Newsletter*, May 1988, p. 90).

Speaking for the teachers, Linda Morgan said, "The first notification [of the book controversy] that we as a department received was through the Board of Education meeting stories" in the newspaper. "Whether misquoted or misinterpreted, the statements have questioned our moral integrity, our professionalism, expertise and sound judgment," she said.

In February, Saunders complained that students had no choice but to read "offensive" works like the Steinbeck novel. "I'm just talking about required reading," he said. The teachers pointed out, however, that an alternate assignment policy had been in place since 1980, permitting students who object to specific works to choose alternate readings. That policy was reaffirmed by the board at its meeting.

Morgan said the department received no public apology for the attack on the book and the teachers using it, which did not lead to a formal challenge to the book's use in classrooms or school libraries. "We hope that this inconsistency in board behavior and expectations will not be repeated. In the future, we hope the board will consult us before accusing us."

Saunders said the teachers did recieve a public apology and indicated that he believed the newspapers exaggerated the incident. "The newspaper does a terrible job of printing the news," he said. Reported in: *Morgantown Dominion-Post*, May 17; *Fairmont Times-West Virginian*, May 18.

student press

Compton, California

The adviser for the recently revived Compton Community College student newspaper, Richard Fruto, stepped down June 13 after accusing the administration of censoring a story on stolen midterm exams. Fruto said Continuing Education Dean Warren Washington told him not to distribute the *Tartar Shield* newspaper story on the grounds that it would "convey a negative image of the college."

Fruto said he initially intended to defy the request, then relented after hearing reports that he would be fired if the April 30 issue was put into campus news racks. Fruto's resignation came the same day that he distributed copies of the offending issue along with a "final" issue of the newspaper that contained a front-page editorial blasting the administration's policy. Reported in: *Long Beach Press-Telegram*, June 14.

film

Hollywood, California

More than two months in advance of its scheduled release date of September 23, Martin Scorsese's film *The Last Temptation of Christ* encountered growing opposition among evangelical and fundamentalist Christians. Several asked the film's distributor, Universal Pictures, "to destroy" all prints of the movie, which is based on a 1955 novel by Greek author Nikos Kazantzakis was excommunicated from the Greek Orthodox Church.

In a July 11 broadcast on more than 1,200 radio stations, James Dobson, president of the California-based "Focus on the Family" ministry, called the film "the most blasphemous evil attack on the church and the cause of Christ in the history of entertainment." The Rev. Donald Wildmon of Tupelo, Mississippi, head of the American Family Association (AFA), printed a sample petition against the movie in his July magazine that readers could present to their local theaters, with signers threatening a boycott if the film is screened.

The Wildmon group said it had already contacted 170,000 pastors concerning the film and planned television and radio specials and mass mailings on the subject. In 1983, when the film project was to be produced by Paramount Pictures, protests by AFA resulted in cancellation of production after $2 million had been invested.

On July 12, a coalition of Southern California religious leaders held a press conference in which they assailed Universal for its "decision to denigrate the contribution of Jesus Christ." They called distribution of the movie an "affront to Christians and to those on an honest, spiritual search for him."

In a formal statement the group charged:

- That the film portrays Jesus Christ as a "mentally deranged and lust-driven man who . . . in a dream sequence comes down off the cross and has a sexual relationship with Mary Magdalene."
- That Universal Pictures violated written agreements to give a select group of Christian leaders a screening "far in advance of the release date," which the religious leaders said would have allowed them to make suggestions to the film makers.
- That Universal's attempt to "profit at the box office at

the expense of millions of American Christians represents a frightening example of a major film studio's setting aside public responsibility for financial gain."

Responding to the group's charges, Universal said it would "stand behind the principle of freedom of expression and hope that the American public will give the film and the film maker a fair chance." Universal also said that "these individuals declined an invitation to see the film and consequently much of what they are saying is inaccurate and exaggerated."

An ad signed by 61 professionals in the film and television industry and published in the *Hollywood Reporter* by a Christian group called Mastermedia, demanded that the movie not be released. "Our Lord was crucified once on a cross. He doesn't deserve to be crucified a second time on celluloid," the ad said.

Bill Bright, founder-president of Campus Crusade for Christ, said that he would raise the estimated $10,000,000 that Universal had spent on the film in exchange for all prints. "I anticipate that the money will be provided by concerned individuals across America who will pool their resources in order to cover your costs," Bright wrote in a letter to MCA-Universal chairman Lew Wasserman.

Wasserman, who is Jewish, was the target of a protest July 16 by nearly 200 members of the Fundamentalist Baptist Tabernacle of Los Angeles, which picketed Universal carrying signs emblazoned with the Star of David and the words "Wasserman Endangers Israel." A small plane chartered by the church circled overhead trailing a banner that read, "Wasserman Fans Jew Hatred With 'Temptation' Movie."

Leading the Baptist protest was Dr. R.L. Hymers, Jr., pastor of the church, who told reporters that Wasserman, through his role in releasing the film, "Puts himself in the position of ridiculing a religion in which he did not grow up. Universal should be greatly concerned that some ignorant Christians will see the film as a Jewish commentary on Jesus," Hymers added. "It isn't good for interfaith relations. Why throw gasoline on the fires of religious intolerance? Particularly in this time, when Israel needs the support of the Christian community."

In a statement released July 15, Director Scorsese defended his work. He said the film was "made with deep religious feeling. I have been working on this motion picture for fifteen years; it is more than just another film project for me. I believe it is a religious film about suffering and the struggle to find God. It was made with conviction and love and so I believe it is an affirmation of faith, not a denial.

"Further, I feel strongly that people everywhere will be able to identify with the human side of Jesus as well as his divine side. I urge everyone to withhold judgment until we are able to screen the completed film." Spurred by the controversy, Universal advanced the film's release date to August 12. Reported in: *Los Angeles Times*, July 13; *Minneapolis Star & Tribune*, July 17; *Variety*, July 20.

video

Hollywood, California

MTV refused in early July to air a new music video by Neil Young that lampoons rock performers who promote soft drinks and beer, prompting Young to call the cable television outlet "spineless."

The video of "This Note's For You," the title song of Young's latest record album, features look-alikes of Michael Jackson, Whitney Houston, Joe Piscopo, and Spuds McKenzie (the dog), and is patterned after a commercial done by Eric Clapton for Michelob beer. The lyrics of the song—which MTV banned in any form—include the verse "Ain't singin' for Miller/don't sing for Bud/I won't sing for politicians/ain't singin' for Spuds/This note's for you." A later verse mentions Pepsi and Coke.

MTV executives said the song violated a policy against playing songs which mention products, even though the song was obviously a put-down of such material. MTV executive vice president Lee Masters also said MTV lawyers were concerned about trademark infringement.

"They've showed they have no backbone," said Laurel Sylvanus, national manager of video promotion for Warner Brothers. "They're afraid their advertisers are going to be upset by it. There was a time when you could count on MTV to take chances, but I guess that's over." Reported in: *Variety*, July 6.

New York, N.Y.

After resisting for months, producer Ralph Bakshi agreed July 25 to cut three-and-a-half seconds from a Mighty Mouse episode to end talk that the rodent superhero used cocaine.

It seems a family in Kentucky saw Mighty Mouse sniffing flower petals in a program aired on CBS Television last December and called the American Family Association in Tupelo, Mississippi, which campaigned to have the scene removed. "In this day and age, we can't have the implication that it's OK to use drugs," said Allen Wildmon, associate director of the association. "They call it crushed petals, but it looked like powdery white substance to me."

The group, which says it "promotes family values," was not satisfied with deletion of the offensive sniffing. It demanded the removal of Bakshi, who in the 1970s created the X-rated "Fritz the Cat" animated movies. He also produced animated features such as *Lord of the Rings* and *Wizards*, and he won an award from Action for Children's Television for his Mighty Mouse series.

"It's because of Fritz that they're going after Mighty Mouse," Bakshi said. "Mighty Mouse was happy after smelling the flowers because it helped him remember the little girl who sold it to him fondly. But even if you're right, their accusations become part of the air we breathe. And that's why I cut the scene. I can't have children wondering if Mighty Mouse is using cocaine."

Bakshi said that in the first adventure of the new season, a little girl will try to sell Mighty Mouse flowers, and he will turn and say, "No!" Reported in: *New York Times*, July 26.

periodicals

Taylorsville, North Carolina

The Alexander County Citizens for Decency (ACCD) in March asked grocery stores to remove five magazines which the group called offensive—*Vogue*, *Mademoiselle*, *Cosmopolitan*, *Glamour*, and *Life*. ACCD President Allen Fox said the magazines were "offensive in content, anti-family, and objectionable to the general moral public."

He charged that the magazines show total nudity and portray bestiality. "*Cosmopolitan* is considered borderline pornography," he said. "It encourages women to leave their families and have extra-marital affairs."

Fox also announced a boycott of Lowe's Foods in Taylorsville after the store refused to comply with the request. "We have forty churches participating in the boycott," Fox stated. Reported in: *Taylorsville Times*, March 16.

Dayton, Ohio

The publisher of the *Dayton Daily News* was dismissed June 8 for refusing to publish a classified advertisement from a homosexual organization, according to David E. Easterly, president of Cox Newspapers, the paper's parent company. The publisher, Dennis Shere, had declined to print the ad from the Dayton Gay and Lesbian Center on the ground that to do so would violate his personal convictions.

The three-line advertisement consisted of the title of a lecture series, "Keeping Healthy in Difficult Times," the organization's name, and a telephone number.

In an article announcing the dismissal, Shere was quoted as saying the advertisement's content was "innocuous" but that for the newspaper to provide a promotional forum for the group would "appear to be promoting homosexual behavior."

Shere described himself as "a journalist with a Christian perspective." He said his policy had not been intended to bar homosexual groups or anyone else from the paper's news columns. He said the lecture series had been covered as news and that the paper had extensively covered the AIDS crisis and demonstrations by gays protesting the paper's advertising policies.

Shere said he had barred advertising by homosexual groups because he had a responsibility "to provide moral leadership and support for the Judeo-Christian values which form the foundation of the society and the family."

Easterly said he felt just as strongly that the paper should not "red-circle any group of individuals" and deny them the opportunity to advertise. "Those in the newspaper business have a powerful obligation to protect and defend the freedom of expression for all people, and not just ourselves, including people whose life styles we don't condone and whose philosophy we don't share," he said. Reported in: *New York Times*, June 10.

foreign

Canberra, Australia

Former British counterespionage agent Peter Wright won a three-year legal battle June 2 when Australia's highest court rejected efforts by the British government to ban publication of his international best seller *Spycatcher*. The unanimous decision by the seven-member High Court also denied British government claims on the profits from *Spycatcher*. About 240,000 copies of the book were sold in Australia after lower courts ruled in Wright's favor.

The British government has tried to stop publication of the book in Britain, Australia, and several other Commonwealth countries on the ground that Wright was still subject to a law that bans intelligence employees from writing about their work. But these efforts have only helped make the book an international best seller, with more than 1.4 million copies sold in forty countries, despite the government's ban in Britain and Hong Kong.

The Australian judges accepted Britain's contention that Wright was bound by the lifetime oath of silence about his career in counterespionage, but they said Australian courts had no jurisdiction to enforce a British security regulation.

The British government began its effort to suppress Wright's memoirs in Australia in September 1985, when an Australian court granted a temporary injunction against the book. The subsequent hearings prompted newspapers in Britain to publish excerpts, and the government immediately clamped down, creating a confrontation over press freedom (see *Newsletter*, March 1987, p. 71; November 1987, p. 229; January 1988, p. 6; March 1988, p. 48; May 1988, p. 93). Reported in: *Philadelphia Inquirer*, June 3.

London, England

Taking the unusual step of rejecting a policy position of the government, Britain's House of Lords has insisted that an omnibus education reform bill before Parliament must be amended to protect academic freedom. The measure, which had already been adopted by the more powerful House of Commons, would abolish tenure for newly appointed university faculty members.

But the House of Lords, responding to the most intense lobbying campaign ever conducted by British universities, maintained that if the government of Prime Minister Margaret Thatcher was going to do away with tenure, it would also

have to guarantee that faculty members could not lose their jobs because of what they said or wrote.

The vote in support of including a provision on academic freedom was 152-126, with many allies of the ruling Conservative Party either joining the majority or abstaining. Government leaders have maintained that academic freedom is too subtle to be defined in a law.

The fight against the government on the issue in the House of Lords was led by Lord Jenkins of Hillhead, a former Labor-government Chancellor of the Exchequer, who now holds the chiefly honorary position of chancellor of the University of Oxford. "The abolition of tenure left a hole that had to be plugged," Lord Jenkins declared.

He said academic staff members needed "freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges." Lord Jenkins also warned that the proposal would deter foreign faculty members, particularly Americans, from coming to British universities, and would lead to a "one-way brain drain." Reported in: *Chronicle of Higher Education*, June 1.

London, England

Imports of U.S. films and television shows into Britain are to undergo more stringent scrutiny with the creation of a new Broadcasting Standards Council empowered to guide programmers on permissible sex and violence. The new body will have statutory powers over the portrayal of sex and violence in programs airing on radio, television, and cable as well as cassettes sold or rented through video outlets.

Sir William Rees-Mogg, a former member of the BBC's board of governors and former editor of *The Times of London*, will head the council. Rees-Mogg apparently favors a system whereby imported material—most of it from the U.S.—will be previewed before being aired and marketed in Britain.

"It's certainly true in Britain, probably in Europe generally, that we don't want the sort of violence that we're conscious of in the American big cities to spread here," Rees-Mogg said, "and there is a feeling, which I think is right, that quite a lot of American crime fiction reflects this violence as it naturally would, but that also in reflecting it, tends actually to promote it."

"I think what they [American producers] need to do is to take a good summer holiday in Maine and work out what the people in Maine would be prepared to accept as broadcasting standards and then, well, that would probably work in the United Kingdom, too," he said. "One has to remember, first of all, that the United States has a First Amendment and we don't," Rees-Mogg added. "We have got a difference here of constitutional background and of culture."

Nevertheless, many British broadcasters and political leaders feared that the new council would be, at minimum, "a recipe for confusion," which was how Lord George Thomson, chair of the regulatory Independent Broadcasting Authority, put it. More fearful was Roy Hattersley, deputy leader of the opposition Labor Party, who asserted that the council's plans represent the "thin end of a highly authoritarian wedge."

Hattersley and other officials, citing Prime Minister Thatcher's persistent efforts to suppress television programs on security matters (see *Newsletter*, March 1988, p. 48; July 1988, p. 128), believe that the council may be the first step toward her long-term goal of influencing news and public affairs programs. Reported in: *Variety*, May 18; *New York Times*, June 10.

New York, N.Y.

The Freedom to Write Committee of the American Center of PEN sent a letter to the Israeli government June 24 urging it "to cease its practice of censorship" of Palestinian writers and journalists in the West Bank and Gaza. The letter, drafted after months of discussion, divided some of the leading writers in the U.S.

Addressed to Israeli Prime Minister Yitzhak Shamir, the letter called on Israel "to end its policy of arrests of Palestinian and Israeli journalists, to reopen censored Palestinian newspapers, to reopen the Palestine Press Service, and to cease its practice of censorship of books, school reading materials, newspapers, and literary texts circulated in the West Bank and the Gaza territories." The letter was proposed by poet Allen Ginsberg, vice president of the PEN American Center, who said he had personally observed censorship of poets and newspapers during a visit to Israel this year.

The signers, besides Ginsberg, included Susan Sontag, president of the PEN American Center; Faith Sale and Rose Styron, co-chairs of the Freedom to Write Committee; William Styron; and Grace Paley.

The letter drew an immediate reaction from another group of writers, including Cynthia Ozick, Barbara Probst Solomon, and Jerzy Kosinski. In a separate letter to Shamir, drafted by Charles Rembar, a member of PEN's executive board, they said they were writing not to comment on the substance of the committee letter, but to make clear that the committee spoke only for itself and not the entire PEN membership.

Rembar, an author and lawyer who played a prominent role in some of the landmark anti-censorship cases in U.S. legal history, had argued against sending any letter. "Why train our guns on Israel?" he wrote the Executive Board. "It is the one country in that part of the world that has any free expression at all."

Sale denied, however, that the letter "singled out" Israel. "It was one of sixteen similar actions that we have taken in the last two months in South Korea, Chile, Afghanistan, South Africa, the Soviet Union and elsewhere where freedom has been abridged for writers," she said.

The committee's letter conceded that "censorship and suppression of expression is common to most of the Middle Eastern countries surrounding Israel and we have on several occasions protested the harsh conditions in these countries. But we must now, even in these difficult times, address the Israeli Government for the very reason that Israel has long been committed to principles of democracy."

Ginsberg said the following were among the incidents about which he had gathered information and that were cited in the letter:

- Censorship of poetry by Mahmoud Darwish, a Palestinian poet from Haifa, who serves as an adviser to the Palestine Liberation Organization on cultural matters and is chairman of the Palestine Writers Union.
- Censorship of news reports in the West Bank reporting a public opinion survey concluding that a large majority of Palestinians support Yasir Arafat's leadership.
- Censorship of information about Israeli peace movements.
- The detention of 25 to 35 Palestinian journalists who are being held without trial or without being charged.
- The forced closure of several Palestinian newspapers and magazines, as well as the Gaza press service and the Palestine Press Service. Reported in: *New York Times*, June 25.

Johannesburg, South Africa

The South African government tightened its already sweeping curbs on press freedom June 10, making it an offense to quote restricted anti-apartheid organizations or any of their spokesmen. The censorship decree, which accompanied a renewal of the national state of emergency for a third year, appeared designed to silence the few anti-apartheid leaders whose voices were still heard.

The government also placed severe prohibitions on the country's largest labor federation, the Congress of South African Trade Unions (COSATU), to prevent it from engaging in specific political activities. Under the new regulations, it will be an offense punishable by up to ten years' imprisonment for any person or organization to advocate a boycott of nationwide municipal elections scheduled for October. COSATU and other groups had planned a major campaign in support of a boycott of the elections by blacks.

Under the new press restrictions, the news media is prohibited from quoting any officials of any outlawed organizations, such as the African National Congress (ANC), or representatives of internal anti-apartheid groups restricted by the government. Those include the United Democratic Front (UDF), a coalition of 700 groups, the Detainees Parents' Support Committee and fifteen other opposition organizations listed by authorities in February. Previously it was unlawful to quote ANC leaders who were officially banned, such as ANC President Oliver Tambo, but there was no restriction on quoting those who had not been personally banned.

The new restriction could lead to a prohibition against quoting such UDF patrons and supporters as Anglican Archbishop Desmond Tutu, winner of the 1984 Nobel Peace Prize, and the Rev. Allan Boesak, president of the World Alliance of Reformed Churches. Reported in: *Washington Post*, June 11.

Moscow, U.S.S.R.

A Soviet censor, whose existence was long denied by officials, told Moscow television audiences May 22 that he took an active role in banning books—and did not like his work. "I often felt sad. It wasn't pleasant work," Vladimir Solodin told an interviewer for a program aimed largely at young viewers. "Now we are working to remove all restrictions."

Solodin's appearance followed an interview with a young Moscow book collector who displayed an official list of items for decades unavailable to the public, including articles by V.I. Lenin. Although Soviet citizens knew it existed, officials in previous governments denied any censorship had been practiced "out of fear of independent thinking. I took a very active part in this work," he acknowledged. "We looked for anything that did not correspond to the official view at the time. Often the instructions came from the offices of the [Communist Party] Central Committee."

Solodin said that nearly all the tens of thousands of titles long kept in *spetskhrany*, or special sections of libraries with access only through special permission, would now be available to any reader. "Some five to seven percent—like anti-Semitic or violently nationalistic literature—will continue to be subject to restrictions," he said. "Literature in foreign languages will be almost totally released." Reported in: *Washington Times*, May 23.□

(Wisconsin censorship . . . from page 149)

published under the title *How Censorship Affects the School.* That survey covered a two-year period, so it cannot be used for statistical comparison of the frequency of challenges to school learning materials. From several sources, however, it is clear that across the 25 years since the publication of the report, *How Censorship Affects the School,* there has been a significant increase in censorship pressures. Four national surveys of censorship, sponsored by NCTE or WCTE, carried out between 1966 and 1982 show an increase in censorship pressures.

A comparison of the findings from 1963 with 1987 shows some differences and some similarities. One difference is that organized national groups are much more active than previously.

In 1963 there were only two reports of activities by a national group—the John Birch Society. There were three reports of local groups as the source of pressure. In the 1987 survey, there was a considerable number of reports of na-

tional groups, not surprising, in view of the activities of the Eagle Forum, the Gablers, and other similar organizations. In some ways, it is odd that there are not more reports of these groups. There is some evidence that local activists conceal their membership in the various national groups. When 10 local citizens came to the Montello School library in 1981 and checked out 31 books, they brought with them a list; they would not report the source of the list. Undoubtedly, it was provided by a national organization.

A new organization is the National Organization of Christian Educators, with headquarters in Costa Mesa, California. It calls its local chapters Citizens For Excellence in Education. This group was responsible for challenging two books by S.E. Hinton, *The Outsiders* and *That Was Then, This Is Now,* in January, 1987. The books were said to be overly negative and hopeless in tone. The school board retained the books; an alternate assignment was made.

This group has made some effort to prevent publicity for its activities. In one small school district they ran someone for the school board who did not report his affiliation. It was discovered, however, and that candidate was not elected. The group has held meetings in several Wisconsin communities—Wisconsin Rapids, River Falls—and tried to prevent press coverage, though not successfully.

Changes in the media under attack are noteworthy. Computer programs dealing with Planned Parenthood, and with drug and alcohol awareness were under attack at Clintonville. Films and plays were challenged in several communities. Neither of these media were apparently of concern in the early 1960's.

There are interesting differences in the nature of the books that are currently being challenged. In 1963 the challenges tended to be directed at what might be called classics. Such books as *Brave New World, Crime and Punishment, Farewell to Arms, Les Miserables, Of Human Bondage, Sister Carrie,* and other similar titles appeared quite frequently as the subject of attack in Wiscoinsn. These challenged books were in use in the high schools, not in the lower grades.

The list of challenged books in 1987 is somewhat different. For one thing, many of the titles on the current list are in use in the elementary school grades, including titles by Judy Blume—*Blubber, Deenie,* and others; titles by Norma Klein—*Blue Trees, Red Sky;* and titles by other authors, such as *The Golden Book of the Mysterious, In The Night Kitchen,* by Maurice Sendak, *Just Go To Bed,* by Martin Mayer, and many others, as can be noted in the appendix.

Books primarily for use in the junior high, or middle school, are also more frequently under attack than was the case in 1963. In fact, no respondent in 1963 reported specific objections based on inappropriateness at the elementary or junior high grade level, although some critics did state that *Brave New World* was not suitable for high school students. Similar objections appeared to *Catcher in the Rye,* and James Michener's *Hawaii.*

Objections to material used in the junior high or elementary grades are very frequent today. Such titles as *Flowers for Algernon, From One Cell,* a film about cancer, *Happy Endings Are All Alike, A Hero Ain't Nothin' but a Sandwich, How You Grow and Change,* and several other titles were thought by some critics to be unsuitable for junior high use.

Challenges at the high school level seem less likely to be aimed at what might loosely be called the classics. *Catcher in the Rye* was still being challenged, but the number of challenges to that book has greatly declined, perhaps because the book begins to appear dated to some readers; it may no longer be as often read as was true in the past.

Only one attack on *Brave New World* was reported by this group of respondents. There was one attack on *The Adventures of Huckleberry Finn,* on the strange grounds that the book makes fun of religion. Understandably, the school took no action concerning that challenge.

Only one challenge was reported to *Slaughterhouse Five.* That did result in the book being put on a restricted shelf. It is likely that many of the currently challenged titles would not be known to much of the general public.

One can only speculate why the direction of challenges has changed from the classics to books that are more specialized, or more current, or perhaps in some cases, more ephemeral.

One clear reason for the shift in emphasis is the current concern with the occult, with any books that seem to deal with ghosts, demons, witches, monsters, or other aspects of the supernatural. The strange fascination of the would-be censors with this subject is a sad testimony to the degree to which superstition is still present in the minds of many so-called modern human beings. Most of these books poke fun at the supernatural, or play on the imaginary fears of the reader, to obtain an emotional reaction. That these subjects are quite popular is very evident. These books play the same role as do the haunted houses in the fairs and carnivals available every summer in most parts of the country. Young people find these haunted houses an occasion for ephemeral thrills, but it is doubtful that many young people take such experiences very seriously. It is regrettable that some adults do.

Three reasons may explain the popularity across the generations of material that deals with the occult. Hundreds, perhaps thousands, of titles are in the libraries that deal with the occult. From *Macbeth* to *Huckleberry Finn* to *The Exodus,* this subject appears in many works. If the books that contained such references were removed from the libraries, there would be many vacant shelves.

These books may be popular because they offer a thrill, without putting the reader in real danger. Paradoxically, fear may be enjoyable under controlled circumstances, such as reading a book or going through a haunted house at a carnival. Many references to the occult are humorous, and produce laughter from the reader; by the use of exaggeration or satire.

A third reason for the popularity of the occult is its usefulness in symbolizing the irrational or unknowable aspects of reality. As such, these references may be a kind of Rorschach test, as the differing responses to the three witches in *Macbeth* illustrates.

There are several ways in which the censorship situation remains the same. Censorship is capricious and unpredictable. There may be complaints about one or two books that deal with the occult, while dozens more remain in the library on that subject.

Censorship calls attention to the challenged item. When *The Magician* was challenged at Montello, Wisconsin, all copies of that book were quickly checked out of the libraries or sold out from the bookstores in and around Madison.

It is still true that on occasion an administrator removes a book or magazine from the school library, without following the review procedures, as happened in February, 1988, when the principal at Colby High School removed the annual swimsuit issue of *Sports Illustrated*. Somewhat surprisingly, the issue was returned after students and a parent complained. The principal argued that the magazine degrades women; he returned it to a restricted shelf. The parent, however, who has a 15 year old daughter in the school and who is a member of the Clark County Board, argued, "That's a form of intimidation to keep them from seeing a current magazine. If a student must seek approval from an authority figure to get at a magazine, that amounts to a form of intimidation." Would that there were more such parents in Wisconsin school districts.

One hundred-ninety-five students, about one-half of the 400 students in the Colby High School, signed petitions asking for the return of the magazine; an important lesson on the First Amendment for that week at Colby.

It is also evident, as was previously the case, that books of considerable literary value, or that deal with currently relevant or popular topics tend to be singled out for attack, while hundreds of innocuous or poorly written books remain undisturbed. The phenomenon of a book being attacked in one school, and then being attacked elsewhere is still prevalent, as attacks on *Vision Quest* illustrate.

However, as most previous reports of censorship pressures indicate, it is references to sex, to nudity, to sex education or to homosexuality that are the most frequent basis for challenges to books in school libraries. The continuing obsession with the belief that books are erotic objects is no doubt a part of our Puritan heritage, which objected to Shakespeare's plays, and which in New England until the beginning of this century still thought that novel reading was sinful. Books are an easy scapegoat for a troubled society in which too many young unmarried women become pregnant with no good means of supporting themselves or their children. But clearly Henry Ford, along with the increasing hedonism of this society, has had more to do with changed sexual practices than have books.

Two hopeful features of the current report are the likelihood that schools now deal more constructively with censorship pressures than previously and the further likelihood that there is less censorship by members of the school staff than was true in the past. There has been a relative lack of success as the result of challenges. This is in contrast with the 1982 survey, which suggested that for the most frequently challenged books, about 54 percent of the time some form of censorship occurred—the book was removed from classroom use, from the library, or put on a closed or restricted shelf. The current body of information suggests that almost 60 percent of the time no censorship occurred. Members of the school staff, teachers and librarians are less likely to challenge school learning materials, than was reported, for example, in the 1977 national survey, published in *Dealing With Censorship*.

Many more schools now have review procedures. It is likely that the pressures of censorship are more likely to be resolved by conversation between the parent and the teacher or the librarian than was the case. These are hopeful features of the present situation. It is still true that between 25 and 30 percent of Wisconsin adults are not high school graduates. A considerable source of censorship pressure (though no means all) is from people who read relatively little or not at all. As we move in Wisconsin into a situation where almost every adult is a high school graduate, and many are college graduates, it is likely that the censorship pressures will be reduced. The continued growth of public library use is also a hopeful sign. Public library use grows at the rate of about 1.8 times the population growth. Gallup and other polls report that the number of Americans who read a book last week or last month increases every decade. The growth in the number of readers cannot be anything other than hopeful for intellectual freedom and the reduction of censorship pressure.☐

(FBI bibliography . . . from page 147)

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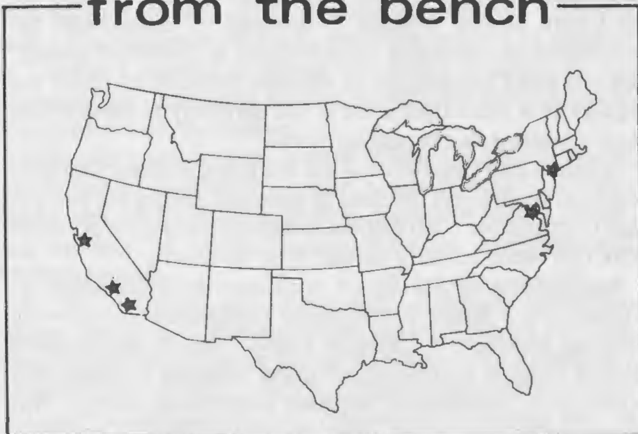
from the bench



U.S. Supreme Court

The Supreme Court June 17 struck down a local ordinance that gave a mayor "unbridled discretion" over which newspaper publishers were allowed to place coin-operated news racks on public property and where to place them. In a 4-3 decision, the court cited the danger that this discretion could be abused to penalize publications that the authorities did not like. It did not rule on some other aspects of the ordinance adopted by Lakewood, Ohio, a Cleveland suburb.

The decision, written by Justice William J. Brennan Jr. and joined by Justices Thurgood Marshall, Harry A. Blackmun, and Antonin Scalia, rejected the view of many local governments that they have virtually unfettered power to regulate news racks on their public property. But it was far from a total victory for the newspaper industry, leaving open the possibility that cities could entirely ban news racks from their property.

The dissent by Justices Byron R. White, John Paul Stevens, and Sandra Day O'Connor, which argued that a total ban would be valid and that the Lakewood regulatory scheme was valid, seemed certain to encourage future litigation. Chief Justice William H. Rehnquist and Justice Anthony M. Kennedy did not participate in the case. If they were to side with the dissenters in a future case raising similar issues, a ban on news racks on public property could be upheld, and the decison in *Lakewood* v. *Plain Dealer Publishing Co.* could be narrowed or overturned.

The case began with a challenge to a Lakewood law that barred private placement of any structure, including news racks, on public property. After a federal district court held this absolute ban on news racks unconstitutional, the city adopted a news rack regulation. Rather than applying for permits under the regulation, the *Cleveland Plain Dealer* challenged its constitutionality.

In his majority opinion, Justice Brennan said that ordinances giving officials broad discretion to regulate news racks posed dangers of "content and viewpoint censorship" and thus could be challenged as unconstitutional, even if a total ban on news racks would be valid.

Newspaper groups were heartened by Brennan's statement that the First Amendment gives them a right to challenge any licensing or regulation of news racks on public property that "gives a government official or agency substantial power to discriminate based on the content or viewpoint of speech by suppressing disfavored speech or speakers."

Brennan said "neutral criteria" must be written into any such regulatory scheme because "it is not difficult to visualize a newspaper that relies to a substantial extent on single issue sales feeling significant pressure to endorse the incumbent mayor in an upcoming election, or to refrain from criticizing him, in order to receive a favorable and speedy disposition on its permit application."

In his dissent, Justice White stressed that "there is no constitutional right to place newsracks on city sidewalks over the objections of the city," and that "the Court's ruling today cannot be read as any indication to the contrary: cities remain free after today's decision to enact such bans." This statement was not explicitly contradicted by the majority opinion.

Lower courts, however, have uniformly struck down laws that barred news racks altogether, as originally was the case in Lakewood, and lawyers for newspapers said they would continue to press for a Supreme Court ruling that such bans are unconstitutional.

Jerry W. Friedheim, president of the American Newspaper Publishers Association, said the decision "underlined what numerous lower courts, legal scholars and newspapers have always believed: the distribution of news deserves the highest First Amendment protection. By reminding public officials that they have strictly limited powers when they regulate newspaper distribution," he said, "the Court gives both newspapers and municipal governments a strong impetus to find the best ways of keeping the public informed."

Benna Ruth Solomon, who represented the National League of Cities and four other state and local government groups in the case, said: "In terms of who won and who lost it has to be viewed as a split decision. The *Plain Dealer* clearly won this case. But in my view the power of a city to impose a prohibition or a content-neutral regulation without a threat of censorship would be upheld." Reported in: *New York Times*, June 18.

In a case pitting free speech against residential privacy, the Supreme Court June 27 upheld a Wisconsin town's ban on picketing "focused on, and taking place in front of, a particular residence." The 6-3 decision was a defeat, but not

a total one, for anti-abortion protesters who challenged an ordinance in the Milwaukee suburb of Brookfield. The ordinance was adopted to stop the protesters' picketing in 1985 at the home of a physician who performed abortions.

Justice Sandra Day O'Connor wrote for the majority that the ordinance was valid, in at least some applications, because of the importance of "protection of residential privacy" against "the devastating effect of targeted picketing on the quiet enjoyment of the home." Stressing that "even a solitary picket can invade residential privacy," O'Connor wrote, "There simply is no right to force speech into the home of an unwilling listener."

But Justice O'Connor also suggested that a broad law banning all picketing in a residential neighborhood might be unconstitutional, and she adopted what she called a narrowing interpretation of the Brookfield ordinance "to avoid constitutional difficulties." However, O'Connor did not clearly specify what kinds of residential picketing a city could ban and what kinds are constitutionally protected.

While the ordinance as written bans any and all "picketing before or about the residence or dwelling of any individual in the town of Brookfield," O'Connor said this language need not be read as prohibiting "all picketing in residential areas. General marching through residential neighborhoods, or even walking a route in front of an entire block of houses, is not prohibited by this ordinance," she said. "Only focused picketing taking place solely in front of a particular residence is prohibited."

Chief Justice William H. Rehnquist and Justices Harry A. Blackmun, Antonin Scalia, and Anthony M. Kennedy joined the majority opinion. Justice Byron R. White filed a separate opinion concurring in the judgment, noting that "in my view, if the ordinance were construed to forbid all picketing in residential neighborhoods" it would be unconstitutional.

Justice William J. Brennan Jr. dissented, joined by Justice Thurgood Marshall. Justice John Paul Stevens dissented separately. They said some types of residential picketing could properly be banned, such as unduly loud chanting, trespassing in the person's yard and blocking doorways, but that the Brookfield ordinance was too broad.

The decision, *Frisby* v. *Schultz*, overturned a preliminary injunction barring enforcement of the ordinance that was issued by a federal district judge in Wisconsin. His decision had been upheld on a tie vote of the U.S. Court of Appeals for the Seventh Circuit in Chicago.

John Powell, national legal director of the ACLU, which filed an *amicus* brief supporting the free speech arguments of the anti-abortion protesters, said, "What you will see happen is a proliferation of ordinances that will be drawn to comply with the Court's ruling." Reported in: *New York Times*, June 28.

On June 29, the Supreme Court ruled 7-2 that a three-tiered definition of "reasonable fees" for professional fundraisers contained in the North Carolina Charitable Solicitations Act unconstitutionally infringed freedom of speech. Writing for the Court, Justice William J. Brennan Jr. argued that the solicitation of charitable contributions is protected speech, and that using percentages of receipts collected to decide the legality of a fundraiser's fee is not narrowly tailored to the state's interest in preventing fraud.

Brennan also ruled invalid the act's requirement that professional fundraisers disclose to potential donors the percentage of charitable contributions collected during the previous year that were actually turned over to charity.

Reaffirming earlier Court decisions in *Schaumburg* v. *Citizens for a Better Environment* (1980) and *Secretary of State of Maryland v. Munson* (1984), which struck down similar statutes regulating contracts between charities and professional fundraisers, Brennan's opinion in *Riley* v. *National Federation of the Blind* dismissed North Carolina's arguments that its multi-tier approach of labeling fundraising operations as taking reasonable, "excessive," and "unreasonable" percentages of funds collected differentiated its system from those in the earlier cases.

Justice Brennan was joined by Justices White, Marshall, Blackmun and Kennedy. Justices Stevens and Scalia joined in parts of Brennan's opinion and filed separate opinions concurring in part and concurring in the judgment. Chief Justice Rehnquist filed a dissenting opinion, in which Justice O'Connor joined. Reported in: *West's Federal Case News*, July 15.

The Adolescent Family Life Act, which authorizes federal grants to public or private organizations for services and research in the area of premarital adolescent sexual relations and pregnancy, does not, on its face, violate the establishment clause of the First Amendment, the Supreme Court ruled 5-4 June 29. The decision in *Bowen* v. *Kendrick* overturned a lower court decision that the Act had the "direct and immediate" effect of advancing religion because it expressly requires grant applicants to describe how they will involve religious organizations in the provision of services and because it makes it possible for religiously affiliated grantees to teach adolescents on issues that can be considered "fundamental elements of religious doctrine."

Applying the *Lemon* test of establishment clause compliance, Chief Justice Rehnquist, writing for the majority, argued that the act "was motivated primarily, if not entirely, by a legitimate secular purpose." Rehnquist also rejected arguments that the act had the primary effect of advancing religion. "This Court has never held that religious institutions are disabled by the First Amendment from participating in publicly sponsored social welfare programs," he wrote. Moreover, "nothing on the face of the [Act] indicates that a significant proportion of the federal funds will be disbursed to 'pervasively sectarian' institutions."

However, Rehnquist did remand the case for further consideration of whether the statute, as applied, violates the establishment clause, in light of evidence of specific incidents of impermissible behavior by grantees. The Court ordered

the District Court to determine "whether particular grants have had the primary effect of advancing religion." Should such a determination be made, the lower court was ordered to "devise a remedy to insure that grants awarded by the Secretary [of Health and Human Services] comply with the constitution and the statute."

Rehnquist was joined by Justices White, O'Connor, Scalia, and Kennedy. Justices O'Connor, Kennedy, and Scalia also filed concurring opinions. Justice Blackmun filed a dissenting opinion, in which Justices Brennan, Marshall, and Stevens joined.

In his lengthy and passionate dissent, Blackmun enumerated several instances from the legal record in which funds appropriated under the act had been used to help pay for programs in which clearly religious instruction ("God is love") was carried out. "Whatever Congress had in mind," Blackmun then noted, "it enacted a statute that facilitated and, indeed, encouraged the use of public funds for such instruction, by giving religious groups a central pedagogical and counseling role without imposing any restraints on the sectarian quality of the participation. . . . Today the majority upholds the facial validity of this statute and remands the case to the District Court for further proceedings concerning appellees' challenge to the manner in which the statute has been applied. Because I am firmly convinced that our cases require invalidating this statutory scheme, I dissent."

Blackmun declined to accept the distinction made by Rehnquist—and by the District Court—between the constitutionality of the Act "on its face" and "as applied." "By characterizing appellees' objections to the real-world operation of the [Act] as an 'as-applied' challenge, the Court risks misdirecting the litigants and the lower courts toward piecemeal litigation continuing indefinitely throughout the life of the" law.

"In my view," Blackmun continued, "a more effective way to review Establishment Clause challenges is to look to the type of relief prayed for by the plaintiffs, and the force of the arguments and supporting evidence they marshal . . . . the Court should not blind itself to the facts revealed by the undisputed record."

Blackmun also dissented vigorously from the Rehnquist majority's application of the three-pronged *Lemon* test, in particular its emphasis on determining whether government aid flows to "pervasively sectarian" institutions. Calling the majority decision "a sharp departure from our precedents," Blackmun acknowledged that "the Constitution does not prohibit the government from supporting secular social-welfare services solely because they are provided by a religiously affiliated organization. But such recognition has been closely tied to the nature of the subsidized social service. . . . There is a very real and important difference between running a soup kitchen or a hospital, and counseling pregnant teenagers on how to make the difficult decisions facing them. The risk of advancing religion at public expense, and of creating an appearance that the government is endorsing the medium and the message, is much greater when the religious organization is directly engaged in pedagogy, with the express intent of shaping belief and changing behavior. . ."

In conclusion, Blackmun wrote: "Because of its expressed solicitude for the participation of religious organizations. . . the statute creates a symbolic and real partnership between the clergy and the fisc in addressing a problem with substantial religious overtones. . . . The statutory language and the extensive record established in the District Court make clear that the problem lies in the statute and its systematically unconstitutional operation, and not merely in isolated instances of misapplication. I therefore would find the statute unconstitutional without remanding to the District Court. I trust, however, that after all its labors thus far, the District Court will not grow weary prematurely and read into the Court's decision a suggestion that the [Act] has been constitutionally implemented by the Government, for the majority deliberately eschews any review of the facts. After such further proceedings as are now to be deemed appropriate, and after the District Court enters findings of fact on the basis of the testimony and documents entered into evidence, it may well decide, as I would today, that the [Act] as a whole indeed has been unconstitutionally applied." Reported in: *West's Federal Case News*, July 15.

government secrecy

Washington, D.C.

A congressional provision that bars the Reagan administration from requiring government workers to sign secrecy pledges was struck down by a federal judge May 27. U.S. District Court Judge Oliver Gasch ruled that the provision contained in a spending resolution passed by Congress last December unconstitutionally intruded on the president's power to protect government secrets.

"With a tug of the purse strings, section 630 [of the spending resolution] establishes a precedent unrestrained by discernible standards and intrudes dramatically upon presidential authority," Gasch said.

The judge made the decision in suits by seven members of Congress and three federal employee organizations charging that the Reagan administration flouted the continuing resolution by requiring employees with access to classified information to sign security forms.

SF189, already signed by more than 1.7 million federal employees, is a pledge never to divulge classified or classifiable information without permission. The other form,

SF4193, requires employees to seek "prepublication review of contemplated disclosures." The forms have been criticized by members of Congress who contend they stem the flow of information.

Gasch found that "the sensitive and complicated role cast for the president as this nation's emissary in foreign relations requires that congressional intrusion upon the president's oversight of national security information be more severely limited than might be required in matters of purely domestic concern." Gasch said he found "particularly offensive" provisions of the continuing resolution that barred the president from preventing federal employees from communicating with Congress or interfering with the legislative government employees.

Another provision Gasch found objectionable barred any secrecy agreement that is at odds with existing law. "Read together, these provisions of section 630 permit the president to ensure the secrecy of national security information only by those means authorized by Congress," Gasch said.

The suits were filed by the American Federation of Government Employees, the American Foreign Service Association, and the National Federation of Federal Employees. They were joined by Sens. David Pryor (Dem.-Arkansas), Charles Grassley (Rep.-Iowa) and William Proxmire (Dem.-Wisconsin). Reps. Barbara Boxer (Dem.-Calif.), Jack Brooks (Dem.-Texas), Patricia Schroeder (Dem.-Colorado) and Gerry Sikorski (Dem.-Minn.) also filed suits.

Gasch dismissed all suits except several claims by AFGE that the secrecy agreements violated employees' First and Fifth Amendment rights. The plaintiffs planned to appeal. Reported in: *Washington Post*, June 2.

press freedom

San Diego, California

An invasion of privacy decision in a lawsuit stemming from a San Diego murder case has news organizations worried that the courts may begin turning juries into panels of "super editors" empowered to judge which details in routine stories of public events should be published.

The lawsuit originated in the brutal rape and murder of a San Diego woman in 1981. The victim's roommate discovered the body on the living room floor and an intruder still in the apartment, standing just feet away. As she stood in horror, he fled. The next day, the woman was identified by name in the San Diego County edition of the *Los Angeles Times* as the person who had found the victim's body. A year later, charging invasion of privacy and negligence in revealing her identity, she filed a $3 million suit against the *Times*.

Court documents in *Jane Doe* v. *Times Mirror, Inc.* charged that publication of the woman's name made her a "walking target" for the killer, who was never apprehended. Her lawyers contended that basic freedoms of the press must be balanced against the individual's right to privacy, and that in this particular case, there was no valid journalistic reason for having identified the woman by name. They also questioned whether newspapers should ever publish the names of murder witnesses.

The *Times* argued that the courts have given newspapers an absolute right to publish accurate information about public events, but failed to get the suit dismissed. In February, California's Fourth District Court of Appeal ruled 2-1 that a jury should decide whether publication of the woman's name was newsworthy and necessary to the story.

"Truthful reports of recent crimes are of public interest and generally protected by the First Amendment," wrote Justice Howard Weiner in the majority opinion. "However, while the general subject matter of a publication may be newsworthy, it does not necessarily follow that all information given in the account is newsworthy. Whether a publication is newsworthy depends upon community mores," he continued. "If there is room for differing views whether a publication would be newsworthy, the question is one to be determined by the jury and not the court."

In its ruling, the court strongly endorsed Doe's argument that society's interests in catching a murderer can outweigh press freedoms. "We conclude that where an individual observes and can identify a suspected murderer who is still at large, the First Amendment provides no absolute protection from liability for printing the witness' name," the court ruled. "The individual's safety and the state's interest in conducting a criminal investigation may take precedence over the public's right to know the name of the individual. Although names may appear in public records and normally be public information, this does not mean the press can print names in connection with sensitive information with impunity."

The decision created new legal precedent in California, giving decision-making power to juries in First Amendment cases previously reserved for judges. It triggered strong criticism from some media law experts, as well as the dissenting judge in the case, Justice Edward T. Butler. He wrote that Doe "walked upon a public stage" when she found the murder victim.

"As a matter of law, the publication of Doe's name was newsworthy," Butler wrote. "Should the majority view prevail, I forecast the weather in newsrooms across the state as continued freezing temperatures, with chilling effects on First Amendment guarantees of freedom of the press. . . . The reporter and the editor are now hostage to the paranoiac, the psychotic, the schizophrenic, whose reactions to publication now determine the scope of First Amendment media immunity."

The *Times* asked the California Supreme Court to review the case, but the appeal was rejected on May 19. On June 3, in response to a *Times* request, U.S. Supreme Court Justice

Sandra Day O'Connor granted a temporary stay barring the San Diego courts from setting a trial date. She lifted that stay ten days later, however, and a trial could be set as early as January.

"Right now, the Fourth District decision is the law, at least the law in California," said Rex S. Heinke, who represents the *Times*. "To me, that's rank censorship. I think this creates a whole new area of potential liability for newspapers by holding that publication of the name of anyone involved in a criminal incident may be the basis for a lawsuit."

Joining the *Times* in seeking a review of the case by the U.S. Supreme Court are news organizations throughout the country including the *New York Times*, the *Washington Post*, CBS Inc., the *Los Angeles Herald Examiner* and the *San Francisco Chronicle*.

"Most troubling is the suggestion that names cannot routinely be published in connection with reports of newsworthy events," wrote George Freeman, attorney for the *New York Times*. "This runs directly counter to the basic tenet that a newspaper's credibility and a reader's belief in the press' veracity is enhanced by the use of real names. . . .

"Equally troubling is the suggestion that a jury should sit as a sort of 'super editor' to decide in retrospect whether or not an event was newsworthy and whether any given item of information presented in a news report about such an event was newsworthy and should have, in fact, been included." Reported in: *Los Angeles Times*, June 14.

telephones

Los Angeles, California

A federal district judge ruled July 18 that the Federal Communications Commission may not ban telephone messages they deem to be indecent, granting a company that offers sexually oriented phone messages a partial legal victory. Judge A. Wallace Tashima said, however, that he had not yet decided whether the FCC could outlaw more explicit messages that might legally be obscene.

Judge Tashima acted after a hearing on a lawsuit against a new federal law banning indecent and obscene telephone messages across state lines and in the District of Columbia. The suit, filed in June by Sable Communications of California, challenges the law as overly broad and vague, harmful to free speech rights, and failing to provide the least restrictive way to keep children from reaching such services. Sable, an affiliate of New York-based Carlin Communications, Inc., is one of the country's largest providers of sexually oriented phone services.

Pending the outcome of the suit and of another in New York, the government had agreed to delay enforcing the law, which was originally scheduled to take effect July 1. The FCC deems material indecent if it depicts or describes sexual or excretory organs or activities in a patently offensive way. Reported in: *New York Times*, July 20.

copyright

New York, N.Y.

The U.S. District Court for the Southern District of New York issued a temporary restraining order May 18 halting distribution of *Bare-Faced Messiah: The True Story of L. Ron Hubbard*, by Russell Miller. The order affected 10,000 copies of the second printing. Previously, on May 3, Judge Pierre N. Leval had denied a request to halt the 12,000-copy first printing.

Attorney Jonathan Lubell, representing New Era Publications, the plaintiffs, said his client charged copyright infringement, citing in support of his claims the decision in *Salinger* v. *Random House*, which severely restricts preemptive use of unpublished copyrighted works. "The Miller book uses important unpublished works without the authorization of the owner of the copyright in a manner similar to the *Salinger* case," said Lubell.

According to Mark Fowler, an attorney for Henry Holt & Co., Miller's publisher, there are several distinctions between the case and *Salinger*. "We are now playing out the legal principles inherent in the *Salinger* decision. The basis for copyright infringement in this case is greatly attenuated if not eliminated by the fact of the book being published in Britain, Canada and Australia, as well as the fact that some of these documents have been quoted previously in other media in the U.S.," he said. Reported in: *Publishers Weekly*, June 3.

libel

San Francisco, California

DuPont officials had a First Amendment right to speak publicly about the danger of building houses near their Antioch, California, chemical plant, even though their statements were blamed for scuttling a large housing development, a state Court of Appeal ruled June 23. The court's unanimous ruling upheld a 1985 Contra Costa Superior Court decision that dismissed a $125 million libel lawsuit filed by the Hofmann Co., which sought to build the houses.

Hofmann, which had won approval to build a 1,077 unit development near the DuPont plant, sued in 1985 after DuPont officials said living in the development could be dangerous. The alleged libel "pertained to the wisdom of the decision to permit construction of a housing development near a toxic chemical plant," wrote Presiding Judge J. Anthony Kline. "Issues of this sort are clearly entitled to the highest level of First Amendment protection." Reported in: *San Francisco Chronicle*, June 24.☐

(FBI background report. . . from page 147)

The FBI, on the other hand, has attempted to draw a narrow definition of the program, calling it a limited effort aimed at educating "knowledgeable individuals in specialized libraries" to the threat of "hostile" intelligence officers working in the U.S. "We're not trying to make librarians spies," says Thomas DuHadway, deputy assistant director of the FBI's Intelligience Division. The purpose, says the Bureau, is to warn librarians that they could be recruitment targets of hostile powers, and that libraries have historically been the favored locations for spies to gather both valuable information and to recruit agents.

Librarians' experiences across the country tend to confirm the "fishing expedition" approach, however, and raise serious questions about just how "limited" the FBI's program is.

For example, the FBI, apparently in the absence of any firm leads, has approached librarians asking about general categories of people. A librarian at Columbia was asked about any "foreigners" using the library. At the University of Maryland, the FBI agent demanded information about the reading habits of individuals with "East European or Russian-sounding names." An FBI agent went to the Brooklyn Public Library and warned the librarian that "persons acting against the security of the United States" might come in, and to report them if they do. Another FBI agent came in, flashed his badge, and told the librarian "to look out for suspicious looking people who wanted to overthrow the government." One FBI spokesperson tried to explain the program this way: "We're not looking at authors. We're looking at people who want to read authors."

The FBI has also made broad requests for information about library records and general areas of reading. The FBI agents at Broward County Library in Florida, for example, wanted access to data bases showing checkout records. FBI agents at the University of Houston sought to monitor books checked out by interlibrary loans. The librarian was told "Certain Russians are acquiring economic materials which could benefit them." One librarian was asked to produce a computer search of areas that East European or Russian-sounding individuals were interested in.

FBI instructions to librarians on how to recognize "suspicious" individuals or activities are so broad that a large number of innocent people could be caught up in the inquiry or surveillance. Abuse of the program is inevitable. One FBI agent said that "an alert librarian would be able to see what kind of person you are. They could check your handwriting, see whether you're a research student or whether you're crazy or whether you're a threat." According to the FBI, suspicious activity would include swapping documents with other library patrons, speaking a foreign language, or requesting texts on "underground tunneling, military installations, or technological breakthroughs."

Another explanation of what to look for goes as follows: "We're asking library personnel to be alert to unusual behavior on the part of individuals who *could* be Soviet nationals and students from countries that *could* be hostile to the United States." It appears that wild guesswork is necessary to accomplish the FBI's goals.

Some of the "tips" on what librarians should look for border on the absurd. According to an FBI report recently released to the Senate Judiciary Committee, entitled *The KGB and the Library Target: 1962—Present*, librarians would have reason to contact the FBI regarding an individual if "he identifies himself as a Soviet National . . . and wishes to have assistance in conducting research in the library" or "is observed departing the library after having placed microfiche or various documents in a briefcase without properly checking them out of the library."

Monitoring suspected foreign agents and apprehending people who break anti-espionage laws is certainly a legitimate and necessary part of the FBI's counterintelligence responsibilities. Preventing illegal activity such as people stealing books or microfiche from the library is clearly part of a librarian's job. The "Library Awareness Program," however, appears to go way beyond such concerns in ways that violate basic principles of trust, confidentiality, and the constitutional protection of privacy.

There are serious questions about the geographic scope of the program. Media reports say the FBI's program reaches across the country, not only into special research libraries but into public libraries and general university libraries as well. The FBI, however, first claimed that the program was limited to specialized libraries in the New York area. Later, during a closed briefing of the National Commission on Libraries and Information Science, an FBI official said that the FBI had approached 25 libraries, but that it was a "very, very limited, small approach" that was responding to a "specialized problem in New York, Washington, D.C. and maybe San Francisco."

The following is a partial list of libraries across the country which have been approached by the FBI since 1985—gathered from various newspaper articles and the American Library Association's Office for Intellectual Freedom. It is not known whether these incidents were part of the "Library Awareness Program" or involved another FBI program:

The Math/Science library at Columbia University, New York City, New York;

The Brooklyn Public Library, New York City, New York;

The Courant Institute of Mathematical Sciences at New York University, New York City, New York;

The chemistry library at the University of Maryland College Park, Maryland;

The research library at the State University of New York at Buffalo, New York;

George Mason University, Virginia;

The Broward County library in Fort Lauderdale, Florida;
The library at University of Houston, Houston, Texas;
The main library at the Pennsylvania State University;
The engineering library at the University of Cincinnati, Cincinnati, Ohio;
The engineering and mathematical sciences library the University of California, Los Angeles;
The Engineering-Transportation Library at the University of Michigan;
The Memorial Library at the University of Wisconsin-Madison, Madison, Wisconsin;
University of Utah.

The FBI has refused to release the names of libraries with which it has initiated contacts.

Questionable Techniques of the FBI Agents

Although the FBI has consistently claimed that the program is purely voluntary and that the librarian has the right to refuse to cooperate, there have been numerous reports of scare tactics and other questionable techniques used by the FBI. Librarians have reported being intimidated by FBI agents who flash their badges, request closed-door meetings, question the librarian's patriotism, and—on one occasion—claimed that they were authorized to circumvent state library confidentiality laws against disclosures. Librarians have complained that the FBI never makes an appointment, and rarely meets with the supervisor at the library, tending to contact the lower-level staff, who are less prepared to question their authority.

The FBI has apparently gone further than merely requesting assistance. On one occasion, according to an article published in the *Wall Street Journal*, the FBI went to the home of a librarian at the New York Public Library and grilled him on his contacts with the Cuban Mission to the United Nations. More serious, however, are reports by the ALA that the FBI has on at least one occasion used taps on telephone lines to reference desks, as well as hidden cameras, to spy on library patrons' activities.

While the FBI has not formally acknowledged going beyond university and public libraries to keep tabs on who is requesting what kind of information, there have been a few hints of a broader campaign. In 1986, for example, the FBI, the Air Force and the CIA went to Mead Data Central, and expressed their concern that hostile agents were interested in their computerized information systems. Mead Data Central produces and operates the huge "NEXIS" computer data base of newspapers, magazines, and legal and technical publications, used by writers, reseachers and students across the country. Mead reportedly turned down the government's request, arguing that "the information on NEXIS had all been previously published and shouldn't be a matter of concern to the federal government."

In another instance, the FBI went to a private research company, Charles E. Simon Co, with a similar warning about foreign agents and requests for assistance. The company retrieves documents about corporations from the Securities and Exchange Commission. According to a company official, the FBI asked if anyone from the "eastern bloc" was making inquiries. According to an article in *The Bureau of National Affairs* newsletter, the FBI agent reportedly said that "most companies, if they are patriotic. . . would be more than helpful."

Given the enormous range of information in such computerized clearinghouses, and the number of people using them on a daily basis from their private homes or offices, the fact that the FBI is making inquiries into who is using such systems is troubling indeed.

The Library Awareness Program Raises Serious Legal and Constitutional Questions

One of the issues that has been raised concerning the Library Awareness Program is whether materials available in our public and university libraries could, if gathered by "hostile" agents, constitute a threat to our national security. The answer is no. Public and university libraries do not have classified information or documents. As the director of libraries in Broward County, Florida says: "Even in our technical library there isn't anything classified, nothing you couldn't get by reading . . . *Aviation Week.*"

The FBI admits that no classified information is available. They go so far as to say that almost 90 percent of everything that the Soviets gather in the U.S. is "free and open to anyone." Their argument is that there is "sensitive material that, if pieced together, could be useful to a foreign hostile power.

There are elaborate government classification procedures designed to classify any government document that should not be released on national security grounds. Public and academic libraries don't have such documents. The FBI argument that it must keep tabs on individuals looking at potentially "sensitive" but unclassified material is a broad invitation to go on a fishing expedition. As one librarian asked, is the next step to classify road maps, since they give the locations of bridges that could be blown up?

If there is to be a balance sheet weighing government intrusion against the threat to constitutional rights of privacy and intellectual freedom, the "Library Awareness Program" has again skewed the balance.

Most Americans assume that when they check out a book in the library that their selection is confidential. In fact, there are laws in 38 states which specifically protect the confidentiality of circulation records. Whether a person checks out Karl Marx or Jackie Collins, his or her choice of reading matter cannot be disclosed to anyone without a court order. One of the questions raised by the FBI's program is whether the FBI is authorizing its agents to circumvent the state laws

by requesting information on the reading habits of individuals or "suspect" groups, including circulation records. There is evidence that on at least one occasion, an FBI agent told a librarian that foreigners were not protected by such laws.

Whether a state has such a law or not, however, there is a policy, articulated by the American Library Association, which forbids disclosures of a person's reading habits. The ALA policy was articulated in 1970, when federal Treasury agents entered the Milwaukee Public Library and demanded the names of every person who had checked out books on explosives. The ALA's formal policy includes this statement: "the efforts of the federal government to convert library circulation records into 'suspect lists' constitute an unconscionable and unconstitutional invasion of the right of privacy of library patrons."

If the FBI or any other government agency has reason to believe that an individual is breaking the law, or could be an intelligence agent from a hostile country, then it should follow the law and produce a subpoena. This is not the case, it appears, in the vast majority of incidents so far reported. From what we know, the Bureau is violating both the legal and ethical boundaries of library confidentiality.

The library is a symbol of intellectual freedom—a place where one can sit down privately and delve into whatever subject one chooses without fear of exposure or intimidation. It is also the repository of our nation's educational and scientific information. It is not surprising, therefore, that the academic and public library community has responded with outrage to what they see as an unwarranted government intrusion. Their main concern, of course, is that the "Library Awareness Program" will intimidate all library patrons. As Judith Krug of the American Library Association says, "This surveillance casts a shadow over library users. They'll begin to wonder who's watching, and are they looking at the wrong topics? Are they doing something that could be construed as un-American?"

Rep. Don Edwards (D-Calif.), a former FBI agent himself, has become an outspoken critic of the program. He too warns that to turn librarians into arms of the federal government degrades "the entire library system in the eyes of the citizens of the United States."

Even the FBI admits that for a librarian or a library spokesperson to admit involvement in the program is to risk alienating library users, and places the institution under a cloud of suspicion. "Librarians can't admit they're cooperating with us," says the Bureau, "because it would make them suspect."

The "chilling effect" on all library patrons that they are being watched—whether they are or not—is a real one. By requesting information on categories of people, such as those who speak Russian, as well as information on who is checking out books or materials relating to certain subject categories, the FBI is threatening the trust and confidentiality that all library patrons have a right to assume. The program also threatens to "chill" the broader area of academic and scientific inquiry so essential to our advancement as a nation.

Conclusion

Because of the FBI's refusal to make public what it knows about the program, much of the story of the Library Awareness Program remains untold. What is known, however, is cause for great concern.

We live in a sometimes hostile world, and to protect our national security interests, the FBI and other agencies need to conduct counter-intelligence activities. But those activities must be conducted in a manner consistent with the Constitution and the Bill of Rights. In its haste to catch Soviet and other spies, there is evidence that the FBI is running roughshod over Americans' rights.

The FBI's Library Awareness Program is an affront to the intellectual freedom at the core of our open democracy, and a gross violation of citizens' constitutional privacy rights. The vagueness of the guidelines given to librarians coupled with the use of intimidation tactics is a broad invitation for abuse. And the notion that citizens would come under suspicion based on the spelling of their names or the sound of their voice is repugnant in a free and open society.

In a speech given at the Virginia Convention 200 years ago, James Madison said: "I believe there are more instances of the abridgment of the freedom of the people by gradual and silent encroachments of those in power than by violent and sudden unsurpation." The FBI's Library Awareness Program is of course not a "violent" or "sudden" usurpation of power. It is, however, one small part of that "gradual and silent encroachment" of basic liberties and freedoms that are essential to a democratic system of government. □

DEFEND

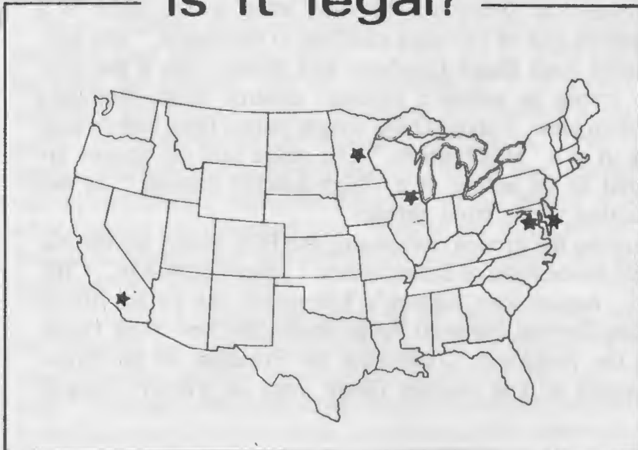
THE

FREEDOM

TO

READ

is it legal?



libraries

Los Angeles, California

At least two University of California libraries have canceled use of a computerized NASA information service because noncitizens are banned from using it. The federal restriction violates the university's antidiscrimination policy and would be difficult to enforce because of the number of foreign students on campus, university officials said. A recent letter by Calvin Moore, the university's associate vice president for academic affairs, urged libraries on all nine campuses to cancel contracts with the National Aeronautics and Space Administration for the service, which summarized hundreds of thousands of scientific documents. Reported in: *Chicago Tribune*, July 5.

films

Los Angeles, California

The U.S. Information Agency, faced with a series of court rulings striking down its attempts to regulate foreign distribution of documentary films, said in late July that it will back out of an international film treaty if the agency's latest package of regulations is rejected on appeal. The move, which could effectively limit the access of thousands of documentary film makers to foreign markets, followed three successive court rulings holding that USIA regulations for certifying U.S. films are unconstitutional (see *Newsletter*, January 1987, p. 19; January 1988, p. 21; July 1988, p. 130).

In the most recent decision, the U.S. Court of Appeals for the Ninth Circuit called the regulations, under which educational film makers can export their work free of costly duties and taxes, "a virtual license to engage in censorship." The court agreed, in part, with a coalition of civil rights groups that claimed that the agency has used the regulations to deny duty-free certification for politically controversial films.

The agency redrafted the regulations, but U.S. District Court Judge A. Wallace Tashima in Los Angeles found the revised regulations unconstitutional as well. In papers filed in Los Angeles in late July, USIA Director Charles Z. Wick said he will recommend that the U.S. terminate its participation in the international treaty governing the exchange of educational materials, known as the Beirut Agreement, if the appeals court upholds Tashima's most recent ruling on the revised regulations.

"Further attempts to draft regulations which, as envisioned by this court, would be less content-based and more 'broadly' define the categories of films which may be certified would, in my opinion, deviate from the requirements of . . . the treaty to such an extent that the agency would no longer be following the language and intent of the treaty," Wick told the court.

Attorney David Cole of the Center for Constitutional Rights, which is challenging the regulations, called the agency's new position "irresponsible" and compared it to "the kid who loses the football game and says I'm taking my ball home now."

Justice Department officials said the USIA has already drafted the regulations to conform as closely as possible to the language of the treaty. Any further refinements would not allow the government to uphold the provision of the treaty itself, which asks participating governments to assure that films selected for duty-free certification are truly "representative, authentic and accurate," and "augment international understanding and good will," officials said.

"The court asked us to strip out excess verbiage. We've done it, and if there is still a problem, the problem is not with the regulations, it's with the treaty," said Deputy Assistant Attorney General James M. Spears. Reported in: *Los Angeles Times*, July 27.

broadcasting

Washington, D.C.

The Federal Communications Commission fined a Kansas City, Missouri, television station $2,000 June 24 for broadcasting a sexually explicit film, the first-ever such penalty against a television station. The commission determined by a 2-1 vote that KZKC-TV Channel 62 violated federal in-

decency laws when it broadcast the movie *Private Lessons* during prime time on May 26, 1987.

The film, about a 15-year-old boy who is seduced by his father's housekeeper, contains "nudity and scenes depicting sexual matters which were dealt with in a pandering and titillating manner," the FCC said. The station could have shown the film without penalty after midnight, when children were less likely to be watching. But because it was shown at 8 p.m., when an estimated 84,000 children in the Kansas City metropolitan area were watching television, the station violated the law, the commission ruled.

Commissioner Patricia Dennis agreed that the film was indecent but voted against the fine because "parents, not the government, should bear the primary responsibility of deciding what their children should watch at night." Dennis said she would have supported a fine had the film been shown earlier in the day, before most parents were home to supervise their children.

Morton Kent, KZKC's owner, called the penalty "pretty outrageous" and indicated that he planned to fight the action. "We're not planning to pay the fine even though it is nominal," Kent said. Under federal law, the $2,000 fine was the most severe the commission could levy against the station short of revoking its license.

Until last year, the commission had narrowly defined indecent material and had taken action against a station only when it broadcast one of seven forbidden words. But in April, 1987, the commission decided to enforce its indecency rules more strictly, expanding its definition to include material that "depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs." The decision was not followed, however, by the promulgation of clear new guidelines (see *Newsletter*, July 1987, p. 143; January 1988, p. 29; March 1988, p. 60; May 1988, p. 102).

In early June this year, the issue was argued before the U.S. Court of Appeals for the District of Columbia where a lawsuit by seventeen groups, including the major television networks and other broadcasters, challenged the FCC's refusal to give clear indications when and how it would crack down on indecency and to provide a comprehensive list of words or pictorial depictions it would consider indecent in all cases.

"What we are asking for and what we need is some guidance . . . so that what we broadcast isn't chilled and what our viewers receive isn't chilled," said attorney Timothy Dyk, who represented the broadcasters. "The problem is, they haven't given us anything at all."

FCC general counsel Diane Killory responded that the commission "carefully ruled in three cases [including that of KZKC] based on the specific facts before it that the material was indecent and, in addition, was broadcast at a time when there was a reasonable risk of children in the audience. We are never going to be able to determine with mathematical precision the time after which there is a minimum risk of exposing children to indecency," she said.

Judge Ruth Bader Ginsburg told Killory that if the FCC was trying to enhance parents' control over what their children view, it should have sought public input before stepping in as a "superparent." The judge said the agency appeared to be acting in a "high-handed manner" by not soliciting views from parents.

Among the groups challenging the FCC policy are the National Association of Broadcasters, Capital Cities/ABC, CBS, NBC, Action for Children's Television, the Public Broadcasting Service, National Public Radio, the New York Times, and the Reporters Committee for Freedom of the Press. Reported in: *Los Angeles Times*, June 24; *Variety*, June 8.

press freedom

Minneapolis, Minnesota

A state court jury decided July 22 that two newspapers, *The Minneapolis Star & Tribune* the *St. Paul Pioneer Press Dispatch*, broke oral agreements with a public relations man by identifying him as the source of an article after promising him confidentiality, and it awarded him $700,000. The jury in Hennepin County Court, voting 5-1, awarded Dan Cohen $200,000 in actual damages and $500,000 in punitive damages.

New York attorney Floyd Abrams called the award "absolutely unprecedented. If not reversed, this decision opens the door for an enormous range of real or imagined sources to claim that, in one way or another, they've been victimized by the press."

The breach-of-contract suit involved a 1982 decision by editors at both newspapers to use Cohen's name in an article even though reporters had promised him anonymity. At the time, Cohen was a spokesman for Wheelock Whitney, an Independent-Republican candidate for governor. Six days before the election, Cohen gave reporters documents showing that Marlene Johnson, then a Democratic-Farmer-Labor candidate for Lieutenant Governor, had admitted shoplifting $6 in merchandise twelve years earlier. Cohen's "dirty trick" became a bigger story than the shoplifting charge. Johnson went on to win the election and Cohen resigned or was fired from his job with an advertising agency.

Editors at both papers said Cohen's name was disclosed to avoid misleading readers and because they felt the importance of keeping readers fully informed of election developments outweighed continuing the reporters' pledge of confidentiality. The newspapers said it was their policy that only editors could guarantee confidentiality.

Even before the verdict came in, the case had become one of the most talked about courtroom battles among journalists, pitting editors against reporters. "This is not as much a trial between the plaintiff and the defendant as it is between reporters and editors," said Theodore L. Glasser, a journalism professor at the University of Minnesota. "For the newspapers to argue as they have been arguing that reporters cannot legitimately represent the paper in this regard is not what I would call the usual case. What in the world is a professional journalist if not somebody who can go out and represent the newsroom?"

Tim McGuire, managing editor of the *Star-Tribune,* said the judge in the case, Franklin Knoll, did not properly instruct the jury on First Amendment aspects of the case. He said: "You can't deal with an agreement about confidentiality in the same way that you would a contract to buy paper clips. The news gathering process sometimes involves conflicting values, and this is a perfect example."

However, New York First Amendment attorney Victor A. Kovner said news organizations would weaken their claims to special protection against revealing sources under duress if they voluntarily broke their own promises to keep a source anonymous.

"It is troublesome for a news organization to argue that it should be allowed to breach its agreements because to do so would be in the public interest while others are trying to protect sources from disclosure," Kovner said. Reported in: *New York Times,* July 23; *Washington Post,* June 13.

church and state

Annapolis, Maryland

A man found guilty of drunken driving and sentenced to a suspended sentence and eighteen months probation, provided he regularly attend meetings of Alcoholics Anonymous, has won the support of the ACLU in an effort to change his sentence. John Norfolk is a professed atheist and, he charges, many AA meetings are marked by references to "God" and "a power greater than ourselves" that offend his beliefs. He says the requirement to attend AA meetings or go to jail violates his freedom of religion. If the argument prevails, the consequences could reach far beyond Maryland's eastern shore.

"As an atheist, I'm not violating my probation by refusing to go to any more meetings. I'm just sticking up for my constitutional rights," Norfolk said.

Many courts in a number of states require that people convicted of drunken driving, if they are also found to be alcoholics, attend AA meetings. In many cases the defendants receive the option of signing up with alternative alcoholic treatment groups, but these—if they exist at all—often charge a fee.

"In John Norfolk's case," said his ACLU lawyer, Ellen Luff, "the issue is absolutely clear cut. After he told the authorities he could not, as an atheist, go to any more meetings but was willing to take some other kind of treatment, they told him to 'block out' the religious references at the meetings because he just had to go to them." Norfolk said he could not block out the religious references. "They were praying and talking about God about half the time at the meetings I went to," he said.

"It's not a religion," said Robin Wood, a counselor with the Queen Annes County Health Department. "Our overall approach to treatment is oriented heavily toward AA because we think this is the treatment that works best for most people with an alcohol problem. Also, it's the only recourse available in our area."

AA representatives use the word "spiritual" to describe their organization. "We suggest that you develop a relationship with a higher power," a representative said. "We've been cooperating with courts on alcohol cases for more than 35 years in at least three-fourths of the states," she added. "Our position is that if there are legal problems with this cooperation, then alternative ways should be worked out, such as having members and people who have been convicted talk together about controlling alcohol in a setting outside of an AA." Reported in: *Minneapolis Star Tribune,* July 16.

artists' rights

Chicago, Illinois

The American Civil Liberties Union filed a $100,000 federal civil rights lawsuit against three Chicago aldermen and unnamed police officers for removing an unflattering painting of the late Mayor Harold Washington from the School of the Art Institute of Chicago. The suit, filed June 23 in U.S. District Court on behalf of artist David K. Nelson, names as defendants Aldermen Bobby Rush, Dorothy Tillman, and Allan Streeter as those responsible for removing the painting from a private showing at the school.

On May 11, the three were part of a group of nine or ten aldermen who confiscated the painting, which depicted the late mayor in women's undergarments (see *Newsletter,* July 1988, p. 127). The painting, which was torn or slashed some time after its removal from the school, was returned to Nelson the next day, according to the suit. The ACLU said the three aldermen were singled out as those who "actually participated in the physical seizure and removal of the painting."

In a statement released by the ACLU, Nelson said, "I am suing to vindicate my rights and to ensure that Chicago aldermen and police do not become the censors of others artists in the future."

ACLU legal director Harvey Grossman said Washington himself would have approved of the lawsuit. "Harold Washington was a great civil libertarian," he said. "We file this suit today not to offend the memory of Harold Washington, but to defend the very principles which he stood for." Reported in: *Chicago Tribune*, June 25.

T-shirt

Washington, D.C.

Bicycle messenger Christopher Stalvey arrived at the Justice Department June 10 to deliver a package fifteen minutes early. As he was ready to enter security guards manning the entrance refused to allow him in. The reason? His T-shirt, which proclaimed: "Experts Agree! Meese is a Pig." Stalvey tried to convince the guards that it was his right to say anything he wanted on his shirt, but they wouldn't buy the argument. Neither would superiors upstairs. Stalvey called a substitute and the package was delivered.

But several days later Stalvey told his tale to Arthur Spitzer, legal director of the Washington ACLU. "We are prepared to bring suit if they say this is their policy," Spitzer said. "It seems like a perfectly clear case of discrimination based on the content of the T-shirt."

Initially, the department would not budge. "Just as we would not permit somebody to come strolling in here with a bathing suit, for example, I think it's reasonable to have some kind of standard," said department representative Patrick Korten, who acknowledged that "this is an interim policy until a firm determination can be made on how such matters ought to be handled."

Korten "obviously doesn't understand what the First Amendment is all about," Spitzer responded. "If they had a rule that said no T-shirts, that might be an acceptable rule. But apparently they have a rule that says no T-shirts that insult Ed Meese. Presumably, this guy would have been allowed in if he was wearing a T-shirt that said 'Reagan-Bush '84'." Several days later the Justice Department announced that henceforth individuals wearing message T-shirts with political statements, including statements criticizing administration leaders and policies, would be permitted to enter the building. Reported in: *Washington Post*, June 23.☐

(FBI chronology . . . from page 146)

tigation of the "Library Awareness Program." The ALA Washington office obtained a verbal "press response" from the FBI.

Sept. 18, 1987—The Chancellor of the New York City University system publicly demanded a congressional investigation into the FBI's "Library Awareness Program."

Sept. 22, 1987—The National Security Archive responded to the FBI's August 21 letter which denied the existence of records regarding the Library Awareness Program. The Archive stated that the "Library Awareness" program was specifically referred to by Milt Ahlerich, the FBI's Acting Assistant Director for the Office of Congressional and Public Affairs.

Sept. 30, 1987—The Archive filed a new FOIA request with the FBI New York field office requesting the same information.

Oct. 1, 1987—ALA Intellectual Freedom Committee issued an advisory criticizing the FBI and alerting librarians to the "unwarranted government intrusion upon personal privacy" that threatens "the First Amendment right to receive information."

Oct. 16, 1987—The New York field office of the FBI informed the Archive that an error was made in their initial response to the FOIA request; records of the Library Awareness Program were being forwarded to FBI headquarters.

Oct. 20, 1987—ALA's Intellectual Freedom Committee made a FOIA request asking for duplicate copies of all documents sent to the National Security Archive.

Oct. 23, 1987—FBI headquarters wrote to the Archive to confirm that records responsive to their request had been found and were being forwarded to FBI headquarters. The letter also denied that the FBI refers to these investigations as a "Library Awareness" program.

Dec. 11, 1987—Intellectual Freedom Committee Chair C. James Schmidt received a letter from FBI Director William S. Sessions. The letter again acknowledged the existence of the program, but did not limit its scope to New York City.

Dec. 31, 1987—ALA's Intellectual Freedom Committee expanded its FOIA request of October 20 to include "all records pertaining to FBI investigations [that] have thorougly documented the many ways that specialized scientific and technical libraries have been used by the Soviet intelligence services."

Jan. 14, 1988—Presentation by Tom DuHadway, FBI Deputy Director of Operations for Foreign Intelligence, to a closed meeting of the United States National Commission on Libraries and Information Science (NCLIS).

Jan. 22, 1988—Toby McIntosh, of the Bureau of National Affairs, Inc. (BNA) filed a FOIA request for the transcript of Tom DuHadway's presentation to NCLIS.

Feb. 5, 1988—ALA Executive Director Thomas Galvin received a letter from the FBI in response to ALA's FOIA request. The letter indicated that documents had been located, but not yet reviewed for classification.

Feb. 10, 1988—FBI briefed Rep. Major Owens (D-NY) on the library awareness program. He was told the FBI has been infiltrating libraries for 25 years.

Feb. 19, 1988—BNA received the transcript of Tom DuHadway's presentation. Some sections were blacked out by the FBI as sensitive and classified.

March 14, 1988—FOIA request filed for deleted page 56 of NCLIS/FBI meeting transcript.

March 24, 1988—NCLIS FOIA request denied.

March 30, 1988—Representative Don Edwards (D-CA), Chairman of the House Subcommittee on Civil and Constitutional Rights submitted questions regarding the Library Awareness Program to FBI Director William Sessions.

March 30, 1988—ALA's Intellectual Freedom Committee requested the FBI to brief the Committee on the Library Awareness Program at their annual conference on July 8-9 in New Orleans.

April 19, 1988—ALA President Margaret Chisholm, Office for Intellectual Freedom Director Judith Krug, and Eileen Cooke and Ann Heanue of the ALA Washington Office met with congressional staff members. Also attending to communicate concern were Nancy Lian of the New York Library Association, persons from several of the libraries visited by the FBI and representatives of the ACLU, the National Security Archive, the Special Libraries Association, the Association of Research Libraries, the Association of American Universities, the Medical Libraries Association, the Information Industry Association, the Advocacy Institute, and People for the American Way.

May 5, 1988—Judith Krug wrote Sen. Patrick Leahy (Dem.-Vermont) on behalf of the Intellectual Freedom Committee to urge his subcommittee on Technology and the Law to conduct a "careful and thorough investigation" of the Library Awareness Program and any similar FBI activity during its FBI authorization hearings.

May 10, 1988—Sens. Leahy, Paul Simon (Dem.-Illinois), Charles Grassley (Rep.-Iowa), and Alan Simpson (Rep.-Wyoming) introduced the Video and Library Privacy Protection Act, designed, its sponsors said, in part to protect the confidentiality of library circulation records. Simon said the bill, if passed, would "scale back" the FBI Library Awareness Program (see page 185).

May 1988—Association of Research Libraries voted to condemn "the efforts of any government agency to violate the privacy of library users." The Association also called on Congress to pass legislation to end the FBI program.

May 17, 1988—FBI Director William Sessions testified before the Senate Judiciary Committee. As part of his testimony he presented an unclassified report: *The KGB and the Library Target—1962 to Present.* He stated that the Library Awareness Program is only in New York per se and that in incidents in libraries in other parts of the country the FBI was merely following specific leads.

June 2, 1988—The National Security Archive filed suit in the U.S. District Court for the District of Columbia seeking to force release under FOIA of documents relevant to the Library Awareness Program. Scott Armstrong, executive director of the Archive, said, "We are going to the source for complete answers—the FBI's own internal documentation on the program."

June 17, 1988—The Annual Conference of the Special Libraries Association passed a resolution opposing the FBI's Library Awareness Program.

June 20, 1988—IFC Chair C. James Schmidt and other library professionals testified before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary. They uniformly condemned the FBI program and called on Congress to end it.

July 13, 1988—James H. Geer, assistant director for the FBI's intelligence division, testified before the House Subcommittee. He blamed "misunderstanding and misperceptions" for the negative response of librarians to the program.

July 13, 1988—Meeting in New Orleans at the ALA Annual Conference, the ALA Council passed a resolution proposed by the Intellectual Freedom Committee that condemned the FBI program. Earlier in the Conference, the ALA Executive Board approved the filing of a lawsuit seeking disclosure under FOIA of "full documentation regarding the FBI's Library Awareness Program, of all FBI Library Awareness Program, of all FBI library visitations, and all related activities."□

(ALA condemns . . . from cover page)

on the program. Earlier, on May 17, during the course of a regularly scheduled FBI oversight hearing, the Senate Judiciary Committee heard testimony from FBI Director William Sessions (See *Newsletter*, July 1988, p. 113). On June 20, witnesses representing the library community, including ALA Intellectual Freedom Committee Chair C. James Schmidt, testified before the House body. They were followed July 13 by James H. Geer, FBI assistant director, who blamed "misunderstanding and misperceptions" for the negative response of librarians to the bureau program.

In his testimony, Schmidt stressed that "the ethical responsibilities of librarians are central to the ability of libraries" to fulfill their role as impartial resources in a free society. He noted that confidentiality of library records was guaranteed not only by ALA policy and by the ALA code of ethics, but also by laws in 38 states. Schmidt added that all the state laws permit librarians to breach confidentiality in response to a proper court order or subpoena. He told the subcommittee the bureau should obtain such court orders if they are needed to pursue investigations.

"The requests of the FBI that library staffs monitor and report the use of the library by any patron chills the First Amendment freedoms of all library and data base users," Schmidt told the subcommittee. (For the full text of C. James Schmidt's testimony see page 145).

Duane E. Webster, executive director of the Association of Research Libraries, called the Library Awareness Program a "serious intrusion by government into American libraries" that he said had a "chilling effect on the life of the mind." David R. Bender, executive director of the Special Libraries Association, told the subcommittee that FBI assertions that Soviet intelligence agents had acquired volumes of documents from special libraries was "absurd."

Responding to the testimony from library organizations, Rep. Edwards called the FBI program "revolutionary in American society." He said that he had discussed his concern about the program with bureau officials, but, "to be candid, we've had very little success in getting the FBI to understand that we in Congress are very much concerned about this issue."

In his July testimony before the subcommittee, assistant director Geer reiterated FBI claims that the program was confined to the New York region. He estimated that the bureau's New York office had devoted perhaps "three one-hundreds of one percent of its foreign counterintelligence resources" to the Library Awareness Program.

"The task of operating an effective counterintelligence program in our open society is a difficult one," Geer testified. He observed that Vladimir Cherkasov, a third secretary of the Soviet Embassy, was in the audience for the subcommittee's earlier hearing on the program. According to Geer, the bureau had no interest in the reading habits of Americans. But he said that monitoring of library use by Soviet bloc personnel had been "helpful in a number of cases."

Rep. Edwards was not mollified by Geer's at times conciliatory testimony, however. Describing librarians as "frightened to death" and in a "panic" over the program, Rep. Edwards told Geer: "I haven't heard one word from the FBI to indicate that you have any appreciation for the special role of libraries in this society."

Rep. Edwards, himself a former FBI agent, told Geer that the bureau had not adequately justified the program and had not given agents the proper guidelines for carrying it out. "Your guidelines are not worth anything, and you know it," he said. Reported in: *New York Times*, June 21, July 14; *Washington Post*, June 3; *Christian Science Monitor*, June 22; *Washington Times*, June 21; *USA Today*, July 9. □

(ALA testimony . . . from page 145)

1) that libraries have been used by Soviet and other intelligence agents to recruit operatives and that library staffs have been among the recruitment targets;

2) that the Program was limited to "the New York City area";

3) that agents were not in fact asking for lists of books borrowed by specific individuals or any other information that would violate patrons' First Amendment rights;

4) that librarians need not cooperate and can always say "no."

A few comments on each of the Bureau's defenses is appropriate.

First, the alleged targeting of libraries as a place of recruitment and of librarians as potential operatives by Soviet intelligence agents is unsubstantiated. There has been no evidence offered to support this claim, in spite of the Bureau's statement that " . . .[our] investigations have thoroughly documented the many ways that specialized scientific and technical libraries have been used by the Soviet intelligence services."

The arrest of Gennadi Zakharov in 1986 has been cited by the Bureau as an instance of the contention that libraries are sites and librarians are targets of recruitment. The public facts of that incident indicate, however, that the student who worked for Zakharov was, in fact, (a) recruited by another student, not by Zakharov; and (b) asked to provide copies of UNCLASSIFIED materials. More damaging, yet, to the Bureau's use of this case as a cautionary example is the clear fact that this student was being "run" by the FBI from the beginning. Are we truly being asked to believe that our national security is endangered by students who, under the control of the FBI, provide copies of unclassified journal articles to Russians?!

Second, it has been claimed that the Library Awareness Program was and is limited to the "New York City area." Yet, in its presentation to the National Commission on Libraries and Information Science, a Bureau representative stated that " . . . we don't have a broad-based plan. . . . We have a specialized problem in New York, Washington, D.C. and maybe San Francisco with the Soviets. Very, very limited, small approach, very closely held." And on May 17, 1988, Director Sessions told a Senate Judiciary Subcommittee that "Where they are, we believe we must be, and when they are, we think we must be."

Third, the Bureau maintains that it is not interested in and has not asked for lists of books borrowed by foreign nationals. At the Pennsylvania State University, an FBI agent requested details about a readily available dissertation which the library had been asked to obtain on interlibrary loan for a patron who was East German. At the University of California at Los Angeles, FBI agents requested staff in the Engineering and Mathematical Sciences Library to report on the activities and the reading interests of a Russian student—and anyone else of a "similarly suspicious nature." At New York University, agents asked the library staff to report on database searches and photocopying by a member of the Soviet mission to the United Nations.

Last, the Bureau says that librarians need not cooperate with them and can just say "no." The fact that many have said "no" is, in part, what has brought us here today. Library staff should not be subject, however, to intimidation at work or at home by agents of the FBI—as has, indeed, happened in some of the publicized cases.

In sum, the Library Awareness Program has not been justified and is not being conducted as the Bureau claims, either with respect to geographic or procedural limits.

Beyond the failure of the Bureau to provide justification of this program, there are at least six reasons why the Library Awareness Program, and all other approaches to libraries where the objective is to solicit library staffs to monitor and report on patron use, ought to be stopped.

First, such inquiries violate the privacy rights of library users regarding the materials and services they use. The disclosure of personally-identifiable information in the exercise of First Amendment rights, without a showing of good cause having been made to and accepted by a judicial authority, cannot but have a chilling effect on the intellectual life of our society.

Second, in 38 states (and the District of Columbia)—including many in which visits under this program are known to have occurred—the privacy rights of library users are protected by law. Is the FBI inciting library staffs to violate state laws? Does the FBI believe that it is above such laws or that it can avoid them by questioning, as it has in one instance, library employees about their work when they are at home? ALL these laws provide for disclosure of protected information upon presentation of a court order or subpoena.

Third, the libraries visited by the bureau have no CLASSIFIED information in them, hence no prospect of endangering national security through the disclosure of CLASSIFIED data.

Fourth, the likelihood that such a program could be effective is very small. How are such persons of concern to the FBI to be identified—by their clothing or their accents?

Fifth, is there a plausible probability that the national security will be compromised by the uses foreign nationals make of the unclassified information available in libraries? Are we to limit access to unclassified information because some claim that we are threatened by an "information mosaic," composed of separate bits of unclassified data such that the whole is greater than the sum of its parts?

Sixth, it has long been a settled matter (e.g. *Bridges* v. *Nixon* 1944, *Galvan v. Press* 1953) that aliens, while in the United States, do enjoy the rights provided in the First Amendment and are protected from state violation by the due process clause of the 14th Amendment.

The unhindered exercise of the First Amendment right to receive information free from unwarranted government intrusions upon personal privacy is at the root of our constitutional republic. The requests of the FBI that library staff monitor and report the use of the library by any patron chills the First Amendment freedoms of all library and database users. The Library Awareness Program is a threat to the fundamental freedom of this nation. If continued, it will seriously and unnecessarily invade the intellectual life of citizens.☐

(FTRF report . . . from page 148)

have to prove either that FBI contacts with libraries are so unrelated to preventing espionage that such contacts are gratuitous and unreasonable; or that the FBI's real purpose is to deter patrons from using libraries or to deter librarians from providing information to patrons. Either type of proof would be what attorneys call fact-intensive, and, therefore, "very expensive," and the final result of such a suit is very uncertain.

The Board of Trustees has directed staff and legal counsel to continue to monitor this program and to collect information toward a possible future suit.

Cases

In the last six months, the Foundation has filed *amicus curiae* briefs in two cases concerning censorship of optional curricular materials and is working to change a directive from the City Manager in Scottsdale, Arizona, that potentially could have a disastrous impact on the public library there. There have also been developments in two cases in which the Foundation has been involved on an ongoing basis.

In Scottsdale, Arizona, the City Manager ordered the

director of the public library not to make *Playboy* available to anyone under the age of 18, because the City Manager believed that, under Arizona's "Harmful to Minors" statute, the library staff might be liable for criminal prosecution for making "harmful materials" available to minors. The harmful material in this case is thus far limited to *Playboy*, although in Casa Grande, Arizona, the City Manager has directed that the book, *Truly Tasteless Jokes*, be kept from persons under 18. As all of you know, the potential for escalation of titles considered "harmful" is enormous.

The Foundation has written to the City Manager of Scottsdale urging that he rescind his directive. The letter makes clear, however, the Foundation's firm intent to pursue this issue should the order not be rescinded. We will keep you apprised of developments.

We are in court, as you know, in a "harmful to minors" case in the State of Virginia. *ABA* v. *Virginia* challenges Virginia's "harmful to minors" statute which, as written, prohibits the display of materials deemed harmful to minors. Display, under this statute, means in a manner that allows juveniles to view or peruse these allegedly harmful materials. This statute was declared unconstitutional in June, 1985; the ruling was upheld in June, 1986. Virginia appealed the case to the U.S. Supreme Court, which in January, 1988, took the surprising step of sending the case back to the Virginia Supreme Court. The Foundation decided not to submit a brief before the Virginia Supreme Court because the Commonwealth of Virginia argued our case, in *its* brief, stating that the "harmful to juveniles" law is indistinguishable from the statutes relating to adult obscenity and therefore, not unconstitutional. If successful, this argument would, in effect, nullify the law.

In recent months, the Foundation has also been involved in two cases concerned with curricular censorship. The first of these, *McCarthy* v. *Fletcher*, is ongoing. It concerns the censorship of two books in Lee McCarthy's English class at Wasco (California) Union High School. This case began in 1985. The principal-superintendent, Douglas Fletcher, restricted use of *Grendel*, by John Gardner, and later of *One Hundred Years of Solitude*, by Gabriel Garcia Marquez, books on Lee McCarthy's assigned reading list, with other books as substitutes if parents or students objected to the two works.

The case is now before the Fifth Appellate District Court of the State of California. The Foundation has filed an *amicus curiae* brief which carefully explicates the requirements of the First Amendment in regard to speech regulation in public schools and, also, distinguishes regulation of speech in the curriculum and speech in school libraries.

In the second curriculum case, *Virgil* v. *School Board of Columbia County, Florida*, the Foundation has joined the *amicus* brief of People for the American Way. This case concerns the removal from the curriculum of Columbia High School in 1986, of volume I of *The Humanities: Cultural Roots and Continuities*, because of objections by parents of one student to Aristophanes' *Lysistrata* and *The Miller's Tale*, by Geoffrey Chaucer, neither of which were required or assigned reading. The parents objected to the sexual nature of the material and the "vulgarity." The School Board, acting on the Superintendent's recommendation, removed the book.

A suit was filed by concerned parents in the U.S. District Court for the Middle District of Florida. The plaintiff parents lost (see page 150 and *Newsletter*, May 1988, p. 98).

The case is on appeal to the U.S. Eleventh Circuit Court of Appeals. The Foundation has joined in a brief which points out that the First Amendment's prohibition of the official suppression of ideas includes ideas concerning sexual relations, and, thus, the School Board's motives for suppressing these selections were improper. We will keep you informed as this case progresses.

And, finally, we have been reporting to you for several years on a case called *Bullfrog Films* v. *Wick*, the case brought by ten filmmakers against the U.S. Information Agency for its refusal to grant "certificates of educational character" to documentaries. The suit charged that the USIA's refusal was based on the content of the films which have to do with acid rain, the drug problems of America's youth, and U.S. policy towards Nicaragua, and which are generally not supportive of the Reagan administration's position on these issues.

In October, 1986, a U.S. District Court Judge ruled that the USIA's guidelines violated the First Amendment to the Constitution. On May 18th, Judge Tashima's 1986 ruling was upheld in the Ninth Circuit Court of Appeals. Judge Tashima also ordered the USIA to come up with "standards consistent" with the Constitution (see page 169 and *Newsletter*, July 1988, p. 130).

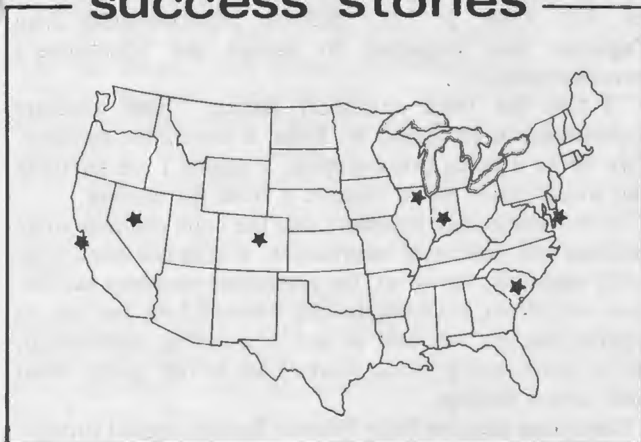
On May 13th, Judge Tashima ruled that USIA's new regulations are also unconstitutional. The Foundation participated early on as amicus curiae and has helped to fund the Center for Constitutional Rights' litigation in this case.

The Foundation's work covers the freedom to read in its many generic forms. We ask your continued support as we seek to influence the laws and practices that affect the interpretation of the First Amendment.□

Canadian IF award

The Canadian Library Association announced May 30 the first winner of its newly-established Award for the Advancement of Intellectual Freedom in Canada. Les Fowlie, chief librarian of the Toronto Public Library, and the Toronto Public Library Board were joint recipients of the award presented at the association's annual conference in Halifax in June. The selection was made to recognize the outstanding leadership of the Toronto Public Library in its stand against Bill C-54, the Canadian government's proposed pornography legislation.□

success stories



libraries

Westminster, Colorado

Superintendent Michael Massarotti decided against removing *A Day No Pigs Would Die,* by Robert Newton Peck, from elementary school libraries and optional reading lists at the secondary level in Adams County School District 50. The decision came in response to a challenge initiated by Ellen Rosenbach, whose son attends Scott Carpenter Middle School, and followed by five other complaints from patrons. The complaints cited graphic language and tried to correlate a scene in which pigs mated with human love and rape. The complaint also objected to two derogatory references to Baptists in the book (see *Newsletter,* July 1988, p. 120).

In recommending that the book remain on district library shelves and on the optional reading lists, a seven-member review committee stated, "The book has a strong message of family love in portraying a 12-year-old boy's transition to manhood." The committee also declared: "Since some elementary students have read, enjoyed and benefited from this book, it should be an option for selection for elementary libraries."

In accepting the recommendations of the committee, Massarotti also agreed to establish a staff training session to make sure the book is presented to students in the proper context. He further agreed that procedures ought to be established to inform parents of curricular and instructional matters and to assure that the students are not isolated by a decision—by either the student or parent—not to participate in one of the discretionary reading assignments.

"An act of censorship must be supported unequivocally by a clear cut violation of the general values and mores of our community," said Massarotti. "As a pluralistic society with variations of values and diversity of impressions, it seems to me that the appropriate censorship of reading material such as the book in question must be the responsibility of the parents," he concluded. Reported in: *Westminster Window,* May 26.

Linton, Indiana

In a controversial 4-1 decision May 16, the Linton-Stockton School Board rejected a parent's request that *The Catcher in the Rye,* by J.D. Salinger, be removed from the school libraries and banned from classrooms because it is blasphemous and undermines morality. The board vote backed up a decision by a Reconsideration Committee that turned down a request by Linda Heath that the book be removed from her daughter's senior English class (see *Newsletter,* July 1988, p. 123). The committee voted 7-0 to allow the book to be used.

Heath appealed the committee decision to the school board. Board member Rich Sollars, citing the book's use of profanity, cast the only dissenting vote as the board voted on the recommendation of School Superintendent Craig Glenn to confirm the earlier ruling.

In its unanimous decision, the Reconsideration Committee said the book's controversial material was valuable in allowing students to develop tolerance and critical judgment skills. The committee said it found no mention or inference of Satanism, cult worship, or incest.

"We believe Holden Caulfield to be a moral character who displays empathy and love for his family and those around him," the committee noted. "We do not find Caulfield to be blasphemous. Rather, we find him to be a confused teenager whose language pattern is more habitual than conscious. We do not find the language gratuitous."

The committee also noted that it opposed the idea that any group or individual may censor what others may read: "We believe that no good purpose can come from banning a book."

In support of the committee's recommendation, Superintendent Glenn said, "I believe we would be neglecting our duty to educate students if we did not provide for and promote discussions of controversial issues as presented in books like *The Catcher in the Rye.* Glenn said a decision to remove the book or restrict its availability would lead to many more such requests. "I am certain that if the reason for removal was based solely on the use of profanity, without regard to other qualities of the book, there would be many books subject to the same censure. One of these would be the dictionary. Such a winnowing of text would cast the pall of censorship over the entire system." Reported in: *Bloomfield News,* May 19.

Westminster, Maryland

A special committee at William Winchester Elementary School rejected a parent's request to have a library book containing references to the occult removed from the shelf. Vivian Sweeney launched a protest in May after her son brought home *The Golden Book of the Mysterious*. She accused the school of "putting the occult, the worship of Satan, in the schools" (see *Newsletter*, July 1988, p. 120).

A five-member committee formed to review the book voted unanimously to keep it in the school library because it presents information "in an objective manner." said Principal Patricia Dorsey. The committee included Dorsey, the school librarian, a teacher, and a media specialist.

While "materials are rarely perfect," the committee concluded that the book serves as a reference for students interested in researching the mysterious, Dorsey said. As an example, she reported, a fifth-grader used the book to research the story behind Atlantis.

Sweeney expressed disappointment with the decision but said she would not appeal to the county's book adoption committee. "There's no sense in going because they're just going to deny it anyway," she said. Reported in: *Carroll County Times*, June 15.

Smith Valley, Nevada

A review panel refused April 28 to remove a book called *Witches, Witches, Witches* from a school library as requested by a minister who said it could disturb youngsters. Smith Valley School principal Russ Colletta, who served on the review committee with two school librarians, said "the best interests of the students wouldn't be served by removing the book."

Holly Hillman, who with her husband serves as a minister of the United Methodist Church, had filed a complaint against the book in March. She asked that it be pulled from library shelves because it was filled with scenes of "oppression, cannibalism, abduction, transformation, incantations, deceptions, threats and sexism" (see *Newsletter*, July 1988, p. 121).

Hillman said she was disappointed by the decision. "I appreciate the time the librarians took, but no psychologists were included in the hearing," she said. "I would have wished that a psychologist could have made that decision."

The book, which has circulated for more than thirty years, is a collection of poems and tales. Among the authors represented in the volume are Oscar Wilde, Oliver Wendell Holmes, and the Brothers Grimm. Reported in: *Reno Gazette-Journal*, April 29.

Greece, New York

Seven of eight members of a school district review committee said June 16 that they would oppose the removal of the book *Boys and Sex*, by Wardell Pomeroy, from school district libraries. They said the book had flaws, but was not pornographic as parent Robert Menear charged (see *Newsletter*, July 1988, p. 121). Schools Superintendent John Yagielski was expected to accept the committee's recommendation.

"I find the book extremely boring," said assistant Superintendent Raymond W. Page, a committee member. "As far as it being pornographic, I couldn't see anything that would cause me to remove it from the shelves."

Several committee members said the book contains some outdated and inaccurate information. It does not discuss the AIDS epidemic. However, the committee members said the book was strong in distinguishing between love and sex, in arguing that sex was best as part of a lasting relationship, and in encouraging young readers not to feel guilty about their sexual feelings.

Committee member Polly Pittman Roberts argued strongly against the book. "A lot of the way sex is presented is in the era of 1968—free love, do your own thing," she said.

Hoover Drive Middle School librarian Stephen L. Nash said that even if Yagielski decides to retain the book, he had already begun looking for a replacement. He said that he wanted to find a more up-to-date book and that if he did fine one, it would go on the shelf in place of *Boys and Sex* as part of the library's regular replacement procedure.

"My own opinion is the book should remain on the shelf until I find a book that is more accurate and related to the age group," Nash said. Reported in: *Rochester Times-Union*, June 17.

Fort Mill, South Carolina

Fort Mill school officials decided May 5 to keep the book *Fields of Fire*, by James Webb, in the Fort Mill High School library after a PTL employee called it "obscene" and asked for its removal. Board members decided, however, to look into setting up a "restricted" shelf for "controversial" books.

The decision came after Jim Newman, a parent and direct marketing manager for PTL, protested the book because he said it was sexually explicit and filled with profane language. He first saw the Vietnam War novel written by a former U.S. Secretary of the Navy after his 14-year-old son checked it out of the library. After a committee composed of parents, school officials and librarian Rosalynn Campbell decided to keep the book, Newman took his case to the board and presented a petition with 55 signatures (see *Newsletter*, July 1988, p. 122).

"I wish for the benefit of other children that this book was not available, but I am encouraged by the fact that the board may set up a restricted shelf," Newman said, adding that he might seek help from "other sources" to get the book restricted.

The majority of board members said they were willing to investigate a restricted shelf arrangement and would discuss the matter at a future meeting. "The problem I have is that

we're on a [grades] nine through twelve system. This broadens the problem, because you have kids who are 13 years old and some who are 19 and 20 years old. That's a wide age range,'' said board member Miller Coggins.

But some board members said a restricted shelf would amount to censorship. ''Every time we put a book on a restricted list when people object to it, people will object for all kinds of reasons that we may either agree or disagree with. We've chosen in this country to make books readily available without asking Mom and Dad,'' said board chair Spratt White.

''The school can not accept total responsibilty for what people read,'' added board member Ann Suite, who voted against restricting books. ''That would put the committee in a position of exercising censorship.'' Reported in: *Rock Hill Evening Herald,* May 6.

schools

Milpitas, California

Two parents appear to have lost their battle to remove a book from a sixth-grade classroom at Sinnott Elementary School in Milpitas. Acting on the recommendation of a special committee formed in April to judge the merits of *Killing Mr. Griffin,* by Lois Duncan, Milpitas School District trustees in early May voted 3-2 to keep the book on the shelf and available to students in an advanced placement English class.

David and Mary Collins began their campaign against the book after their son, Jonathan, told them about it while doing a book report (see *Newsletter,* July 1988, p. 122). Their objections centered on what they believed was extensive profanity and a lack of moral values in the novel. The plot of *Killing Mr. Griffin* revolves around a group of high school students who kidnap an unpopular teacher, who later dies of a heart attack.

In its report to the school board, the book review committee said that ''it disagrees with the charges that the theme is inappropriate'' and that the book ''has no moral value.'' The committee instead concluded that the plot was ''well-constructed and holds the reader's interest'' and that themes in the novel were ''fully explored'' and values were ''clearly stated.''

Karen Friedmann, a 12-year-old student, told the school board that she objected to having others try to control what she could read. ''Mr. and Mrs. Collins can't deprive other children from reading that book and learning about peer pressure from it,'' she said.

Trustee Robert Sandoval drew loud applause from the packed board chambers when he said that recommended reading lists should be left to the teachers, since parents already have the right to prevent their children from reading specific works. ''Let these people do the job they've been doing,'' he said. ''They've been doing a fine job up until this point.'' Reported in: *Milpitas Post,* May 4.

Wheaton, Illinois

A tear-eyed Kathleen Cruse left the District 200 school board meeting May 9 defeated. The board rejected what is likely to be the last effort to ''protect'' eighth graders from John Steinbeck's classic *Of Mice and Men* when it turned down a Cruse proposal that parents be notified when teachers plan to have students read the book. At a previous meeting April 11, the board rejected Cruse's request that the novel be removed from the list teachers use to select reading. Reported in: *Wheaton Daily Journal,* May 10.□

(Margaret Truman . . . from page 149)

tables in a dozen or more languages. These books have made for me millions of friends whom I shall never know, but whose presence out there I am forever conscious of and grateful for.

As every author knows, books can bring in a lot of mail. Mine, I'm happy to say, is laden with praise. I simply don't read letters that are abusive or argumentative, which are fortunately rare. After spending most of my life in the limelight, I have learned to spot ''nut mail,'' as my father used to call it, even without slitting the envelope. Anybody who sends me a registered letter—unless it happens to be the Internal Revenue Service—can be sure it will be tossed into the wastebasket unopened.

I keep no records, but my impression from the letters is that, among my latest books, the most popular was *Murder in Georgetown,* the most respected was a biography of my father, and the most touching was the story of my mother's life as a politician's wife. Let's take a look at them.

The technique of writing the biographies was unusual, if not original. They resulted from a combination of my recollections as the offspring of two strong personalities, and some very serious research in the Harry S. Truman Library in Independence, Missouri, and elsewhere. Research was reinforced wherever possible by personal, and often exhaustive interviews.

My father himself thought this approach—the combination of recollection and research—was the proper one. When I went out to Missouri to talk to him, I was accompanied by Tom Fleming, a serious historian and accomplished novelist. Dad told Tom and me at our very first meeting with him, ''You can ask me anything, and I'll do my best to answer it. But remember, I'm 88 years old. At that age, the memory starts to play tricks. The real stuff is over there in the library.''

For all his cockiness—a trait for which he was renowned—he was humble in the presence of history, which had been the philosophical mainstay of his entire adult life. He gave me access to his personal papers, which until then had been held in a separate room of the library, and had been used only by him when he wrote his own memoirs.

To my astonishment, I thus became the first outsider to examine all the memos and committee reports on the decision to drop the atomic bomb on Japan. I was able to say, after Tom and I had examined the papers, that the committees had explored every option, and had voted by heavy majorities to employ the bomb against an implacable enemy, to save hundreds of thousands of American and Japanese lives, and force Japan to surrender swiftly and decisively. At the same time, I was able to reinforce my own recollection that Dad had never wavered in his conviction that he was doing the right thing.

That conviction has been endorsed dozens of times in ensuing years by men who have come up to me to say simply, "Your father saved my life." It happened once deep in the interior of China, where I was touring with my husband. These men in their humble way refute the second-guessers, who bore no responsibility for and endured none of the agony of making one of the most fateful decisions in human history.

Another important source for the biography was the dozens of letters Dad had written to me, nearly all of them complaining that I did not write back often enough, which was true. Re-reading these letters after 25 years was both nostalgic and electrifying. None was more hair-raising than the long one dated March 3, 1948, predicting we would soon be at war with Russia. Happily, he was wrong. He was not infallible, of course, but it is truly remarkable how often history has proved him right.

Perhaps the most dramatic blending of my personal recollection and our research was an incident in which I was deeply involved. That was the time when I made my only concert appearance in Washington, in Constitution Hall, and Paul Hume, the music critic of *The Washington Post,* wrote a criticism that, I think one can fairly say, infuriated my father. He responded with a fighting-mad letter, which *The Post* published. That morning, the press was lying in wait for me, and somebody asked what I thought of the letter. My response was, "I'm glad to see that chivalry is not dead."

As I said later, the Hume incident didn't bother me. My attitude was simply that it helped to sell tickets. I was only sorry to worry my father, who, after all, had a country to run and a war to fight. Dad had written that letter the day after one of the worst days of his Presidency: The Chinese Communists had launched an all-out attack on General Douglas MacArthur's United Nations forces in North Korea, and Dad's best friend and press secretary, Charlie Ross, had dropped dead at his desk from the strain of dealing with this and many other crises. From these facts, the reader of *Harry S. Truman,* his daughter's biography of him, got a new and sobering perspective on the piddling Paul Hume affair.

Then there was the assassination attempt by Puerto Rican nationalists against my father, then living in Blair House, while the White House, across the street, was being rebuilt. I was not at home. I was on tour, preparing to give a concert in Portland, Oregon. My habit on a concert day was to seclude myself and rest as much as possible. I knew nothing about what had happened in Washington. However, late in the afternoon, I got a call from Mother. "I just wanted you to know that everyone is all right," she said.

I was immediately alarmed. "Why shouldn't everybody be all right?" I asked. "Is there anything wrong with Dad?"

"He's fine. Perfectly fine," Mother said, and she hung up. Meanwhile, my secretary, Reathal Odum, and my manager decided it would be a mistake to let me go on stage without knowing anything. A reporter might ask me for my reaction to the assassination attempt, and blow up the whole concert. Once I knew that my father was safe, and back at work, unhurt, I calmly went on stage and did my job. He set me a good example, that man.

My mother also set me a good example, of a different kind. She was a person of innate dignity and propriety, a born lady. Beth Campbell, the wife of Dad's second press secretary, used to say that being First Lady came naturally to Bess Wallace Truman: She was a lady in Independence, and she simply went on being a lady in the White House. It was more complicated than Beth realized, and the story of my mother's life was more difficult to tell than that of my father.

She died before I began the project, and I am quite certain she would not have consented to it if she had been alive. Although she was intelligent and articulate and had a lively sense of humor, she was at the same time a very reserved and proud woman. Unlike some other First Ladies, she did her level best to stay out of the limelight, and she succeeded uncommonly well. There was an especially strong contrast between her and the untiring public activism of her immediate predecessor, Mrs. Roosevelt.

Research into her life proved difficult because, of course, she did not leave behind hundreds of thousands of official documents like my father; nor did she write as many personal letters as he did. As you may have read in *Bess W. Truman,* around Christmas-time in 1955, Dad walked into the living room in Independence and found Mother sitting before the fireplace, in which a brisk blaze was crackling. All around her were piles of letters. As she finished reading each one, she tossed it into the fire.

"Bess," Dad exclaimed, "*think* of history."

"I have," she replied, and tossed another letter into the flames. We now know that she spared most of Dad's letters, but with that determination to stay in the background, which was the essence of her role in their intense partnership, she burned almost all of her letters to him.

Her biography, consequently, was a most difficult book to produce. It was about a woman I thought I knew better than any other person in my life. But I discovered that she

kept her deepest feelings, her most profound sorrows hidden from me and almost everybody else. This was not out of malice. On the contrary, it was an act of love for her only child.

Whether to serve history or honor her reticence became a difficult issue when we had to decide whether to tell the whole truth about Mother's father, my grandfather, David Wallace. He committed suicide when she was 17 years old, and in those days suicide was scandalous, not to be discussed in public and especially not with the children. I did not know the circumstances of my grandfather's death until I was more than 20 years old, when one of my aunts mentioned the matter in my hearing. My father was furious with her.

Resolute research turned up new facts about this sad and troubled man, whom my mother loved so much. It was difficult for me to tell this part of her story because I knew very well she would not have approved of it. She had struggled throughout her life to conceal this family secret, mainly for the sake of her own mother, the dead man's devastated widow, who held her head so high and her back so straight in the society of Independence, Missouri.

But I shared my father's concern for history, and I believe I made the right decision, especially as I would no longer offend my mother and her sense of family honor. Moreover, the story of my grandfather's suicide played a small part in American history. It had a bearing on one of the turning points in the career of Harry S. Truman—his nomination for the Vice Presidency at the Philadelphia Democratic National Convention in 1944. In my biography of my mother, I was able to disclose the real reason why he tried at one point to turn down the nomination: He did not want his wife to undergo the scrutiny of the press, which might disclose the suicide of her father.

Another vivid incident in my mother's story came solely out of my own recollections: I intercepted and burned an angry letter my father wrote to her early in his presidency. This incident was part of another historic revelation—that Mother was deeply unhappy, almost rebellious, during much of her first year in the White House, after the death of President Roosevelt.

This is a story that I doubt many of you ever knew or sensed, because my mother, despite her personal distaste for public exposure, loyally did her job as mistress of the White House with grace and dignity. She loved Washington; indeed, she wanted to settle there when my father's term as President ended. She had enjoyed being a Senator's wife, and was proud of the success she had made of it. But she never wanted to be First Lady.

The greed, the striving, the arrogance and ambition, the corruption, social-climbing and grasping for power that pervade some of the great institutions of government in Washington were alien to her, and utterly distasteful. These institutions were the scenes ultimately chosen for the Margaret Truman series of murder mysteries about Washington.

There is, to my mind, nothing inherently evil about the institutions themselves; most of them have served our nation with distinction. But within some of these institutions there are so many opportunities for graft, bribery and thievery—billions of dollars to be had just for the taking—that government attracts crooks or makes crooks out of honest men.

The Pentagon weapons procurement scandal, now under intensive investigation, is only one of such outrages we have lately witnessed. I am personally astonished that the looting of the Pentagon has been so long in attracting judicial attention. You and I—all of us—have known or sensed that it has been going on for years. The obvious policy has been to pile up weapons, and damn the cost. Americans don't seem to care, whenever the mesmerizing words "national defense" are invoked, how much of our money is wasted, how large our national debt grows, how much of our patrimony falls into the eager hands of foreigners.

From that outburst you may judge that it has not been too dificult to find villains for a series of murder mysteries in Washington. I have wanted these books, however, not to be merely stories of intrigue, chicanery and mayhem. I would hope they have told the reader something about the way Washington works. Sometimes the way it works is ridiculous.

For instance, it is said that when the vast new CIA headquarters in Langley, Virginia, was being built, the contractor wanted to know how many individuals would be occupying the building because he had to design an air-conditioning system appropriate to the number of people whose fevered brows had to be cooled in the sub-tropical heat of a Washington summer. He was told that national security would not allow the number to be divulged. So, he had to guess how much air conditioning would be needed. He guessed wrong, and I am told that the air conditioning was woefully inadequate. The CIA took the contractor to court. But he won. The judge decided that his logic made more sense than the CIA's "national security" argument. That is a story that came out of the research for *Murder in the CIA*.

Another story: The CIA over the years has set up hundreds of "fronts". These are seemingly legitimate enterprises that serve the clandestine purposes of the CIA. Perhaps the best known, and most conspicious, of all was Air America, the CIA's very own airline. A lesser operation I've been told about is an employment agency in Manhattan. Its purpose is to call upon people under the pretext of checking a job reference, but actually to find out more about certain individuals.

And, as this is a meeting concerned with the business of books, I should say that I have heard—indeed, I know—of at least one American book publisher who is financed by the CIA. Wild horses could not drag the name out of me.

In *Murder in the CIA*, the Company, as it is often called, or the Factory, or the Pickle Factory, runs a small yacht-

charting operation in the British Vírgin Islands. I do not know that any such operation exists, but it very well might—from what we know of other CIA "covers". Calling the CIA by such names as the Company or the Pickly Factory is typical of intelligence agencies. Those in the business take delight in inventing abstruse names for clandestine activities. The Russians, for example, don't like to speak of assassinations; they call them "wet affairs." Practically every other intelligence organization in the world has adopted that term.

While talking about the CIA, I should say that it was set up under my father's administration. I was build on the foundations originally laid down for the OSS—under Bill Donovan in the Second World War. Our country, oddly enough, had never until then had a central intelligence agency, or secret police, although such outfits were common enough-and notorious enough—among the other great powers. Dad though we needed, for our protection, an international intelligence agency, and he gave it his blessing. But he came to regret his action—or the way others distorted it: He never meant for the CIA to conduct covert military operations, subvert the governments of other countries, infiltrate some of our own institutions, plot assassinations of foreign leaders, or spy on our own citizens at home.

Speaking of the CIA also brings to mind *Murder at the FBI*. You may remember that that book begins with a man being shot to death on the firing range at FBI headquarters, in the presence of 200 tourists who are visiting the building, and no one knows how the deed was done or who did it—until the end of the book. Incidentally, if you ever have the opportunity to take the tour of FBI headquarters, don't miss it. It's fascinating.

My father, like several other Presidents, had little use for J. Edgar Hoover, who created the modern FBI and ran it from 1935 until his death in 1972 at the age of 77. Yet, no President dared fire him. He intimidated his staff too. Once he received a memo, and was displeased by the amount of space left in the margins. He scribbled on the document, "Watch the borders." The memo went back to its author, who promptly sent 50 more agents to the Mexican frontier.

Another of his idiosyncracies, which you will find in *Murder at the FBI,* was his fear of making left turns. That apparently stemmed from an occasion when a car in which he was riding turned left and was hit by another vehicle. Can you imaagine how a driver forbidden to make left turns could manage in a city of one-way streets?

While Mr. Hoover is no longer around, the FBI is in the news again with a distinctly dubious surveillance operation. As all of you know, the agency has for ten years or more been running what it calls a Library Awareness Program. In essence, the FBI is asking librarians to report on suspicious library users and the materials they withdraw from the libraries.

These intelligence people, whether in the CIA or FBI, never give up. They are forever trying to make informers out of us. They don't seem to understand that a country in which every citizen informs on every other citizen, and every citizen reports to the authorities, is nothing more nor less than a police state.

Fortunately, the American Library Association has said no—long ago. Its Code of Ethics, as you know, says librarians must protect each user's right of privacy. The right of privacy, and the freedom to read—that's the kind of language I understand. It comes from our Constitution and our heritage, and I am sure it's imbedded in the mind and conscience of everyone here.

I have been fortunate to live and work in a country where no official decides what I may write. The public is my only arbiter—to buy or not to buy, to read or not to read. I'm sure we shall keep it that way, you and I.

It was not like that in the Soviet Union when I was there in the '60's: Books in the libraries were not available to just anybody. Certain works were restricted to scholars or officials who had special permission to see them. In brief, Russians did not have the freedom to read. Recently a delegation from the Soviet Union visited Vartan Gregorian, president of the New York Public Library. Dr. Gregorian told his Soviet visitors something they never seemed to have heard before—that Lenin had written an article in *Pravda* in 1913 extolling the New York Public Library. "What Russia needs," Lenin said, "is a New York Public Library." Dr. Gregorian's Soviet visitors almost died laughing. Maybe somebody will tell Gorbachev what Lenin said, and ALA and AAP *glasnost* will become a feature of Soviet *perestroika.*

I am grateful to the AAP Freedom to Read Committee and the ALA Intellectual Freedom Committee for inviting me here today, and allowing me to identify publicly and emphatically with the stand you are taking on the fundamental rights of American citizenship, the very foundation of our liberties. You don't need my help—you are doing fine without it—but you do have my encouragement and hearty support.

Meanwhile, there are more books to write. My friends and fans are always asking what the title of the next Washington murder mystery will be. My husband, who gave me the FBI and CIA titles, votes for *Murder in the Pentagon* (there are a few people there he'd like to murder himself).

Maybe that's the way to end this talk: Let me hear a few suggestions. One suggestion to a person, *please.* □

(IFC report . . . from page 148)

FBI Library Awareness Program

At the joint Council and Executive Board information meeting on Sunday, July 10, we reported the developments on this issue since our Midwinter meeting. There have been three developments on this matter during this Conference. First, the Executive Board approved this Committee's recommendation that ALA file a suit seeking to compel release of "full documentation regarding the FBI's Library Awareness Program, of all FBI library visitations, and of all related activities." Second, the Executive Board approved the Committee's request for supplementary funds to permit us, the President, and ALA's counsel to travel to Washington to accept the Bureau's May 18, 1988, invitation for a meeting to discuss ALA's concerns about the Program. Third, the House Judiciary Subcommittee on Civil and Constitutional Rights held a hearing on July 13 to take testimony from the FBI on the Program.

The Intellectual Freedom Committee has two resolutions to propose. The first is one of appreciation to Toby McIntosh, a reporter for the Bureau of National Affairs, for his diligence in filing an FOIA request for the transcript of the briefing done by the FBI for the National Commission on Libraries and Information Science in San Antonio, January 14, 1988.

Our second resolution is one which, if adopted, will place ALA unequivocally on record as opposing the FBI Library Awareness Program and as demanding that it cease.

Article 19

At this Conference, the IFC has taken action on support for an international censorship monitoring organization, on English First legislation being proposed and implemented around the country, and on the suppression of the availability to residents of South Africa of dissertations on microfilm.

Article 19 is an international human rights organization launched in October, 1986, to campaign for global freedom of expression as defined in Article 19 of the Universal Declaration of Human Rights. It works to promote freedom of opinion and expression and to actively oppose censorship internationally. It seeks to establish a global network to research, document, and report on the status of freedom of expression worldwide and has published a report, *Information, Freedom, and Censorship.*

The IFC has passed, and, in concert with the International Relations Committee, presents to Council for its approval, a resolution affirming the American Library Association's full cooperation with Article 19, the International Centre on Censorship, in particular our intent to share public information with it, to receive information from it and to encourage support for this organization and its programs.

English First Laws

The Committee had brought to it at its 1988 Midwinter Meeting a request that ALA take a stand opposing legislation and proposed amendments to the U.S. Constitution that would make English the "official language" of the U.S. or of a state. The Committee did not have sufficient information at that time to form an opinion. In the interim, information has been sought and obtained. "English Only" intitiatives are underway in Arizona, Colorado, Florida and Texas, and 19 state legislatures have debated Official English measures in 1987, five passed them, for a total of 13 states that have established English as their official language (Arkansas, California, Georgia, Illinois, Indiana, Kentucky, Mississippi, Nebraska, North Carolina, North Datota, South Carolina, Tennessee, Virginia). On the other side of the coin, Hawaii passed an amendment to its Constitution in 1978 that established English *and* Native Hawaiian as co-equal languages, Louisiana has a statute that upholds rights to preserve and promote minority cultures and languages, and New Mexico has had a provision in its Constitution for 56 years authorizing the training of Spanish-speaking teachers and requiring all official documents to be published for 20 years in both English and Spanish.

The IFC considers that the ramifications of Official Language statutes for libraries could be profound in regard to collection development, programming and overall access to materials in those communities where there are substantial numbers of people who do not speak English as their first language. We see this as a fundamental intellectual freedom/freedom of expression issue.

South Africa

At this Conference, it also came to the Committee's attention that University Microfilms International, a subsidiary of Bell & Howell Co., has discontinued "selling to or buying from the government of South Africa or any South African businesses or institutions" as a result of Bell & Howell's policy. As all of you know, UMI is the sole source of dissertations on microfilm. The refusal to sell dissertations to South African universities and libraries is, the Committee believes, yet another example of the stemming of the critical flow of thought and information as a result of the otherwise laudable goal of imposing economic sanctions on the Republic of South Africa for its reprehensible apartheid practices.

On Monday, July 11, the ALA Membership Meeting approved a resolution which the Intellectual Freedom Committee unanimously recommends to Council. This resolution will be brought to you later this meeting as one of membership's actions.

AIDS Information

The Committee recommends for your adoption a resolution expressing appreciation to U.S. Surgeon General C.

Everett Koop for his leadership in an unprecedented public information direct mail campaign regarding AIDS.

Report of the Special Committee on Freedom and Equality of Access to Information

Attached for your information is a statement, prepared and approved by the Intellectual Freedom Committee, opposing the creation of a Standing Committee on Access and providing reasons for that opposition.

Intellectual Freedom Leadership Development Institute

The IFC conducted a highly successful and productive Intellectual Freedom Leadership Development Institute, held May 5-7 outside Chicago. Fifty-two participants selected from applications from 38 states, attended the 1988 Intellectual Freedom Leadership Development Institute held in Lisle, Illinois. The attendees took part in sessions on the history of intellectual freedom in the library profession, legal views and trends, lobbying, working with the media, recognizing a controversy before it erupts, and methods and resources for dealing with a challenge. They also participated in sessions on working with trustees, on coalition building, and on workshop planning. All the selected participants have pledged to offer or to help to plan and organize an intellectual freedom workshop at their state (or regional) level within the next 18 months. We are considering the possibility of offering this national level institute on a biennial basis. This institute was supported by General Funds.

Censorship and School Libraries

The joint publication of the ALA and the American Association of School Administrators—*Censorship and Selection: Issues and Answers for Schools*—will be available within the month. This book is an intellectual freedom manual for school administrators and we think it will provide much-needed assistance to an increasingly beleaguered group of people. In addition, the Freedom to Read Foundation will sponsor a colloquium in Washington, D.C., January 4-5, 1989, to discuss legal strategies for the next decade regarding school and school library/media center book selection and censorship. Invited participants will include lawyers, librarians, school board members and administrators.

Newsletter on Intellectual Freedom

The Committee is deeply concerned that the subscription and renewal rates for the *Newsletter on Intellectual Freedom* have been in decline. In the face of growing challenges to free and unhindered access to ideas and information *from* all segments of our society and *to* to all potential users, and, particularly, in light of such governmental incursions on our fundamental rights to information and to privacy as the FBI Library Awareness Program, the need for the comprehensive coverage provided by the *Newsletter* is greater than ever.

The Committee, thus, requests that Council mandate that a subscription line for the *Newsletter on Intellectual Freedom* be included on the ALA annual membership form in order to increase the awareness of this publication and to ease subscription and renewal.

Conclusion—Items for Midwinter

To review briefly, the IFC will bring to Council at the Midwinter Meeting in Washington, D.C., further developments in the FBI Library Awareness Program.

We will also report back on our research and any recommendations on the issue of English First laws, particularly in light of the recommendation from the Committee on Minority Concerns that the *Library Bill of Rights* be reviewed during the upcoming fiscal year to insure that it encompasses freedom of access to information and libraries without limitation by language or economic status.

A statement on policies relating to access for young people to videocassettes in libraries is being prepared by the IFCs of the youth divisions. The IFC will bring this statement to you, together with any action recommendations arising out of it.

The Committee continues to seek out developing infringements of and challenges to the principles of intellectual freedom and to promote the policies of the ALA in all such cases.□

Resolution In Opposition to FBI Library Awareness Program

WHEREAS, The Federal Bureau of Investigation Library Awareness Program is of paramount concern to the library community, and

WHEREAS, the attempts by the American Library Association through letters of inquiry, Freedom of Information Act requests, and offers to meet with FBI representatives in order to secure full background information from the FBI concerning the scope of its activities under the FBI Library Awareness Program and similar programs have been mostly in vain, and

WHEREAS, the *Library Bill of Rights* and the American Library Association's Code of Ethics clearly provide that information available to the general public be provided to all on an equal and confidential basis, and

WHEREAS, The American Library Association policy #53.4, Governmental Intimidation, an Interpretation of the *Library Bill of Rights* states: "The American Library Association opposes any use of governmental prerogatives which leads to the intimidation of the individual or the citizenry from the exercise of free expression,"

THEREFORE BE IT RESOLVED, That the American Library Association go on record in condemnation of the FBI Library Awareness Program and similar programs, and all that they imply in relation to intellectual freedom principles, and

BE IT FURTHER RESOLVED, That the American Library Association call for immediate cessation of the FBI Library Awareness Program and all other related visits by the Bureau to libraries where the intent is to gain information, without a court order, on patrons' use and

BE IT FURTHER RESOLVED, That the American Library Association use all of the appropriate resources at its command to oppose the program and all similar attempts to intimidate the library community and/or to interfere with the privacy rights of library users by the FBI, and

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to the President of the United States of America, the Senate Judiciary Subcommittee on Technology and the Law, the House Judiciary Subcommittee on Civil and Constitutional Rights, and to the Director of the Federal Bureau of Investigation.

Adopted by the ALA Council, July 13, 1988.☐

Resolution of Appreciation to Toby McIntosh

RESOLVED, That the American Library Association express its appreciation to Toby McIntosh of the Bureau of National Affairs for requesting the transcript of and reporting on the Federal Bureau of Investigation's January 14, 1988, briefing of the National Commission on Libraries and Information Science re: the FBI's Library Awareness Program.

And be it further resolved, that a copy of the resolution be forwarded to the management of BNA.

Adopted by the ALA Council, July 13, 1988.☐

Resolution in Support of Video and Library Privacy Protection Act

WHEREAS, The First Amendment to the U.S. Constitution protects the freedom of all to read and to view, and

WHEREAS, a free society requires an informed citizenry in order to govern itself, and

WHEREAS, an informed citizenry must have open access to information wherever it may be sought, and

WHEREAS, this Association through policy and action staunchly defends the rights of all people in the U.S. to education and entertainment without the chilling constraint of another person or entity reviewing that activity, and

WHEREAS, legislation pending before the U.S. House of Representatives and Senate (the Video and Library Privacy Protection Act, H.B. 4947 and S. 2361) seeks to protect these constitutional rights,

THEREFORE, BE IT RESOLVED, that the American Library Association strongly supports the Video and Library Privacy Protection Act, H.B. 4947 and S. 2361.

Adopted by the ALA Council, July 13, 1988.☐

Resolution on the Child Protection and Obscenity Enforcement Act of 1988

WHEREAS, The First Amendment to the U.S. Constitution protects the freedom of all to read and view, and

WHEREAS, The American Library Association policy #53.4, Governmental Intimidation, an Interpretation of the *Library Bill of Rights* states: "The American Library Association opposes any use of governmental prerogatives which leads to the intimidation of the individual or the citizenry from the exercise of free expression," and

WHEREAS, The American Library Association policy #53.1, *Library Bill of Rights* states:

> 1. . . . Materials should not be excluded because of the origin, background, or views of those contributing to their creation, and
> 2. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval, and

WHEREAS, The ALA Intellectual Freedom Committee has documented the "chilling effect" on libraries and librarians by the Report of the Attorney General's Commission on Pornography since its release, and

WHEREAS, Legislation pending before the U.S. Congress (the Child Protection and Obscenity Enforcement Act of 1988, H. 3889, S. 2033) is a follow-up of recommendations in the above Report and will threaten libraries and librarians with confiscation of their collections and assets and librarians with criminal prosecution,

NOW, THEREFORE BE IT RESOLVED, That the American Library Association strongly oppose the Child Protection and Obscenity Enforcement Act of 1988, S. 2033, H.R. 3889.

Adopted by the ALA Council, July 13, 1988.☐

Resolution re *Newsletter On Intellectual Freedom*

WHEREAS, The urgency has never been greater to keep American Library Association membership currently and comprehensively informed about intellectual freedom issues such as the FBI Library Awareness Program, and

WHEREAS, The *Newsletter on Intellectual Freedom* provides a primary source for such information, and

WHEREAS, Most ALA periodicals are marketed through unit memberships via the annual membership renewal form, and

WHEREAS, The ease of subscriptions to the *Newsletter* would be greatly enhanced if subscriptions could be made available through the annual ALA membership renewal process,

THEREFORE, BE IT RESOLVED, That the Intellectual Freedom Committee requests that the ALA Council mandate that a subscription line for the *Newsletter on Intellectual Freedom* be included on the ALA annual membership renewal form.

Adopted by the Intellectual Freedom Committee, July 12, 1988 [Council referred to the Committee on Program Evaluation and Support (COPES)].☐

Resolution in Support of Article 19, the International Centre on Censorship

WHEREAS, Article 19 of the Universal Declaration of Human Rights proclaims that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers"; and

WHEREAS, Intellectual freedom, as protected by the U.S. Constitution's First Amendment guarantee of the right to receive and impart information and ideas, is a guiding principle of librarianship in the U.S. and a priority concern of the American Library Association; and

WHEREAS, Article 19, the International Centre on Censorship, has been established in London, England to promote these important freedoms; and

WHEREAS, Article 19 seeks to establish a global network to research, document and report on the status of freedom of expression worldwide; and

WHEREAS, Article 19 is dedicated to a global campaign of education and information to combat censorship wherever and whenever it occurs; and

WHEREAS, Librarians in the United States and abroad are often the first source of information about and the first line of defense against attempts to censor ideas and information; and

WHEREAS, Information on attempts to censor materials in libraries would enrich and broaden Article 19's printed report, *Information, Freedom and Censorship*,

THEREFORE BE IT RESOLVED, that the American Library Association give full cooperation to Article 19, The International Centre on Censorship, in particular

1) To share public information with Article 19 on restrictions of freedom of expression in the United States; and

2) To receive information from Article 19 on the restriction of freedom of expression elsewhere in the world and give the widest dissemination to this information; and

3) To encourage support in the United States for Article 19 and its program; and

THEREFORE BE IT FURTHER RESOLVED, that ALA encourages the International Federation of Library Associations and Institutions (IFLA) to adopt a similar resolution urging libraries and librarians around the world to support of Article 19 of the Universal Declaration of Human Rights and to participate in the work of Article 19, the International Centre on Censorship.

Adopted by the ALA Council, July 13, 1988.☐

Resolution on Surgeon General Koop

WHEREAS, Surgeon General C. Everett Koop has shown great courage in advocating free access to information that will enable people to make informed decisions about life-threatening behavior; and

WHEREAS, Surgeon General C. Everett Koop has shown strong and exemplary leadership in an unprecedented national effort to communicate to the entire population of the United States the facts regarding the existence and spread of an international health problem—AIDS;

THEREFORE, BE IT RESOLVED, That the American Library Association express its deep appreciation to the Surgeon General for his devotion to the idea that information allows people to make informed decisions and his persistence in the implementation of this program of public communication; and

BE IT FURTHER RESOLVED, That the American Library Association express its appreciation to President Ronald Reagan for his refusal to bend to political pressures to remove Dr. Koop from his position as Surgeon General.

Adopted by the ALA Council, July 13, 1988.☐

Intellectual Freedom Committee's Statement of Opposition to the Recommendations of the

Special Committee on Freedom and Equality of Access To Information

The Intellectual Freedom Committee opposes the "action recommendations" of the Special Committee on Freedom and Equality of Access to Information, specifically the recommendation to establish a "Coordinating Committee on Access to Information."

The establishing of a new ALA Standing Committee of Council should be undertaken only in response to compelling evidence that some aspect of the library profession lacks continuing, national advocacy. The report of the special committee fails to convince the Intellectual Freedom Committee that ALA lacks such units of advocacy in the area of access to information.

The special committee report's most compelling assumption is that the association needs "comprehensive treatment, focus, (and) ability to respond quickly when action is needed" in issues of denial of access to information. The Intellectual Freedom Committee believes that the addition of another standing committee of council is an inappropriate response.

ALA's "Strategic Long-Range Plan" provides a more effective mechanism for meeting the need for such broad coordination. The 1987-88 revision of the SLRP Planning Document includes seven goals on access of information, each goal supported by from four to nine strategies. The Intellectual Freedom Committee asserts that the anticipated continuing revision of the Association's strategic long-range plan (a plan based on board membership input) holds more promise for oversight of access issues than does the proposed standing committee.

The Special Committee, in an addendum to its report, illustrated the types of access concerns currently being overlooked by the Association. Nearly all of those examples noted result from new technologies. The addition of an intellectual freedom committee to the Library Information and Technology Association (LITA), and that new committee's representation on the Intellectual Freedom Round Table (IFRT), might better complete ALA's current network of units addressing access issues than would the creation of the proposed Coordinating Committee on Access to Information.—Adopted by the Intellectual Freedom Committee, July 12, 1988.☐

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intellectual freedom bibliography

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(continued on page 187)

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