

newsletter
on
intellectual
freedom



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

ISSN 0028-9485

January 1989 □ Volume XXXVIII □ No. 1

FBI to retain limited “library awareness program”

Bowing to pressure from a House subcommittee and continued resistance from librarians, the Federal Bureau of Investigation agreed in September to restrict its controversial Library Awareness Program of seeking out Soviet agents. But the American Library Association and other groups representing corporate and university libraries around the country said they still wanted the program abolished.

The restrictions were in a letter from FBI Director William S. Sessions, dated September 14, 1988, but released in November, to Rep. Don Edwards (Dem.-Calif.), chair of the House Committee on the Judiciary's subcommittee on Civil and Constitutional Rights and a critic of the program. In his communication, Director Sessions said the program would be confined to libraries in the New York city area and that cooperation of librarians would be voluntary. Rep. Edwards said that he was pleased that some steps had been taken “to narrow criteria,” but added, “I thought that we were about to put the Library Awareness Program to rest. We view this FBI activity, however limited, with real concern.”

Under the Library Awareness Program, which the FBI says has been in existence for years, librarians have been asked to report “suspicious-looking” people who might be Soviet spies, to be alert to which books and periodicals such people read or check out, and to disclose the names and information about book borrowers suspected of using libraries for espionage purposes or recruiting library employees or patrons for espionage (see *Newsletter*, November 1987, p. 215, 241; May 1988, p. 79; July 1988, p. 113; September 1988, p. 143, 145-47; November 1988, p. 191).

In his letter to Edwards, Sessions sought to eliminate objections to some of the program's most controversial features. “The FBI will not attempt to circumvent local library management in contacts with librarians, ask for information about people with foreign-sounding names or accents; ask for reports on ‘suspicious’ or ‘anomalous’ behavior; or ask for circulation lists or other records of what people choose to read,” the director wrote.

The FBI director also acknowledged some of Edwards' concerns about agents questioning the use of public or university libraries. “Where feasible,” he wrote, the FBI will no longer send its agents to such facilities, preferring instead to concentrate on specialized and technical libraries in the New York city area. In approaching those libraries, Sessions said he would direct his agents to use “narrow” criteria when asking about poten-

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

(ISSN 0028-9485)

Newsletter on Intellectual Freedom is published bimonthly (Jan., March, May, July, Sept., Nov.) by the American Library Association, 50 E. Huron St., Chicago, Illinois 60611. Subscriptions: \$25 per year (includes annual Index) from Subscription Department, American Library Association. Editorial mail should be addressed to the Office for Intellectual Freedom 50 E. Huron St., Chicago, Illinois 60611. Second class postage paid at Chicago, Illinois and at additional mailing offices. POSTMASTER: Send address changes to Newsletter on Intellectual Freedom, 50 E. Huron St., Chicago, Illinois 60611.

library censorship in Oregon

Between May 1987 and June 30, 1988, a total of seventeen formal challenges to library materials occurred in the state of Oregon. In fourteen of these incidents, the materials were retained in the library, with decisions made by librarians, school principals, library boards, and/or school boards. In two cases, materials were removed from the library, and in one case, access to a book was restricted.

These were the conclusions of the first Annual Report of the Oregon Intellectual Freedom Clearinghouse, released September 22 by the Oregon State Library. The library began the Clearinghouse in 1987 to collect reports about challenges to library materials. "The level and severity of censorship occurring in Oregon could not be assessed before the establishment of the Clearinghouse," explained Wes Doak, Oregon State Librarian. "Now we have a baseline number against which to measure future potential threats to the basic principle of intellectual freedom in our society."

According to the report, *Just Good Friends*, a young adult novel by Jane O'Connor, was removed from the Jefferson Middle School library by the school principal and librarian in October, 1987, because elementary school students unprepared for the book's sexual references also use the library. At Jordan Valley Union High School, various titles in the *Longarm* series of books by Tabor Evans were removed by the school board in August, 1987, because they were "too sexually graphic." At Little Butte Intermediate School in Eagle Point, *Nightmares: Poems to Trouble Your Sleep*, by Jack Prelutsky, was placed in a "reserved" section in November, 1987, on the recommendation of a review committee. A parent had complained that the book could disturb a child's sleep and offered no learning experience.

Unsuccessful challenges were filed at four other school libraries in Phoenix, Redmond, The Dalles, and Mt. Angel.

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A total of ten titles were retained after challenges at public libraries in Portland, Eugene, Albany, Springfield, The Dalles, and Hillsboro.

Books unsuccessfully challenged at public libraries included: *Father Christmas*, by Raymond Briggs, because of cursing, drinking, and a negative image of Santa Claus; *The Happy Prince and Other Stories*, by Oscar Wilde, alleged to be too distressing and morbid; *The Enormous Crocodile*, by Roald Dahl, for the "sinister nature" of its story; *Belinda*, by Anne Rampling, for its sexual nature; *Some Swell Pup*, by Maurice Sendak, because a dog urinates on people and children abuse animals in it; *Perez and Martina*, by Pura Belpre, because the death of a mouse in the story could upset children; and *Cutting Edge*, a collection of stories edited by Dennis Etchison, for its language, sexual nature and "perversity."

Magick in Theory and Practice, by Aleister Crowley, and *The Witch's Sister*, by Phyllis Reynolds Naylor, were challenged for their occult subject matter. At the Hillsboro Public Library, *Nelson and Winnie Mandela*, by Dorothy and Thomas Hoobler, a juvenile biography, was challenged by a patron who charged that the Mandelas and the African National Congress of which they are members are Communist-backed and advocate violence. In this case, the material was reviewed and retained in a final decision by the library director and children's librarian, who also suggested the ordering of an additional work to "balance" coverage of the subject.

Works challenged and retained in school libraries included: *Footfalls*, by Elizabeth Harlan, a young adult novel challenged for its profanity and sexual content; *More Scary Stories to Tell in the Dark*, by Alvin Schwartz, alleged to be too scary and violent for children; and *The Witches of Worm*, by Zilpha Keatley Snyder, for its witchcraft theme and scary illustrations.

At Talent Elementary School in Phoenix, the *Impressions* reading series, published by Holt, Rinehart & Winston, was challenged by two individuals last spring because it allegedly promotes witchcraft and secular humanism and lacks Christian values. The Oregon Citizens Alliance (affiliated with Citizens for Excellence in Education) coordinated public protest against the books. After two public school board hearings, a reconsideration committee reviewed the series, which was retained by the board on June 24, 1988.

The Oregon Intellectual Freedom Clearinghouse was established with cooperation from the Oregon Department of Education, the Oregon Library Association, the Oregon Educational Media Association, and the American Association of University Women. The coordinator of the Clearinghouse, Mary Ginnane, serves on the Intellectual Freedom Committee of the Oregon Library Association. Copies of the Annual Report of the Oregon Intellectual Freedom Clearinghouse can be requested from the Library Development Services Division of the Oregon State Library. □

library rejects religious book, protester claims censorship

When Darrel Swisher of Pompano Beach, Florida, offered to donate a religious book in April to the Pompano Beach City Library, his request was politely but firmly turned down. "The book was reviewed," said library director Dorothy Field. "We came to the conclusion that we have enough religious books and better written ones in our collection."

But two librarians who Field asked to read the book recommended accepting the gift. So, armed with a petition, Swisher collected 33 names of clergymen and about 15 letters from residents requesting that the book be placed on a library shelf. Field again refused.

The 613-page book, *The Testimony of the Evangelists*, is a comparative study of the four Gospels published in 1874 by Simon Greenleaf, an attorney and then president of the Massachusetts Bible Society. In a memo to Field, librarian M. Dicks wrote, "Although the language . . . is arcane . . . I would not hesitate to recommend keeping the book for its subject matter." Librarian Ronnie Grossfeld agreed: "This book would be an acceptable addition to the circulating collection."

According to Field, however, the book is outdated and too academic for lay people. "New insight, new interpretations of Christ's life by both Christians and Jews seem far more important in today's society. . . his study . . . has little meaning in religious issues before the public today," she wrote in a memo to staff members. To Swisher she wrote: "We feel the book is too academic and historic for a public library collection." She advised him to contact Florida Atlantic University. She also noted that a copy of the book was in the Broward County Main Library in Fort Lauderdale.

Charging religious discrimination, Swisher and some fifteen supporters staged two protests in front of the library. "This is censorship," he said. "The public library is supposed to fill a vacuum. This is an important work—why shouldn't they accept it? With religious books of varying degrees already there, I see no reason to reject it because it's too academic."

"It's open season on religion," added William Sanders, a retired judge who came to watch one of the demonstrations. "There exists today a discriminatory attitude concerning anything Christian."

"Censorship is censorship no matter what the book is called," said Francisco Bersach, whose protest sign read "Let the public decide."

Dr. Robert Hann, chair of the philosophy and religion department at Florida Atlantic University and a specialist in the new testament and the origins of Christianity, said he was familiar with the book but had never read it. "A great deal has been discovered about the gospels' relationship to one another since the time the book was written," he said. "It might have been a good book more than a hundred years

ago, but today would be considered greatly out of date."

Hann said he would not consider the refusal of Swisher's gift censorship. "The librarian might be concerned with keeping her collection up to date—she's probably just made a bureaucratic decision that she wants to abide by," he said. Reported in: *Hi-Riser*, September 22. □

Foerstel among 1988 Hefner Award winners

Herbert Foerstel, head of branch libraries at the University of Maryland, was one of six winners of the 1988 Hugh M. Hefner Awards announced in Chicago October 6 by awards co-chairs Christie Hefner, president of Playboy Enterprises, Inc., and Stanley K. Sheinbaum, former chair of the ACLU Foundation of Southern California. Foerstel was honored in the education category "for his vigilant efforts to maintain the basic rights of privacy and access to public information of library patrons."

Foerstel testified before the House Committee on the Judiciary Subcommittee on Civil and Constitutional Rights during the summer of 1988 in opposition to the FBI Library Awareness Program, in which the bureau asked librarians to reveal borrowers' records and report suspicious foreign-speaking library patrons. Foerstel told the subcommittee about visits by FBI agents to one of the libraries he heads and explained the implications of this for other libraries, library patrons, and library confidentiality legislation. His testimony played an important part in discrediting FBI claims that such visits were limited to a small number of technical libraries in New York city.

The Hefner award winners were selected by an independent committee of judges comprised of Charlayne Hunter-Gault, New York Correspondent for the MacNeil/Lehrer NewsHour; Anthony Lewis and Tom Wicker, syndicated columnists for the *New York Times*; and Steven Pico, a 1982 Hefner winner for his role as lead plaintiff in *Pico v. Island Trees Board of Education*. The 1988 winners were chosen in six categories: print journalism, law, book publishing, individual conscience, and government, as well as education.

In print journalism, David Arnett, editor and publisher of the *Independent Student News* was honored for his efforts to remove restrictions set forth by the Tulsa Junior College administration on the school's student newspaper, the *Horizon* (see *Newsletter*, November 1987, p. 240).

In law, Rex Armstrong, attorney and volunteer counsel to the American Civil Liberties Union of Oregon, was honored for his extensive work defending freedom of speech and expression in his state. One case in particular handled by Armstrong, *City of Portland v. Tidyman*, led to a 1988 ruling by the Oregon Supreme Court that prevents Oregon state and city governments from imposing zoning restrictions on bookstores and theaters based on the content of the

material offered by the establishments.

In book publishing, journalist Jamie Kalven was honored for completing and editing *A Worthy Tradition: Freedom of Speech in America*, a manuscript his father, Harry Kalven, Jr. was working on before his death. Tracing the development of free speech doctrine from the Supreme Court's earliest decisions through the last days of the Warren Court, the book covers a wide range of issues as diverse as obscenity and deportation, and libel and legislative investigation.

Nuclear scientist Roy Woodruff was honored in the individual conscience category for his willingness to jeopardize his career in order to go public with a realistic assessment of the state of a major component of the Strategic Defense Initiative (Star Wars) program. Woodruff resigned as Associate Director for Defense Systems at Lawrence Livermore National Laboratory in California in October, 1985, to protest the overselling of the X-ray laser, a key SDI component, by Livermore physicists Edward Teller and Lowell Wood.

In the government category, Eric Robert Glitzenstein, attorney for the Public Citizen Litigation Group, was honored for his work promoting the public's right to know about governmental activities and for taking steps to ensure public access to the workings of government.

Each winner received a specially designed plaque and a check for \$3000 at a ceremony November 1 at the Playboy Mansion in California. Established by the Playboy Foundation in 1979, the annual Hugh M. Hefner First Amendment Awards recognize individuals and their efforts to protect and enhance First Amendment freedoms. □

truce reached over AIDS script

After two weeks of conflict and compromise, including the writing of a new ending, Lorimar Television finally got its AIDS-angled episode of NBC's "Midnight Caller" completed, after a shaky truce was reached with protesters.

Even though it won a court ruling against the protests, Lorimar still rewrote the ending in hopes of eliminating objections to the script. As redrafted, the villain of the episode—an AIDS-infected bisexual wreaking revenge on women by exposing them—survives. He originally was killed by one of his "victims"—an idea some thought would encourage real-life violence against AIDS sufferers.

The controversy began when protesters from the San Francisco AIDS Foundation and AIDS Coalition to Unleash Power (ACT UP) disrupted production October 18. After meetings failed to produce a compromise, Lorimar went to San Francisco Superior Court and obtained a temporary restraining order.

But, said executive producer Robert Singer, "It was never out intention to visit pain or discomfort on any group. So if we are to err, it seems only right to err on the side of caution." Singer insisted, however, that the script change was not a "concession" produced by "negotiations." Rather,

he said, the producers had "heard what they said. . . and tried to be responsive."

Although protest groups reluctantly accepted the pact, they continued to complain about the basic premise of the show, wanting the villain to become an innocent victim himself. Reported in: *Variety*, November 2. □

Europeans gather to discuss creative rights

Over 250 mainly European TV and film directors, academics, artists, actors, entertainment industry leaders, and journalists gathered at the European Culture Center in Delphi, Greece, September 25-27. The purpose of the symposium, sponsored by the European Federation of Audiovisual Media, the Greek Ministry of Culture, and the European Cinema and Television Year, was to draft a charter stating the rights that should be guaranteed to audiovisual creators.

Preliminary meetings had been held and it was expected that the organization and drafting of a declaration at the symposium would proceed smoothly. But debates over semantic differences led to several lengthy delays. Still, a declaration of individual and public freedom of choice and freedom of expression for artists was read at the closing session.

The document has fourteen articles, the first of which states: "Film and television arises from an expression of man's experience and imagination and is a real part of a living culture. Each work is also an expression of its creator's personality."

Other articles dealt with the encouragement of authors to work in their own language, the protection of moral rights and the voices of ethnic minorities, and an abolition of all censorship. Article 12, which states the public has the right to review productions in their entirety without commercial interruption, provoked criticism from some participants.

The charter was accepted, without a vote, by those attending. It was viewed as a success in terms of a beginning in formulating regulations that would hopefully be implemented in all European Community countries. Reported in: *Variety*, October 12. □

civil liberties under siege in Britain?

Although there has been little public outcry, the British government may face a battle over proposals to limit freedom of the press and restrict the right of defendants in criminal cases to remain silent.

Because the British Constitution is unwritten, with no equivalent to the American First or Fifth Amendments, a government with a comfortable parliamentary majority, like that of Prime Minister Margaret Thatcher, has more freedom to legislate than do either the American president or Con-

gress. Thus, by administrative notice, the government in October barred British radio and television from broadcasting live or recorded interviews with members or supporters of the outlawed Irish Republican Army (see page 15). And by legislation introduced in the House of Commons, the government plans to allow judges in all criminal cases—not just those accused of terrorism—in Northern Ireland to count the silence of defendants against them if they refuse to make statements in court or to the police.

Moreover, the government in a June “white paper” announced its intent to replace Section 2 of the Official Secrets Act of 1911, going beyond the old law to make it a criminal offense for a member or former member of the security and intelligence services to make any unauthorized disclosure of information about their work. The same legislation would prevent any news organization from publishing such information.

“In toto, it’s a frontal attack on civil liberties in the mother country,” said Floyd Abrams, an American constitutional lawyer.

British experts explain the lack of vigorous public discussion of the government’s plans to revise the Official Secrets Act by pointing to the differences between the American and the British press, which is often viewed as sensation-seeking and unreliable. “We don’t have a great appreciation that however vile the free press often is, even its vileness is necessary for the great purpose of vigilance that it serves in society,” said Richard Shepherd, a Member of Parliament in Thatcher’s Conservative Party who opposes the new secrets bill.

“It’s a major constitutional measure,” Shepherd continued, “and it’ll be the most difficult piece of legislation of this term. No American Congress—no Canadian or Australian parliament—would enact a law that would confer such powers in the hands of the executive. I assert that ‘We, the people’ have primacy, but every executive always contends for everything it can get, and because our Constitution is unwritten, each generation has to claim the right again.”

Critics of the government proposal said that its defeat in the courts in the *Spycatcher* case (see page 15) showed the difficulty of convincing people that disclosures of information are necessarily harmful. Robin Cook, a Labor Party Member of Parliament, who will lead the fight against the bill said, “The problem this bill addresses is this: It is getting damnably difficult to convince juries to convict under Section 2 of the Official Secrets Act. So they are replacing a blunderbuss with an Armalite,” a modern automatic rifle. Reported in: *New York Times*, November 1. □

(FBI. . . from page 1)

tial Soviet agents. “They will not require judgments by librarians as to who is of interest and who is not of interest to the FBI,” the letter said.

Nonetheless Sessions’ letter disputed contentions voiced by Edwards at subcommittee hearings that the program is of little value. “The FBI is charged with keeping track of hostile intelligence service activities in the United States and I believe that it is essential that we make these inquiries,” he said.

In a letter to Rep. Edwards, C. James Schmidt, chair of the ALA Intellectual Freedom Committee, agreed that Sessions’ guidelines would “narrow the scope” of the program and reduce the likelihood of confrontations between librarians and the FBI.

“Nevertheless, I am greatly disheartened that the FBI has reiterated its intention to make requests for confidential information on library patrons (identified by the FBI, solely in its discretion, as hostile agents or their co-optees),” Schmidt wrote. “This intent demonstrates that the bureau does not understand, or has chosen to ignore, that however important its duties may be, they are subordinate to the First Amendment rights of patrons using a library or to state confidentiality laws.” Reported in: *New York Times*, November 11; *Washington Post*, November 15. □

— censorship dateline —



libraries

Casa Grande, Arizona

"You never expect it to happen," said David Snyder, director of the Casa Grande Public Library. "It was one of those books that was so popular it was never on the shelves and always had a waiting list."

The book was *Truly Tasteless Jokes* and it was not so popular with Flo Singleton, a parent whose sixth-grade son got his hands on it last April and shared it with his classmates. Singleton filed a three-page written complaint with the library. She asked that the book be "destroyed."

"I informed her we did not deem it to be inappropriate for a public library collection—in fact, it had been acquired through a program by which we solicit recommendations for titles from the community," Snyder said. Moreover, the book was kept on a revolving paperback rack in the adult section of the library. "It was not exactly in plain view," Snyder added.

Singleton, nevertheless, was granted a hearing. The library's board of directors heard testimony from about thirty community members, ultimately voting 6-1 to reaffirm the library's selection, access, and circulation policies and return the book to the shelves.

Then, Snyder said, things got "scary."

Singleton filed criminal charges against the library, alleging it had violated the Harmful to Minors Act, a felony under Arizona's obscenity law prohibiting public display of explicit sexual material "in any place where minors are invited as part of the general public."

"Basically, the Harmful to Minors Act makes no distinction between an adult bookstore and any other collection of

printed or non-print material," Snyder said. Moreover, what is considered "explicit sexual material" is open to interpretation.

Unwilling to place itself or the city in a criminally liable position, the library removed the book from its display rack. Users must now present proof of age before they can check the book out or even look at it.

"Ultimately, the criminal charges flustered and colored the entire resolution of the joke book affair," Snyder said. The library director noted that the only possibility of future action is a test of the law's constitutionality. "The only way to do that is to have a minor with parental permission request the book, be denied, and ask us to prove why we denied access. We would refer to the law, and the Attorney General's office would have to substantiate the constitutionality of the law." Reported in: *Phoenix Gazette*, November 4.

Carrollwood, Florida

When 8-year-old Dustin McCune brought home a library book entitled *Devils and Demons*, by Eric Maple, from the Essrig Elementary School in late October, his mother began a campaign to have it removed from the school library. The book, a simple history of beliefs about the occult, has one page with a verse written backward. Held to a mirror, the words form a pledge to Satan.

"He came in with it and was so excited about it. He said, 'Mom, look at this book,' and started reading [the oath] to me," Kathy McCune said. "I could tell what was coming, and I said, 'Stop, Don't say it.' Just to hear him say it out loud scares me," the mother added.

McCune confiscated the book and read it. Although she said most was all right, she said a passage titled "The War With Satan" bothered her because it prints the oath, which, according to the book was signed in blood by medieval Satanists.

"It being in a public library is one thing, but in school, you can't be there when they check it out. Dustin said he had checked it out before."

Joan Herndon, elementary school media supervisor for Hillsborough County schools, said the mother was sent a complaint form. "This really doesn't happen very often, but we take it very seriously," said Herndon. "It's a pretty old book and this is the first complaint I've heard on it." Reported in: *Tampa Tribune*, November 12.

Whitfield County, Georgia

The Pill Versus the Springhill Mine Disaster, a collection of poems by Richard Brautigan, was removed in September from the shelves of the Southeast Whitfield High School library after a parent complained about offensive language. Although reconsideration procedures were continuing, Principal Michael Bryans said the book was improper because it includes four poems that use "inappropriate" language or have sexual connotations.

"Fortunately, this was the first time the book was checked out, and we are glad to have found it quickly," Bryans said.

Ann Comptom, school media specialist, said the book was part of a 23-volume collection of poetry purchased last spring. To ensure fairness, Comptom pulled all 23 volumes of the collection off the shelves for review, but said she thought only the Brautigan volume was objectionable.

The Whitfield County school system has had a policy for eight years of allowing parents to question the acceptability of library materials. When a complaint is filed with the media director, the material is immediately removed and given to the school's Media Committee, which consists of seven teachers and three parents. The committee then must determine within ten days if the material is acceptable and, if found improper, call a meeting of the System Media Committee to consider the implications for the system. If someone is not satisfied with the decision, it may be appealed. Reported in: *Dalton Citizen-News*, September 29.

Augusta, Maine

Attempts to censor school library books are on the rise in Maine. "There has been a rash of censorship attempts since school opened in September," said Deborah Lock, head of the Maine Library Association Intellectual Freedom Committee. State Librarian Gary Nichols confirmed that the problem was growing. He said he would ask state education officials to "give emphasis" to state guidelines dealing with censorship.

Locke said her committee handled five school complaints in less than two months and one complaint from a public library. During the entire 1987-88 school year, there was only one attempt to remove a book from Maine library shelves, she noted.

"In many cases, it's the same people over and over," Locke said of those who file complaints. "But people making complaints seem very willing to go through the proper channels."

Books targeted since September include *Birdy*, at a Camden middle school, where a parent objected to language in the book (see page 28). At Wells High School, a story entitled "Still Life" that appeared in a literature anthology was the subject of a complaint. At Mount Abram Regional High School in Strong, a parent objected to Maya Angelou's *I Know Why the Caged Bird Sings*, because it discusses rape. At Morse High School in Bath, a videotape of George Orwell's *1984* was challenged. And at the Guilford Public Library, a complaint was lodged against Jackie Collins' *Love Killers*.

Of the books challenged since September, none was removed permanently from the shelves. Reported in: *Kennebec Journal*, November 7.

Winslow Township, New Jersey

While working on a school library project, Richie, the adolescent protagonist of the novel *Upchuck Summer*, by Joel L. Schwartz, browses among the books looking for one to explain the changes in his own body. Nothing he finds makes sense to him. Now, just as the fictitious Richie failed to find any pertinent books at his library, students at Winslow Elementary School No. 4 can no longer find *Upchuck Summer* in their library.

The Winslow Township school board voted unanimously October 17 to remove the book because of "age inappropriateness." The specific problem was the explicitness of scenes in which Richie recounts a fantasy about two "older kids" kissing while nude, and in which the boy looks at his body in the mirror. It was just too much for the parents of a third grade student.

Janet and Edward Devoe brought the issue to school officials in April, charging that the book contained "more than twenty profanities and explicit sexual descriptions." "I don't know how my 9-year-old daughter was able to check this book out of her school library," said Ms. Devoe, "but I'm glad it's not there anymore."

The Devoes were initially informed by principal William Dennison that the book would be removed, but he later changed his mind after discussing it with school librarian Edith Post. After being told the book would remain in the library, Devoe took the issue to Superintendent Barry J. Galasso and to individual board members, who set up a committee of administrators and parents to review the novel. The board received the committee report in closed session and immediately acted to remove *Upchuck Summer*.

"The book has been judged by a group of people who read it to be inappropriate for the age group of the children who had access to it," Galasso said. "As far as we're concerned, the matter is closed. It'll no longer be kept on the library shelf."

Upchuck Summer is aimed at readers 8-12 years old. Author Joel L. Schwartz, who directs the Child and Adolescent Psychiatry Fellowship at Hahnemann University Hospital in Philadelphia, agreed that it might not be suitable for younger children. However, he remarked, "If you're going to take it out of the school library because you're afraid of the influence it would have on kindergarten students, you may as well get rid of the sixth grade. It's ordinary for the younger kids at a school to hear sixth graders and the language they use. You're not going to stop that, that's part of life." Reported in: *Philadelphia Inquirer*, October 19, 21.

Evergreen, Washington

School employees in October criticized the Evergreen School Board for a letter to parents that warned of "frank references to sexual intercourse, masturbation, physical development. . . [and] pictures or drawings of nudity" in books on restricted library shelves. The letter, critics said,

could unnecessarily alarm parents because not all the books on the shelves contained that type of material.

"The letter is poorly worded and a little misleading," said Kris Kragelund, a fourth grade teacher at Ellsworth Elementary School. The lone book on Ellsworth's restricted shelf, *Before You Were a Baby*, by Paul Showers and Kay Sperry Showers, does not deal with masturbation, "but this letter gives the impression it does," Kragelund said.

Since 1986, non-fiction books dealing with human sexuality have been removed from the open shelves of Evergreen elementary school libraries and placed on so-called "restricted shelves." Parents can ask that their children not be allowed to read or check out restricted books. Nine books at eight elementary schools have been placed on such shelves in two years.

Each fall, parents are sent permission slips to indicate whether they want their children to have access to restricted books. In previous years, a cover letter has quoted guidelines used by the committee that makes the selections. This year, the letter was rewritten and the selection guidelines were paraphrased. Board President Sharon Long said she requested that the criteria for selecting books for restriction be included in the letter to parents. At least one other board member complained that the action had been taken without formal discussion.

The controversy over the letter occurred in the context of a continuing debate over the functioning of the review committee charged with selecting books for the shelves. Nine additional titles were under consideration by committee members, but a final decision was delayed while the school board wrangled over new guidelines and procedures. Reported in: *Vancouver Columbian*, September 13, October 12.

schools

Montgomery, Alabama

Supporters of a conservative political organization September 13 urged the Alabama State Textbook Committee to reject several English textbooks being considered for use in state schools. Supporters and members of Eagle Forum charged in testimony that several reading and literature books promote feminist views and are anti-family, anti-religious, and anti-war.

The committee was reviewing possible English reading and literature textbooks for the first through twelfth grades for the 1989-90 school year. They were to make recommendations to the state Board of Education.

Billie Sue Hulsey, a high school science teacher at Cathedral Christian School in Birmingham, asked the committee to reject *America Reads*, a high school literature text, because of its anti-war and feminist "bias."

"Some stories in the textbook were chosen to express a particular social philosophy," Hulsey said. "I didn't find anyplace in the textbook that war might be necessary to protect democracy." Hulsey said the book had "a feminist viewpoint that urged women to seek fulfillment outside of marriage. I didn't find one essay that women could find fulfillment as a wife and mother. There was nothing kids could use as role models."

Hulsey also said the portrayal of blacks in the book was too negative. "I didn't find anything celebrating black achievements," she said. "None of Dr. Martin Luther King's speeches were included in the book."

Betty Bostwick, a former member of the textbook committee and a member of Eagle Forum, read an evaluation prepared by a Birmingham physician of *Reading Fiction*, an anthology of short stories.

"The use of the graphic language in the story is not acceptable," she said of one selection. "The author leaves too much to the imagination in many of the stories. People could use many of the platforms contained in the stories to promote their own views." For example, Bostwick said a story by Flannery O'Connor about prejudice could be used by "leftists to condemn our society."

Eagle Forum member Frances Wideman read an evaluation of *FanFares*, a third grade textbook. "There was no mention of God, religion or respect for authority in the content," she said. "Good books are just not correct spelling, punctuation and avoidance of four-letter words. Accuracy, historical content and character building should play a role." Wideman said leaving religion out of textbooks is a form of censorship. Reported in: *Alabama Journal*, September 13.

Fresno, California

A battle has begun in Fresno over a schoolbook on peace. The book, *Peace and Nuclear Age Education Curriculum*, is a two-volume resource compiled for teachers in the Fresno Unified School District. A draft version drew strong reactions pro and con.

District trustees unanimously approved adding the materials to the school curriculum in March, 1986, but as a result of the controversy, the final version of the book was postponed. The opposition believes the draft is one-sided. Some contend it promotes extreme pacifism and dismisses the role of the military. Some parents started a petition drive against the material. Working under the name Save American Values and Education (SAVE), they collected more than a thousand signatures protesting the curriculum.

"This draft is the most blatant, biased propaganda I have ever seen," said Fresno businessman and parent Alan Graas. "It was impossible for me to believe what I was reading. The material advocates disarmament of the United States, has training exercises to demonstrate that capitalism and the free enterprise system are evil and has an 'absolutely nothing is worth fighting for' central theme. There's plenty of

evidence to me that what we have here is a situation where some extremist special interest groups again are trying to manipulate the public school system as a vehicle for political and social engineering."

Others who voiced concern about balance in the materials were state Assemblyman Bill Jones and Russ Sloan, executive director of the Fresno County and City Chamber of Commerce.

Supporters of the curriculum say the resource book is an important step in presenting all views and encouraging students to analyze information and reach independent conclusions.

"These are topics that have been neglected through the years," said Mary Lou Diddy, coordinator for Educators for Social Responsibility. "We feel that if children are going to be educated, to be the decision makers of the future, they need to have an education that includes conflict resolution, critical issues, global perspectives and understanding how we are interrelated to other countries."

Elizabeth Hansen, assistant superintendent for curriculum and instructional services, said she did not think the book would be ready until late spring. After that, school staff would present the trustees with the final version, even though it will not need formal adoption because it is a supplemental material. However, Hansen said, because of the "huge amount of interest and because we honestly want to make sure everyone in the community has a chance for input, we will be taking it to the board."

Ruth Gadebusch, president of the district's governing board, said the draft was not one-sided. "It hit on most of the things we were talking about," she said, adding that the material was never meant to stand alone, but to be integrated into existing lessons. Reported in: *Fresno Bee*, September 25.

Maine Township, Illinois

If the Age of Aquarius is going to dawn again in suburban Chicago, it will have to do so without the presence of high school drama students from three Maine Township high schools. A field trip scheduled by the students to see a revival of the 1960s musical *Hair* was abruptly canceled by school officials October 26, "in the best interests of the students."

"This is an insult to our maturity," said Maine East High senior Paul Rothschild. The field trip had been scheduled after Main East students failed in an effort to make the musical their annual production. "Our school has a fascination with that musical," said Rothschild. "There is a '60s feeling here and it fits in well. We're starting to talk to our parents and older people, take what they learned and apply it to our lives."

"The '60s was such an intense time," added senior Beth Block. "It was so cool. It was totally radical. We all want to learn about what was going on then."

"We are encouraged to be nameless, faceless high school students without individuality," said Marcus Newman, a

senior. "*Hair* for us was an opportunity for awareness; to get a taste of what went on back then and why it happened."

But the day before the planned trip, the Maine East Assistant Principal issued a brief letter: "Following a discussion at the superintendent's cabinet on Tuesday, it was decided that a field trip to see the musical *Hair* is not in the best interests of the students, therefore the field trip to see *Hair* is cancelled."

"When are we going to have the book burning?" asked Joel Jacob of Morton Grove, whose daughter had signed up for the trip.

District officials said the cancellation did not come in response to the musical's content. Instead, they said it came because proper authorities at all three schools involved were not given adequate notice. But the students found that difficult to believe. "The school has no idea of who we are, what we're going through and who we're trying to be," said Marcus Newman. "This was a major slap in the face." Reported in: *Chicago Tribune*, October 28.

Shenandoah, Iowa

A decision by Shenandoah High School administrators to cancel a fall play dealing with AIDS and homosexuality was called "blatant censorship" by the Iowa Civil Liberties Union (ICLU). The play, *Warren—A True Story*, chronicles the plight of a man who died of AIDS-related complications. Residents of Shenandoah complained to school officials that it wasn't the kind of play they wanted performed.

Nine Shenandoah High School students learned their lines during summer vacation, but during the first weeks of the school year were told the play was shelved. School Superintendent Joseph Kirchoff said the play was canceled not only because it deals with homosexuality, but also because some of the information about AIDS in it is outdated.

The student actors initially said they would try to raise money to privately mount the production and others said they could sue. But Gayle Teget, mother of student director Steve Teget, discouraged that solution. "This is a small town and many of the kids are getting ready for college," she said. "This could bring unwanted attention to the town, and long-term litigation might be hard for kids who will be going to college."

Mark Lambert, assistant director of the ICLU, said: "From our viewpoint, it is a blatant act of censorship. We're very concerned and we're looking at it closely. If one school district gets away with censoring one production, another one very likely will do the same." Reported in: *Des Moines Register*, October 6.

Topeka, Kansas

A new policy prohibiting students at Seaman High School from wearing T-shirts that portray drugs, alcohol, violence, or obscenity drew criticism from students and parents at a school board meeting October 10. The students say ad-

ministrators have applied the ban indiscriminately, including prohibiting a T-shirt that protested the ban by asking, "Where are our rights?"

"I'm being told the same thing as minorities: 'Don't question us. Just follow our rules,'" Seaman senior Jason Pierson told the school board. Pierson cited the U.S. Supreme Court's *Tinker* decision that upheld the right of students to wear arm bands in protest against the Vietnam War. "We suggest that you cannot deny our rights as well," Pierson said. "I don't believe that I leave my constitutional rights at the door of the school building."

The board declined to take action on the complaints, but board member Rusty Rogers said the members were not likely to change the policy if it comes up for review. "They are still in firm support of the policy as they passed it," he said. Rogers told the students that the issue would be placed on a future agenda if a written request was filed. Reported in: *Topeka Capital-Journal*, October 11.

Caddo Parish, Louisiana

A parent's complaint about offensive language led some Caddo Parish schools to remove Mark Twain's *The Adventures of Huckleberry Finn* from a required reading list and school libraries. But other school officials protested that the removals did not accord with official policy and procedure. "We shouldn't let one or two dictate what we do overall," said Barbara Burney, librarian at Huntington High School.

The controversy surfaced in October when Raymond Hill, parent of a Caddo Middle Magnet School student, asked the school to remove the book when he found it on a reading list for English students. Hill objected to the use of the word "nigger" employed several times through the book and said it "looms with classic racism." But Principal Lel McCullough said she was not bowing to parental pressure when she struck the book from the reading list. "We had already found it objectionable and were going to pull it," she explained.

McCullough said the decision to remove the book had been made in May, but a new teacher was unaware of it and put the book on the reading list for her class. McCullough added that *Huckleberry Finn* had never been taught at Middle Magnet.

In his complaint, Hill stressed that he did not want the book removed from library shelves. "I have no qualms with freedom of the press and the Constitution. All that is well and fine," he said. "I just don't want it as required reading." However, the book also was pulled October 20 from the library at Linear Middle School. Two years earlier, it had been removed from open shelves at the Broadmoor Middle Lab School library.

Such actions won support from at least one school board member. Disturbed by Hill's account of racially offensive passages in the Twain classic, board member Riley Stewart said he would seek the work's removal from the system. Ob-

jecting to use of the word "nigger," Stewart said, "That word is not to be in any public library or public school. This is a bad word and it shouldn't be used."

At a board meeting two weeks later, however, Stewart said he would not press for any board action. "I don't want it taken off the shelves," he told a reporter, "but it's my general conclusion that this book has no place in this modern civilization."

Other board members expressed opposition to the removals. Board member Linda Sinitiere asked if board policy was followed when the book was removed from the reading list and the two libraries. "Is that what the policy is, a school can pull a book if it wants?" she asked. "Are we doing silent censorship?" Reported in: *Shreveport Journal*, October 20, 21; *Shreveport Times*, October 24, November 2, 3.

Green Bay, Wisconsin

A parent complaint about use of a movie based on the Stephen King novel *Children of the Corn* led to an October decision to ban both the book and movie from Green Bay School District classrooms. Eric and Kitty Larsen complained to the school board after learning that the movie was shown by language arts teacher Mary Ranta to a freshman class at Southwest High School.

King's story is about children who rebel and kill their elders. They worship a demonic god and demand human sacrifices until their 19th birthdays, when they become the human sacrifices. "We battle suicide as a problem in our high schools but allow an occult book and movie illustrating human sacrifice to be taught as acceptable literature," the Larsens wrote the board.

In an October 21 letter to the Larsens, Dale Timm, assistant superintendent of instruction, wrote: "Neither the story nor the film were approved by the district as instructional resources for required curriculum implementation and will not be used by teachers in the future unless or until the materials would be approved for such purposes."

Timm's response prompted criticism during an October 24 school board meeting. Board member Beverly Kasprzak said, "I have a problem with yanking it out of the classroom until it's reviewed because of a person complaining. You're opening up a Pandora's box." Reported in: *Green Bay News-Chronicle*, October 25; *Green Bay Press-Gazette*, October 25.

Riverton, Wyoming

Four days before it was set to open, a Riverton High School theater production was canceled because Principal Stephen Roberts believed some of its material might offend Riverton audiences. The production of *Biloxi Blues*, by Neil Simon, was stopped by Roberts after he viewed a portion of the play November 9.

"I felt a level of discomfort," Roberts said. "Where I'm

at on the spectrum is not particularly conservative, so if I felt a level [of discomfort], I thought others would be offended." The principal said the play, "as presented by a high school troupe, was not consistent with current mores."

Director Lu Baxter-McCabe said she didn't like the decision, but accepted it. "I know he wrestled with this a long time," she said. "I just wish someone had said something earlier than three days before opening night."

"We could have picked some cutesy little thing, but the kids said 'we want something that is real, that is meaningful,'" Baxter-McCabe said. "It's an excellent play. It's solid. For every negative in the play, there's a counter, a positive."

Roberts said *Biloxi Blues* had been presented to him "with the idea some things would be cut, that considerable cutting would take place." Editing did occur, the director said. Much of the play's potentially offensive language, references to homosexuality, and some drill sergeant actions were struck. "The students and I did that together," Baxter-McCabe said. "We took out one-third of the play."

Still, a concerned parent urged Roberts to see the production. So the principal walked in on a rehearsal. "From these bright young kids' mouths within the first opening moments, I heard considerable references to flatulence, some offensive words involving excrement, and a scene in fantasy where people were discussing" having sex with a number of women, several rich women, or "making it with the Queen of England," Roberts said.

"I personally found within the play some redeeming features," Roberts continued. "But as a piece of material for high school students, I had a problem with it. Do kids really need to do it? I'm really regretful for the kids. They've put in some hard work." Reported in: *Riverton Ranger*, November 15.

student press

Long Beach, California

An alternative student newspaper at California State University at Long Beach had its funds cut off by the Student Senate September 28 after the paper printed a satirical edition that included erotic drawings. The weekly newspaper, *The Union*, had been at odds with student leaders for several years because of its content. The "Sexually Frustrated Male Issue" was "the straw that broke the camel's back," said Roger Thompson, president of the student body.

Thompson noted that *The Union* was welcome to continue without student funding. "Freedom of the press is not the issue here," he said. "The issue is how to spend mandatory student fees. We're in an awkward position, being both government and publisher."

Journalism professor Ben Cunningham agreed with the lat-

ter judgment, noting that friction is chronic wherever campus newspapers are funded by student fees. "It's an unholy alliance that invites this kind of thing to occur," he said. "In this case, as I see it, two things happened. You have a clear case of an editor who exercised poor judgment. And you have a student body government that overreacted. If the politicians didn't want to pay for a student newspaper, this wasn't the time to make the decision. What they did was to make it very clearly a First Amendment issue."

Union editor Gary Stark said he would take the issue to a student judiciary board. "When this paper started in 1977, a publications board was established to be the publisher and set general policies," Stark said. "Our bylaws specifically state that staffing and editorial content shall not be subject to the review or approval of the Associated Students Senate. Yet the Senate never consulted the publications board on this, circumventing the whole process."

"If they can't have the newspaper be another arm of the student government, they'd rather not have a paper," Stark added. Reported in: *Long Beach Press-Telegram*, September 30, October 3; *Chronicle of Higher Education*, October 26.

periodicals

Los Angeles, California

The *Los Angeles Times* was one of at least twenty newspapers that refused in late October to run installments of the cartoon strip "Cathy" that were critical of the Reagan-Bush administration and urged women to vote for the Democratic ticket. Other newspapers that either pulled or relocated the strips to editorial pages included the *Indianapolis News*, the *Portland Oregonian*, the *Denver Post*, the *Omaha World Herald*, the *Albany (N.Y.) Times-Union*, the *Evansville (Ind.) Courier*, the *Union Leader* of Manchester, N.H., and the *Helena (Mont.) Independent Record*. The *Daily Oklahoman* dropped the strip permanently. The Oklahoma paper previously had dropped "Doonesbury" and "Bloom County." More than five hundred newspapers normally carry "Cathy."

"We don't think that our comics page is the place for political endorsements on behalf of one party or the other," said Richard Halicks, executive editor of the *Messenger-Inquirer* in Owensboro, Kentucky, which also refused to carry the strips. His view was endorsed by William Dowd, managing editor for features at the Albany paper, which pulled six "Cathy" strips. "We considered it a partisan diatribe and it mattered virtually not which side it was espousing," he said.

But at the *Detroit Free Press*, Marty Claus, managing editor for features, decided the strips should stay on the comics page. "We allow columnists a wide range of

opinion," she said. "Where would you draw the line. . . I'd hate to be the one deciding. You need some comics that are relevant. You need some that are 'Prince Valiant.' You need some that are perfectly silly and preposterous. People are black and white. People are funny and serious. People are partisan."

Los Angeles cartoonist Cathy Guisewhite, whose strip normally confines itself to baby-boomer concerns about dating and child-rearing, acknowledged that her newspaper subscribers "don't expect me to be quite so pointed, and probably not so close to an election." She said she politicized the strip "just to get people talking about women's issues in relationship to the candidates." She noted that she "anticipated that these strips would get some reaction. They've gotten a bit more than I expected." But, she added, "I'm glad I did it. I knew going in that I ran the risk of alienating some readers, [but] it was important enough . . . to weather the alienation." Reported in: *Minneapolis Star & Tribune*, October 29, November 7.

Chicago, Illinois

A Chicago literary newspaper refused a demand by a Catholic organization to apologize for publishing an ad parody of commercialized religion in which the "Vatican mint" offers to sell "Genuine Jesus" body parts. Adding to the dispute, the student chair of the University of Chicago Conservative Council said he was forming a Campus Coalition for Religious Liberty to oppose the ad "and any future discrimination against Christianity."

Thomas O'Connell of the Catholic League for Religious and Civil Rights called the "Genuine Jesus" illustration and text in the October 26 issue of *Absolutes* an example of "Christian-bashing by the advocates of free press. It seems that our society is becoming increasingly insensitive to religious groups and their rights to have beliefs that are contrary to secular mores," he said.

Andrew Sharp, co-editor of the ad-supported free newspaper distributed in the University of Chicago-Hyde Park neighborhood, said: "We approve of and stand by the parody. We believe it is insightful and timely in an age when various Christian movements are making a bid to exert undue influence on everyday American life, and are becoming increasingly politicized and commercialized. They are selling everything from badges of saints and statues of Mary to admission to see the Shroud of Turin."

Sharp, a University of Chicago philosophy student said he would protect the anonymity of the ad's creator, but was sorry that the text—which offered a new "piece of Jesus Christ our Lord and Savior" each month for \$19.95—included a toll-free number that turned out to be that of a Savannah, Georgia, motel. Sharp said the paper,

which had published two issues, does not have an atheist or anti-religious philosophy.

University of Chicago economics student John-Peter Pham, chair of the school's Conservative Council and publisher of a monthly newspaper *The Crucible*, said he was "incensed" by the ad, calling it "a prejudicial and bigoted comment that violates the mutual respect and toleration of different beliefs." Pham said his group was circulating a petition calling on advertisers to drop support of *Absolutes* and on the university to ban the fledgling paper from campus distribution. Reported in: *Chicago Tribune*, November 4.

New York, New York

New York publisher Bob Guccione, Jr., wanted to make a statement about safe sex, so he included a free condom inside his rock 'n' roll magazine, *Spin*. It said so on the cover. But across the country, retail stores just said no. As many as thirty retail chains with 15,000 stores—including Safeway Stores, Waldenbooks, and Southland Corp., which owns 7-Eleven convenience stores—refused to put the November *Spin* on their racks.

The wrapped condom was part of a Trojan condom advertisement, which explains how to use a condom. The ad, which Guccione said was published free as a public service, was designed by the manufacturer to run with an article on a new treatment for AIDS. The condoms were placed only in magazines to be sold in stores, not in subscriber copies, because postal regulations prohibit mailing unsolicited condoms. About half of the 300,000 copies of *Spin* distributed monthly are sold in stores.

Southland Corp., which owns 4,000 stores nationwide, sent a memo to its outlets that read: "Southland Corp. has decided not to sell the November issue of *Spin* magazine in its corporate stores because of the cover promotion for a free condom, which the company feels goes beyond the bounds of good taste." Oakland, California-based Safeway Stores left the decision up to officials of its six divisions. All decided against selling the magazine.

"The decision is consistent with our policy of maintaining what we feel is the proper environment for the shoppers we're trying to appeal to—middle America," said Safeway official John Shepard. "We appeal to mothers, and we are totally. . . dependent on their repeat business. If we hope to get it, we have to earn it. So we give them what they want. We sell condoms in the pharmaceutical section. We don't sell them in the magazine rack."

Guccione, son of the *Penthouse* publisher, said the issue would take a major financial beating. "I'm sad the reaction from the retail community has been so reactionary," he said. "But the statement was one I wanted to make, and I'm proud I did it." Reported in: *Minneapolis Star & Tribune*, October 29.

film

Ithaca, New York

A man who identified himself as a born-again Christian rode his converted school bus early October 25 into the lobby of a theater where he had viewed *The Last Temptation of Christ*, the controversial movie directed by Martin Scorsese (see *Newsletter*, November 1988, p. 195). Stanley Watin was charged with second-degree criminal mischief, a felony, and held in lieu of \$10,000 bail bond. Theater owner Tsvi Bokaer said Watin watched the film the night of October 23 and had to be removed by police after shouting profanities before and during the showing. Reported in: *Variety*, November 2.

television

Indianapolis, Indiana

An NBC affiliate in Indianapolis declined to run the network's miniseries, "Favorite Son," in October in light of the presidential campaign. For its part, the network succumbed to pressure and dropped several promotional spots for the series.

"Favorite Son" concerned a young senator who becomes a vice presidential candidate on the strength of his "good looks" and then jeopardizes the ticket when it's revealed he had an affair with his press secretary. Republican Party officials were uncomfortable because the promotional spots allegedly were based on rumors surrounding the choice of Vice-President-elect Dan Quayle as George Bush's running mate.

NBC affiliate WTHR-TV in Indianapolis—owned by a family influential in Ohio Republican politics—said it would now show the 6-hour miniseries because it was an "abrogation of our responsibility to operate in the public interest." A station representative said the station "was concerned about the show's timing," a week prior to the national election, but denied the decision had anything to do with the Indiana Senator. NBC said that WTHR was the only one of its affiliates not to air the series.

The promotional spots for the series cancelled by NBC included the tag line, "From out of today's headlines comes the most provocative miniseries of the year." In the spots, the actor playing the president says, "You think a man should be a vice president because he looks good on television?" Reported in: *Variety*, October 26.

Boston, Massachusetts

Boston's WNEV-TV (Channel 7) and other CBS affiliates in Salt Lake City and Louisville declined to run a special, "Inside the Sexes," part of an Emmy Award-winning series

on the human body, when it aired on the network November 21. The stations said the show was "inappropriate."

In a written statement, Sy Yanoff, president and general manager of WNEV-TV in Boston, said the program, hosted by actor Roy Scheider, was "inappropriate for us to air" because it was "extremely explicit." According to *TV Guide*, the program contained a "realistic discussion of human sexuality" and footage of surgery on genitals and of the "insides of reproductive organs during intercourse."

Yanoff said he and the Boston station's owners decided not to air the special after they "found the first ten minutes much too explicit." He admitted, however, that "the rest of it is well done. The production values are terrific."

"As licensees, it is our responsibility to decide what is and is not appropriate," Yanoff said. "We're locally owned, which is also a factor in decisions like this."

Tony Malara, president of CBS affiliate relations, said in response that "there's nothing in it any steamier than 'Favorite Son,'" the recent controversial miniseries on NBC (see page 14). "There's explicit foreplay and there is some breakthrough photography, some shots inside a vagina. But this is all in the context of showing sexuality. We don't show the act. This is part of an Emmy Award-winning series. In fact, we may have shown parts of this or comparable pieces before without getting any reaction." Reported in: *Boston Globe*, November 17.

armed forces

Frankfurt, West Germany

U.S. military officials in November ordered a bookstore chain that caters to American soldiers to stop selling Adolf Hitler's *Mein Kampf*. The book has been banned at the 158 Stars and Stripes bookstores in West Germany, said Deane McDermott, circulation manager for the U.S. government chain.

Mein Kampf and other Nazi literature have been banned in West Germany for decades, but Stars and Stripes stores had been selling about seventy copies of the book each month. "It is against German law even to display the book," McDermott said. "We're guests in Germany, and I think we should show certain respect to our hosts." Reported in: *Philadelphia Inquirer*, November 16.

foreign

Sao Paulo, Brazil

Release of American director Martin Scorsese's *The Last Temptation of Christ* was suspended in Sao Paulo only one day after its opening November 17, as Mayor Janio Quadros decided to close all eight sites in which the film was being

shown. Quadros alleged different reasons for the action, ranging from "inadequate conditions of the toilets" to lack of fire control equipment as pretext for closing the cinemas. No official censorship is allowed under the new Brazilian constitution effective since October 5. Universal International Pictures said it would wait until the January 1 inauguration of new mayor Luiza Erundina, elected November 15, to release the film again. Erundina said she opposed Quadros' decision.

At least two Brazilian senators publicly condemned the film's release in Brazil, and one branded Scorsese a "foreign antichrist." In Rio de Janeiro, several demonstrations greeted the film's opening. Previously the city's biggest film distributor, a traditional outlet for Universal films, said it would not show the film. Also adding fire to the controversy was Rio's cardinal, Dom Eugenio Salles, who published a communique in all newspapers criticizing the movie and stating that he "would not be responsible for the consequences" of its Brazilian release. Reported in: *Variety*, November 23.

Beijing, China

The Chinese government's Press and Publications Administration has launched a serious crackdown on the "opium" of pornography. Spurred on by a memorandum from Chinese leader Deng Xiaoping urging officials to "bring criminal charges and execute some of these publishers," authorities last year targeted seven provincial publishing houses for publication of "obscene" novels. They ousted editors and levied large fines, some topping \$100,000.

At issue were translations of two American novels, Jackie Collins' *Lovers and Gamblers*, and Irving Wallace's *The Fan Club*. In fact, it was the Chinese version of Wallace's 1975 best-seller, translated under the title *Rosy Dream*, that first roused Deng's ire. Three editors of the "obscene" novel were fired and legal authorities threatened to bring criminal charges against them. All 400,000 copies of the book were ordered destroyed. Reported in: *Minneapolis Star & Tribune*, October 1.

London, England

The British government lost a two-and-a-half-year battle October 13 to stop three London newspapers from publishing excerpts from a former intelligence agent's memoirs. For the press, the ruling was a victory after prolonged legal wrangling that turned agent Peter Wright's book, *Spycatcher*—a best-seller in the U.S. and Australia—into a test case of freedom of speech versus national security (see page 5 and *Newsletter*, March 1987, p. 71; November 1987, p. 229; January 1988, p. 6; March 1988, p. 48; May 1988, p. 93; September 1988, p. 156).

The five judges of the Law Lords, Britain's highest court, unanimously upheld a ruling by the Court of Appeal that *The Guardian*, *The Observer*, and *The Sunday Times of London*

could publish the excerpts. A British publishing house, William Heinemann, said it would notify the government that it planned to publish 200,000 paperback copies of the book in Britain. The publisher earlier agreed to provide such notice to allow the government time to intervene.

"It is absolutely terrific," Peter Preston, editor of *The Guardian*, said of the ruling. "This has gone on for two-and-a-half years and been heard by 23 judges. It is smashing to win hands down at the end." Reported in: *New York Times*, October 14.

London, England

The British government broadened its effort to censor the memoirs of a former secret service agent by blocking the distribution of the December issue of *Harper's* magazine in Britain. The issue included excerpts from the book, *Inside M.I.6*, by Anthony Cavendish, who retired more than thirty years ago.

In a letter to *Harper's* British distributor, David Hogg, an assistant Treasury solicitor, warned that the company would run the risk of contempt of a court order if it delivered its two hundred copies of the issue to newsstands. Prime Minister Margaret Thatcher's government has tried for more than three years to block distribution of the book on the grounds that it violates the Official Secrets Act.

Cavendish wrote the book as a defense of Sir Maurice Oldfield, former director of M.I.6, Britain's counter-intelligence service. Oldfield, who died in 1981, was accused by Mrs. Thatcher and others of letting his "fondness for young men" compromise his work.

When Cavendish submitted the book for review, he was ordered to delete most of it. Last year, he produced five hundred copies and sent them to friends as a Christmas card. A copy was obtained by *The Times of London*, but the government obtained an injunction preventing further printing. That case remains in the courts.

John R. MacArthur, president and publisher of *Harper's*, said the magazine would fight the ban because of its similarities to efforts by the U.S. government to limit publication of routine information by employees. "This is the first time the Thatcher government has extended the Official Secrets Act beyond the borders of Britain to censor an American publication," MacArthur said. Reported in: *New York Times*, November 23.

London, England

On October 19, the British government banned radio and television stations from broadcasting interviews with members of outlawed Protestant and Roman Catholic paramilitary groups in Northern Ireland. The ban also applied to interviews with officials of the Sinn Fein party, which holds one seat in Parliament and is the political wing of the

Irish Republican Army. The ban was not applied to newspapers and magazines.

Both of the major British broadcasting organizations said they would comply with the instructions. The British Broadcasting Corporation said the ban "sets a damaging precedent and will make our reporting of Northern Ireland affairs incomplete." Independent Television News said "these restrictions would have been easier to understand" if the groups in question had been made illegal." The Irish government in Dublin has imposed a ban on interviews with extremist groups since the early 1970s.

There was little strong criticism of the ban, but Roy Hattersley, the Labor Party's shadow Home Minister, said, "This proposal will be used both at home and abroad, and particularly in the U.S.A., to portray this government as the enemy of free expression." Reported in: *New York Times*, October 20.

Paris, France

Government officials, religious leaders, and film directors condemned what appeared to have been arson October 22 at a Paris Theater that was showing Martin Scorsese's film, *The Last Temptation of Christ*. The fire left thirteen people hospitalized, one of them in serious condition.

The fire was the most serious incident in a series of attacks against the film in Paris, Lyons, Nice, Grenoble and several other French cities. The incidents included the clubbing of moviegoers and the throwing of tear gas and stink bombs in theaters. After the fire gutted the Cinema St. Michel in the Latin Quarter, just one theater in Paris continued to show the movie.

Last Temptation opened in the French capital at seventeen theaters on September 28. In the first week alone, despite a lively box office, five theaters discontinued showings after persistent tear gas and incendiary attacks. One theater, L'Escurial, took down its *Last Temptation* marquee the day after a Molotov cocktail was hurled at its entrance. The film also opened in fifty theaters outside Paris, but within a month the total had dropped to less than twenty. Six theaters in eastern France held off release because of a visit to the region by Pope John Paul II. The film was banned in Aix-en-Provence.

"The opponents of the film have largely won," said a representative of Universal International Pictures, its distributor. "They have massacred the film's success, and they have scared the public." He said that he had expected the film to attract 500,000 viewers and to run for two or three months, but that it would probably attract only about 170,000 viewers and run just one month.

Jack Lang, France's Minister of Culture, went to the St. Michel theater after the fire, and said, "Freedom of speech is threatened, and we must not be intimidated by such acts."

In a similar incident, a man died of a heart attack in October after spectators at a film by Claude Chabrol, *Une*

affaire de femmes, sprayed tear gas to protest a blasphemous phrase uttered by actress Isabelle Huppert. Reported in: *New York Times*, October 25; *Variety*, October 19.

East Berlin, German Democratic Republic

In a move that may signal East German opposition to Moscow's *glasnost* policy, the East German government banned a popular Soviet magazine. The move, in which the monthly Soviet digest *Sputnik* was struck off the post office distribution list, was announced in a terse report November 19.

The October issue of *Sputnik* included articles describing the 1939 Soviet-German Non-Aggression Pact in terms critical of Soviet policy. The East German announcement said: "It [the article] makes no contribution to the consolidation of German-Soviet friendship, instead it is [providing] distorted portrayals of history."

Once disdained by East Germans as a dull collection of self-congratulatory articles, the German-language edition of *Sputnik* became required reading for many after Mikhail Gorbachev took power. Although the Soviet media are now given considerable freedom to debate the country's past and present, East Germany censors Protestant church newspapers for advocating reform and recently castigated a senior reporter for criticizing government ministers about consumer shortages.

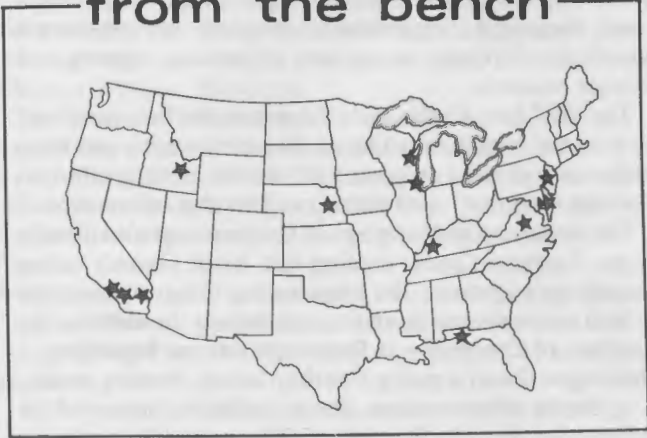
Soviet sources in East Berlin said the move would not help ties already frayed by East Germany's repeated rejection of *glasnost* and *perestroika*. "The East Germans are circling the wagons," said one Western diplomat. Earlier this year East Germany stopped three editions of another Soviet publication, the political weekly *New Times*, apparently for printing the script of a controversial play. "But this is an important step. *Sputnik* is not just any old rag," commented another diplomat. "It's a collection of the most interesting articles in the Soviet press." Reported in: *Philadelphia Inquirer*, November 22.

New Delhi, India; Capetown, South Africa

Award-winning novelist Salman Rushdie accused the Indian government of acting in "a South African manner" when it decided in October to ban his new book, *The Satanic Verses*. Thus it probably came as little surprise to the writer when the South African government also banned the book and the Congress of South African Writers, pressured by Islamic organizations, withdrew an invitation to speak. Reported in: *Chicago Tribune*, November 17.

(continued on page 29)

from the bench



U.S. Supreme Court

The Supreme Court agreed October 17 to decide whether the First Amendment protects protesters who burn the American flag during political demonstrations. The case, set to be argued in early 1989, involves Gregory Lee Johnson, arrested for burning the flag during an unruly protest march at the Republican National Convention in Dallas in 1984.

The case began when undercover Dallas police said they saw Johnson, as part of a demonstration against nuclear war and the Republican Party, set the flag on fire in front of the city hall while about fifty protesters chanted, "America, the red, white, and blue, we spit on you." Johnson was convicted of violating a Texas law against "desecration of a venerated object," and sentenced to one year in jail and a \$2,000 fine.

The Texas law prohibits defacing or damaging the flag in a way that the person doing it knows will "seriously offend" people. The Texas Court of Criminal Appeals threw out the conviction in April, voting 5-4 that the statute was invalid in this case because the flag-burning, occurring during a political protest, was symbolic speech protected by the First Amendment.

In their appeal to the high court, prosecutors noted that an employee of the U.S. Army Corps of Engineers collected the charred fragments of the flag and "buried the remains of the flag in his backyard." The state said flag-burning is not speech and it has a "compelling interest" in protecting the flag as "a symbol of national unity."

The court addressed but did not resolve similar First Amendment issues in a 1974 case involving a Seattle college student who hung a flag outside his apartment window with a large peace symbol taped over it. On a 6-3 vote, the court overturned that conviction. William H. Rehnquist, now chief justice, was joined in dissent by Justice Byron R. White and then-Chief Justice Warren E. Burger, arguing that states have the authority to make flag desecration a crime.

In a 1969 decision, *Street v. New York*, the court examined a New York law that made it a crime either to mutilate or "cast contempt" on the flag. In the ruling, the court overturned the conviction of a man who had burned a flag to protest the shooting earlier on June 6, 1966, of James Meredith, the civil rights leader, by a sniper in Mississippi. By a 5-4 margin in the *Street* case, the justices said that the "cast contempt" portion of the New York law was unconstitutional, and that was sufficient to overturn the conviction. But the court did not decide whether the state could make flag burning a crime. Reported in: *Washington Post*, October 18; *New York Times*, October 18.

In another closely watched case, on October 17, the Supreme Court, without recorded dissent, turned down an appeal by former Navy intelligence analyst Samuel Loring Morison of his espionage and theft conviction for leaking classified spy satellite photographs to the news media.

The case generated substantial controversy because the government argued that any leaker of classified information—and any unauthorized recipient of such information—could be convicted under espionage and theft laws, even if the leaker's motives were to expose government corruption.

Morison, grandson of naval historian Samuel Eliot Morison, was convicted in 1985 for sending *Jane's Defense Weekly* three secret U.S. spy satellite photos of the Soviet navy's first nuclear-powered aircraft carrier under construction at a Black Sea shipyard. Morison's lawyers, joined by a large number of news organizations, urged the court to hear the case, fearing that, under the broad wording of the Espionage Act of 1917, under which Morison was convicted, reporters would be unable to print articles based on classified information.

"It's a tremendous vehicle for the harassment and intimidation of the news media," said Jane Kirtley, executive director of the Reporters Committee for Freedom of the Press, of the Morison verdict. "Once you criminalize the leaking of classified information to the press and say it's espionage, the next step is to prosecute news organizations."

The three-judge panel of the U.S. Court of Appeals for the Fourth Circuit dismissed those fears, saying it did not see "any First Amendment rights to be implicated" in the case of a civilian member of a military intelligence service "purloining" classified information and giving it to someone who under the law is "not entitled to receive it."

"We do not think that the First Amendment offers asylum

under those circumstances . . . merely because the transmittal was to a representative of the press," the panel said. Two of the judges on the panel added concurring opinions that appeared intended to limit the ruling to the facts of this case and not to typical news leaks.

The Espionage Act and a related hundred-year-old law, the "theft of government property statute," under which Morison was also convicted, had been used only once before to prosecute someone for disclosing information to the press. The Nixon administration prosecuted Daniel Ellsberg and Anthony Russo for their role in disclosing the Pentagon Papers. That case, however, was dismissed after revelations of prosecutorial misconduct, including the burglary of the office of Ellsberg's psychiatrist by government agents. Reported in: *Washington Post*, October 18; *New York Times*, October 18; *Philadelphia Inquirer*, October 18.

In another case involving government secrecy, the Supreme Court agreed October 31 to referee between the executive branch and Congress by reviewing the constitutionality of a 1987 law aimed at limiting the president's power to stop disclosure of classified information to legislators by compelling federal employees to pledge never to disclose classified information. The case, *American Foreign Service Association v. Garfinkel*, involves significant questions concerning the constitutional separation of powers.

In 1983, President Reagan issued National Security Decision Directive 84, requiring all federal employees with authorized access to classified information to sign a pledge never directly or "indirectly" to disclose information that was either formally classified or otherwise "classifiable." The directive was unpopular in Congress, where members asserted that it would inhibit federal employees from providing information that Congress had a right to know.

Concerned it would be cut off from access to classified information, Congress passed a law in December, 1987, prohibiting the use of funds to enforce the secrecy pledge program. The law also said that nondisclosure agreements may not obstruct the right of any individual to give information to members of Congress. By that time, about 1.7 million federal employees had signed the pledge form. The ban was extended to 1989 in an appropriations measure signed by President Reagan in October.

Several labor unions of federal employees, as well as seven members of Congress, filed suit in early 1988. They alleged that the administration was not properly implementing the spending ban, and that the forms the employees had already signed imposed constitutional restrictions on their right of free speech and right to petition Congress.

On May 27, U.S. District Court Judge Oliver Gasch dismissed the suit (see *Newsletter*, September 1988, p. 163). He ruled that members of Congress lacked standing and that while the federal employees had standing, their lawsuit was without merit because Congress itself had no authority to restrict the president's effort to carry out the secrecy pro-

gram. The spending ban was unconstitutional, Judge Gasch ruled, because it "impermissibly restricts" the president's constitutional powers in the area of national security and foreign relations.

The 1987 law, Gasch said, "threatens the balance struck by time and constitutional implication between the pervasive importance of strict protection of national security information and Congress' institutional need for that information."

The employees and members of Congress appealed directly to the Supreme Court, arguing that Judge Gasch's ruling "completely ignored" the longstanding Congressional role in both national security and appropriations. In addition, the members of Congress—six Democrats and one Republican—challenged Gasch's ruling that they lacked standing to sue.

As for the administration, Seven Garfinkel, director of the Information Security Oversight Office, said, "Judge Gasch ruled [the funding ban] unconstitutional. They [Congress] passed an identical bill. The president noted that exact statute was declared unconstitutional and indicated the administration would treat it as an unconstitutional provision until the Supreme Court rules otherwise." Reported in: *New York Times*, November 1; *Washington Post*, November 1; *Chicago Tribune*, November 1; *Federal Times*, October 10.

On October 31, the Supreme Court rejected an appeal by high school students seeking to force a California school district to allow distribution of religious flyers asking students to join a club if they were "interested in the Bible; learning about Jesus Christ; helping others through prayer; having Christian friends."

In *Permual v. Saddleback Valley Unified School District*, a divided California appeals court on January 29, 1988, rejected the students' arguments that the First Amendment's free speech guarantees require the school system to allow distribution of their leaflets and the purchase of advertising in a school yearbook. Reported in: *Washington Post*, November 1.

Also on October 31 the court denied, 6-3, "for want of jurisdiction," an appeal by an Illinois couple challenging the constitutionality of an Illinois law making the possession of child pornography a crime. The couple argued that "mere possession of child pornography in the home" is protected by the First Amendment.

The Illinois Supreme Court upheld the state law in March, saying that constitutional guarantees of privacy do not protect reading or viewing child pornography in the home. Three justices—William Brennan, Jr., Thurgood Marshall, and John Paul Stevens—voted to hear the case. The votes of four justices are needed to review an appeal. Reported in: *Chicago Tribune*, November 1.

In another pornography case, the court denied, without comment, an appeal challenging Federal Communications Commission regulations prohibiting companies from offering telephone services that feature "any obscene or indecent communication." The U.S. Court of Appeals for the Second

Circuit in New York, meanwhile, ordered the FCC to consider whether the use of various devices limiting access to such messages is a defense from prosecution. Reported in: *Chicago Tribune*, November 1.

On October 17, the high court accepted an appeal from a small newspaper in Hamilton, Ohio, that was ordered by a jury to pay \$200,000 in libel damages to a defeated candidate for a municipal judgeship. The U.S. Court of Appeals for the Sixth Circuit upheld the jury's findings against the *Hamilton Journal News*. The question for the Supreme Court to decide will be whether the Sixth Circuit and other appellate courts are meeting the constitutional obligation to scrutinize libel judgments that the Supreme Court outlined in its 1984 decision, *Bose Corp. v. Consumers Union*.

In that case, the court said that in libel cases involving government officials or other public figures, appellate courts should "independently decide" whether the evidence before the jury was sufficient to support a judgment of libel. That decision was considered a significant victory for the press in strengthening the hand of appellate courts to overturn libel judgments.

In the current case, *Harte-Hanks Communications v. Connaughton*, a newspaper is arguing that the appellate court's review of the jury's factual findings was not only inadequate but included some assumptions that posed a threat to the editorial process. For example, the Sixth Circuit found that the jury could have concluded that the newspaper was biased against the plaintiff because the paper had given its editorial endorsement to his opponent. Reported in: *New York Times*, October 18.

In the continuing legal controversy over "access to minors" statutes, the Supreme Court October 17 directed a federal appeals court to consider reinstating a Virginia law aimed at keeping juveniles from reading materials that border on obscenity. In a brief order, the high court sent back to the U.S. Court of Appeal for the Fourth Circuit in Richmond the case of *Virginia v. American Booksellers Association*, a constitutional challenge brought to the 1985 law by the American Booksellers Association, the Association of American Publishers, and others.

Previously, the Supreme Court had referred the case back to the Virginia Supreme Court to determine whether the law, struck down by a lower court, would affect books mentioned as potential targets in plaintiff briefs (see *Newsletter*, March 1988, p. 51). On September 23, the Virginia Supreme Court said sixteen books sold in Alexandria, Virginia, bookstores would not be covered by the law (see below). When the case returned to the U.S. Supreme Court, the publishers and booksellers suggested that the court remand the case, a suggestion opposed by the Virginia Attorney General, but endorsed by the justices.

Michael A. Bamberger, general counsel for Media Coalition, which supported the booksellers and publishers, commented: "The Court of Appeals must now review its prior

decision in light of the Virginia Supreme Court's strained reading of the Virginia statute, which causes the statute to be of little effect and virtually unenforceable." Reported in: *Richmond News-Leader*, October 17.

"harmful to minors"

Richmond, Virginia

On September 23, the Virginia Supreme Court, reviewing the state's ban on the display of printed material "harmful to juveniles," eased fears about broad application of the law. The U.S. Supreme Court last year had asked the Virginia court whether the 1985 misdemeanor law would apply to a list of sixteen books. The federal court also asked whether the law would apply to a store that prohibits perusal of harmful material by juveniles but has such books on display for adults.

In a case brought in Alexandria by booksellers and publishers, the law was declared unconstitutional by a U.S. District Court judge. That ruling was upheld by the U.S. Court of Appeals for the Fourth Circuit, but Virginia Attorney General Mark Sue Terry took the case, *Virginia v. American Booksellers Association*, to the Supreme Court, which on January 25, 1988, sent its questions back to the state court.

The booksellers said the list of sixteen books fell within the law's display prohibition. But the state court, under the "serious literary, artistic, political or scientific value" standard for determining what is harmful to juveniles, said the books had merit.

If a book has value "for a legitimate minority of normal, older adolescents, then it cannot be said to lack such value for the entire class of juveniles taken as a whole," the court said. "The sixteen books in question run the gamut, as the Supreme Court aptly put it, from classic literature to pot-boiler novels. Having examined them all, we conclude that although they vary widely in merit, none of them lacks 'serious literary, artistic, political or scientific value' for a legitimate minority of older, normal adolescents."

The sixteen books certified as not covered by the Virginia statute are: R. Bell, *Changing Bodies, Changing Lives* (1980); J. Betancourt, *Am I Normal?* (1983); J. Blume, *Forever* (1975); P. Blumstein and P. Schwartz, *American Couples* (1983); J. Collins, *Hollywood Wives* (1983); A. Comfort and J. Comfort, *The Facts of Love* (1979); S. Donaldson, *Lord Foul's Bane* (1977); *The Family of Woman* (J. Mason, ed., 1979); P. Haines, *The Diamond Waterfall* (1984); J. Joyce, *Ulysses* (1961); J. Lindsey, *Tender is the Storm* (1985); *The New Our Bodies, Ourselves* (J. Pincus and W. Sanford, ed., 1984); L. Niven and J. Pournelle, *Lucifer's Hammer* (1977); *The Penguin Book of Love Poetry* (J. Stallworthy, ed., 1973); M. Sheffield, *Where Do Babies*

Come From? (1972); and J. Updike, *The Witches of Eastwick* (1984).

On the perusal question, according to the court, the Virginia statute must be interpreted as directed at the perusal of harmful materials by juvenile readers in bookstores, not at the method chosen by booksellers to display their wares for adults. Thus, the statute is not violated solely by a particular manner of displaying books for sale. Rather, the court said that "to secure a conviction of a bookseller for its violation, the commonwealth would have the burden of proving beyond a reasonable doubt that the defendant bookseller knowingly afforded juveniles an opportunity to peruse harmful materials, or took no reasonable steps to prevent such perusal when the juvenile's opportunity was reasonably apparent to the bookseller."

Maxwell Lillienstein, attorney for the American Booksellers Association, said that book retailers would have no problem with the limits on the statute defined by the Virginia court. Lillienstein warned, however, that the Virginia court decision did not assure that the other twenty states with similar statutes would interpret their law in the same way, and that it did not assure that even Virginia law enforcement officials would follow the Virginia court interpretation.

However, Lillienstein acknowledged, "If every state were to interpret their 'harmful to minors statute' the same way that Virginia did, we wouldn't have any problems with it. In fact, I would consider this a complete victory." Following the Virginia decision, the case returned to the Supreme Court, which, on October 17, remanded it back to the U.S. Court of Appeals for the Fourth Circuit (see above). Reported in: *Washington Post*, September 24; *U.S. Law Week*, October 11; *Publisher's Weekly*, October 14.

schools

Cadiz, Kentucky

A lawsuit filed to force the Trigg County Board of Education to change a school policy on controversial books and other questionable classroom materials was dismissed October 14. The ruling by Trigg Circuit Judge Willard B. Paxton agreed with the defendants in the case—Superintendent of Schools John Randolph and the school board—that parent Richard Crutchfield's suit failed to state a claim upon which the court could grant relief.

Crutchfield had been seeking, among other things, an injunction that would have ordered school officials to overhaul their policy on controversial books and classroom materials. The father of two children maintained that the board's existing policy failed to provide adequate protection sought by parents on behalf of their children.

The policy stipulates that parents or students bring their complaints initially to the school principal, who, along with the teacher, has the option of making an alternate assignment in place of the objectionable material. If the dispute isn't settled at that level, the policy allows for a formal complaint to be filed with the school board, with the matter subsequently referred to a committee of school officials and parents.

Crutchfield and a colleague, Jackie H. Finley, had proposed that teachers issue a warning—similar to the rating system used for motion pictures—prior to questionable assignments so that students would not have to be offended before they had the opportunity to file a complaint. The two men also advocated that the school system's "Controversial Book Committee" be restructured to allow parents a greater voice in decisions, and that parents and other community leaders be given an active role in the selection of library and supplemental classroom books. Their proposals were rejected by the school board in December, 1987, prompting the lawsuit.

In his suit, filed without the aid of an attorney, Crutchfield also charged that the book which started the controversy—Stephen King's *Cujo*—violated a Kentucky school law and the board's stated objectives because it contains violence, references to infidelity, and profanity. Reported in: *Cadiz Record*, October 12; *Kentucky New Era*, October 8, 15; *Paducah Sun*, October 16.

freedom of religion

San Francisco, California

Former members of the Rev. Sun Myung Moon's Unification Church could assert fraud claims against the Church without violating the free exercise clause of the First Amendment, the California Supreme Court ruled October 17. According to Associate Justice Stanley Mosk, the former members alleged that the Church induced them, by misrepresentation and concealment of its identity, into unknowingly entering an atmosphere in which they were subjected to brainwashing. Although liability for deceptive recruitment practices would impose a marginal burden on the church, the court said that burden was justified by compelling state interests. Reported in: *West's Federal Case News*, November 11.

newspapers

Wheaton, Illinois

A federal judge in Chicago struck down as unconstitutional October 14 a Wheaton ordinance that regulated the place-

ment of newspaper vending machines and banned them in residential areas. The opinion, by U.S. District Court Judge William T. Hart, could have great significance because the Wheaton ordinance was amended to meet objections raised about a similar ordinance against newsracks in Lakewood, Ohio, which was ruled unconstitutional by the U.S. Supreme Court in June (see *Newsletter*, September 1988, p. 161).

Saying that it is "beyond dispute that the First Amendment protects the right to distribute newspapers in newsracks," Hart ruled that the Wheaton ordinance's licensing requirements were an "invalid prior restraint." He said the ban on residential newsracks was "an invalid place and manner restriction."

Hart said the ordinance violated the First Amendment because it "vests Wheaton officials with the unguided discretion to control the placement of newsracks and because the ordinance lacks the procedural safeguards to guard against the abuse of that discretion."

The ruling resulted from a 1987 suit filed by the publishers of the *Chicago Tribune*, *Chicago Sun-Times*, and the *Wall Street Journal*. Those three companies were also among the plaintiffs in a separate suit filed in federal court in 1987 against the City of Chicago's ban on newsracks at O'Hare International Airport. That case is pending. Reported in: *Chicago Tribune*, October 18.

FOIA

Milwaukee, Wisconsin

In a freedom of information case pending for three years, the *Milwaukee Sentinel* prevailed August 29 in a decision of the U.S. Court of Appeals for the District of Columbia. The case involved a 1967 District ordinance barring public release of records of arrests that do not result in convictions. At issue was the case of Sen. Robert W. Kasten, Jr., (Rep.-Wisconsin), arrested in 1985 on a charge of driving while intoxicated. Although Kasten ran a red light and drove on the wrong side of the road, authorities agreed to drop the charges after the senator completed a counseling program for first offenders.

The *Sentinel* requested a complete record of Kasten's arrest but was turned down by the D.C. Police Department, which cited the 1967 "Duncan Ordinance." Delving deep into District legal history to the 1870s, however, the court held that the ordinance was not, strictly speaking, a "statute" covered as an exemption to the D.C. FOIA.

The precise effect of the decision and the future of the case remained unclear, however, City officials claimed to have other reasons for withholding the records, and both sides agreed that some other exemptions to the FOIA remained in force. Reported in: *FOI/FYI*, October 1988.

film

Pensacola, Florida

The efforts of Escambia County to enforce a newly adopted law that would have banned *The Last Temptation of Christ*, the film directed by Martin Scorsese, were thwarted by a federal judge in early September. It was believed to be the first case of a local government passing a law to ban a movie.

The film was scheduled to open September 9. Plitt Theaters and Scorsese filed the action asking for an injunction against the ordinance. Pensacola federal court Judge C. Roger Vinson agreed to issue the preliminary injunction, stating that the law violated the First Amendment.

The ordinance provided for a maximum penalty of up to a \$500 fine and 60 days in jail for showing *Last Temptation* in any theater in Escambia County. Reported in: *Variety*, September 14.

obscenity and pornography

Los Angeles, California

In a setback to the Reagan administration's policy on child pornography, a federal appeals court ruled September 29 that producers of films depicting minors in sexually explicit activity can defend themselves against criminal prosecution with evidence that they did not know the actor was under 18. Ruling in a case against two producers and an agent who hired teenage porn queen Traci Lords, the U.S. Court of Appeals for the Ninth Circuit rejected the Justice Department's argument that a tough new child pornography statute imposes strict liability on producers who film children engaged in erotic activities.

"While Congress may take steps to punish severely those who knowingly subject minors to sexual exploitation, and even those who commit such abuse recklessly or negligently, it may not impose very serious criminal sanctions on those who have diligently investigated the matter and formed a reasonable good faith belief that they are engaged in activities protected by the First Amendment," the court said.

The case involved two Los Angeles producers, Ronald Kantor and Rupert McNee, and modeling agent James Souter, Jr., who hired Lords in 1984 for a sexually explicit film, *Those Young Girls*, unaware that she was only 16. The three men were indicted on charges of violating a 1986 statute prohibiting the filming of minors engaged in sexually explicit conduct.

The defendants argued that they had no way of knowing the actress was a minor. Lords, who has acted in nearly 70 X-rated films and videos, had appeared in a *Penthouse* centerfold nearly a year earlier and had produced a driver's license indicating she was over 18.

Government prosecutors argued that the statute as written imposes strict liability and does not require any evidence that producers knew an actor was a minor. But defense lawyers said that to impose such a requirement would be to hold film producers to a standard that would make them think twice about hiring any young actors for roles that might involve even partial nudity. In an opinion written by Judge Alex Kozinski and joined by Judge William C. Canby, Jr., the court concurred.

"Many works of substantial artistic or social value requiring the services of young-looking actors—for example, a movie graphically portraying the evils of child abuse or pornography—might never be produced if well-intentioned and scrupulous producers cannot protect themselves against very serious criminal sanctions for inadvertent and reasonable errors," the court said.

In dissent, Judge Robert R. Beezer argued that the government's interest in protecting children from sexual exploitation is a "compelling government interest" that outweighs any potential threat of inhibiting production of materials produced by the First Amendment.

"Congress intended to protect children like Traci Lords, who try to pass as adults to appear in pornography. . . to protect them against their own immaturity, against the unreasoned, desperate choices children are wont to make," Beezer wrote.

The trial of Kantor and McNee had been postponed pending the outcome of the appeal, and their attorney, John H. Weston, said he believed the charges should be dismissed in light of the ruling. Souter had pleaded guilty in March, 1987, but indicated he would withdraw his plea if the appeal was successful.

Weston applauded the decision. "It's written in such a way as to vindicate the important First Amendment concerns which we have been raising almost from day one, and the result, of course, is also to vindicate, although the court didn't discuss it, the very important due process concerns that people should not be subject to conviction for very serious offenses in the absence of knowledge of a sufficient mental state," he said.

Although Weston predicted that cases such as the Lords case would be "exceedingly rare" because of producers' reluctance to use minors, Assistant U.S. Attorney Ronni B. MacLaren predicted that all prosecutions under the statute would be made more difficult by the court's ruling.

"What the defendants believed becomes an issue, and it wasn't an issue before," she said. "Now that the [mistake-of-fact] defense appears to be permissible, some producers may take more chances than they otherwise would have, so I think you may see this defense raised more often." Reported in: *Los Angeles Times*, September 30.

dial-a-porn

Philadelphia, Pennsylvania

A Pennsylvania statute requiring providers of telephone messages containing explicit sexual material to implement a screening system precluding access by any caller absent the entry of a nine digit code is constitutionally overbroad, U.S. District Court Judge Clifford Scott Green ruled August 23.

Judge Green said the statute regulates not only messages obscene as to minors, but also messages merely sexually explicit or indecent to adults. Consequently, it would have a tendency to chill protected speech. Moreover, the judge found, it was not the least restrictive means of furthering the state's interest in shielding children from sexually explicit messages. Reported in: *West's Federal Case News*, September 23.

etc.

Orange, California

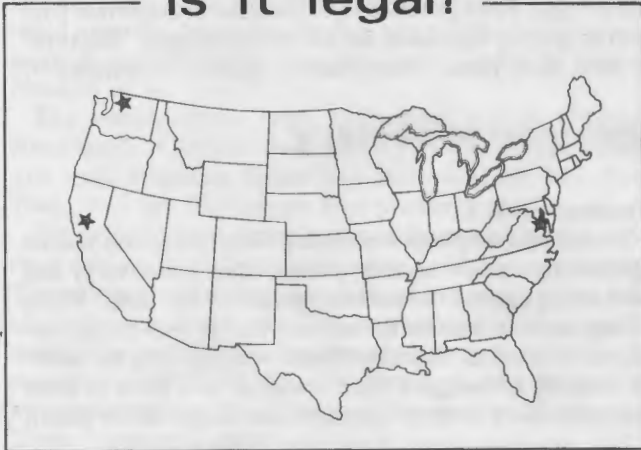
A City of Orange ordinance prohibiting off-site general or billboard advertising signs violated the First Amendment, Judge James R. Browning of the U.S. Court of Appeals for the Ninth Circuit ruled November 14. Exemptions to the ordinance restrictions required examination of the content of noncommercial messages and the Constitution forbids the selective prohibition of protected noncommercial speech based on its content. Reported in: *West's Federal Case News*, November 25.

Whittier, California

A Whittier ordinance prohibiting, among other things, the location of adult businesses within a thousand feet of a church was unconstitutional because it failed to provide for reasonable alternative avenues of communication, a panel of the U.S. Court of Appeals for the Ninth Circuit ruled November 9. Contrary to the city's contention, the fact that its ordinance was modeled after the one found constitutional in *Young v. American Mini Theatres, Inc.*, did not foreclose a First Amendment challenge. According to the opinion by Judge Procter Hug, Jr., given the city's size and the limitations imposed by the ordinance, all reasonable opportunity to open and operate an adult theater within the city was denied. Furthermore, all adult businesses existing at the time the ordinance passed would have to be closed. Reported in: *West's Federal Case News*, November 18.

(continued on page 26)

is it legal?



broadcasting

Washington, D.C.

Broadcasters and free speech advocates are preparing to challenge in court a new law that beginning January 31 will ban sexually explicit material from radio and television. This blanket prohibition, passed as part of a \$14.9 billion appropriations bill that funds the Federal Communications Commission and other agencies, was designed, as proponents said, to clean the "garbage" from the airwaves.

Others in Congress said a preoccupation with election-year politics was a more pressing motive. "It was just a fear that someone might think they were for pornography or obscenity," said Rep. Neal Smith (Dem.-Iowa) "It's an election year fear, and most of them felt that way. If it had been a secret ballot, it wouldn't have gotten but thirty votes." As it turned out, the House voted 214-210 in September to accept the Senate-passed ban.

The measure directs the FCC to draft a new set of indecency rules covering broadcast but not cable programming by the end of January. It was passed by the Senate in July after sponsor Sen. Jesse Helms (Rep.-N. Carolina) alleged that the FCC was permitting broadcasters to air programs that included "disgusting bestiality, sodomy, and child sex."

"Garbage is garbage, no matter what time of day or night it may be," Helms said. The ban was aimed at the FCC's policy of allowing sexually explicit material to be aired between midnight and 6 a.m. The commission had refrained

from an around-the-clock ban because it said prior court rulings held that the First Amendment protects indecent speech but allows it to be "channeled" to avoid children.

Representatives of broadcasting companies and First Amendment advocacy groups who earlier challenged the FCC's indecency rules met to discuss the ban, according to Timothy B. Dyk, lead lawyer in the previous case. "It's safe to predict that some or all of the original group will challenge" the new law, he reported.

In the earlier case (see *Newsletter*, November 1988, p. 210), decided by the U.S. Court of Appeals for the District of Columbia July 29, just two days after the Senate passed its ban, the court "makes plain that banning indecent material during the entire 24-hour period is plainly unconstitutional," Dyk said. That court decision capped a lengthy controversy over new indecency rules instituted by the FCC in April and October, 1987 (see *Newsletter*, July 1987, p. 143; January 1988, p. 29; March 1988, p. 60; May 1988, p. 102; September 1988, p. 169).

"We're not talking about obscenity, but material that has a lot of societal value—artistic, literary, even political merit—and because the definition is so broad it could be considered indecent," Dyk added. Reported in: *Washington Times*, October 11.

Washington, D.C.

Exercising a pocket veto November 5, President Reagan rendered null and void legislation passed overwhelmingly by Congress that would have reimposed restrictions on television programming aimed at children. The president said he disapproved of the bill because it was an unconstitutional infringement on freedom of expression. Supporters of the measure called the veto a disservice to children and said the legislation would be reintroduced next year.

The House of Representatives passed the measure, 328-78, on June 8, and the Senate gave its approval October 19 by an unrecorded voice vote. The bill would have limited advertising shown during children's programming to 10.5 minutes an hour on weekends and 12 minutes an hour on weekdays. It would also have required broadcasters to provide educational and informational programming for children as a condition of license renewal.

Such limitations had existed under longstanding Federal Communications Commission (FCC) rules until 1984, when the commission removed them. The FCC said then that the marketplace could better determine what programming was best for children. Rep. Edward J. Markey (Dem.-Mass.), a co-author of the bill, said that about 20 percent of the thousand stations in the country broadcast programs that exceed the proposed limits.

Along with deregulation came many other changes in children's television. Toy manufacturers, for example, became heavily involved in children's programming, developing shows based on toys that, in some cases, broad-

casters were enticed to schedule in exchange for a part of the profit on toy sales.

Peggy Charren, president of Action for Children's Television, a principal proponent of the bill, said: "I think that killing a bill that would have encouraged terrific television for children is another example of the ideological child abuse prevalent in the Reagan-Bush administration. It makes no economic sense because it doesn't affect the deficit or push up taxes."

Rep. Markey added: "President Reagan's action punctuated with an exclamation point the Federal Communications Commission's decade-long assault on children's television and exposed the hypocrisy of the Reagan administration."

Charren called the assertion that the bill was an unconstitutional abridgment of free expression "a double-speak excuse." The legislation, she said, simply furthered the mandate of the Communications Act that every station serve the public interest.

One major opponent of the bill was Dennis R. Patrick, chair of the FCC. He called the measure "both unnecessary and ill-advised." Patrick said it was unnecessary because the FCC had pending proposed rules aimed at over-commercialization of children's television.

Sen. Timothy Wirth (Dem.-Colorado), who had favored a measure more stringent than the one passed, said after the Senate voted that the present system was not working. "As a result of the FCC's neglect of the problem," he said, "a troublesome situation has grown much worse."

But Sen. Wirth bore some responsibility for the bill's ultimate defeat. His unsuccessful efforts to strengthen the proposal effectively placed a hold on the bill when it came to the Senate after House passage. The Senate finally approved the House measure just prior to adjournment, permitting Reagan to kill it through a pocket veto. A bill vetoed in this fashion cannot be overridden since Congress is not in session.

In announcing his action, President Reagan said: "While I applaud efforts to increase the amount and quality of children's television programming, the Constitution simply does not empower the federal government to oversee the programming decisions of broadcasters in the manner provided by this bill. Conditioning license renewals upon the federal government's determination as to the adequacy of a licensee's programming would violate the First Amendment. It would inhibit broadcasters from offering innovative programs that do not fit neatly into regulatory categories and discourage the creation of programs that might not satisfy the tastes of agency officials responsible for considering license renewals."

Even the National Association of Broadcasters, which had supported the bill as preferable to Sen. Wirth's proposal, expressed disappointment with the veto. "Broadcasters worked long and hard on this legislation with members of Con-

gress and a number of diverse groups," said NAB president Eddie Fritts. Fritts promised to "continue to cooperate with them in crafting legislation for the child audience." Reported in: *New York Times*, November 7; *Variety*, November 9.

government secrecy

Washington, D.C.

Government employees receiving classified access will be asked to sign a new secrecy pledge, after controversy and court rulings mired the current version of the form. While a Congressional ban on the secrecy pledge was being considered by the U.S. Supreme Court (see page 18), the Internal Security Oversight Office drafted a new form to meet objections made by U.S. District Court Judge Oliver Gasch in July (see *Newsletter*, November 1988, p. 209.)

The original pledge form, SF 189, made employees liable for directly or indirectly divulging classified or "classifiable" information. While upholding the right of the administration to require the secrecy pledge, Judge Gasch ordered the Oversight Office to define the terms "classifiable" and "indirect disclosure," and to notify all signatories of their definitions.

Although the office issued several clarifications, it also created a new form, SF 312, which does not employ the questioned terms, to be used from now on. In the new agreement and the clarifications to the older form, "classified information" is defined as marked or unmarked information, including oral communications, that meets the standards for classification and is in the process of a classification determination. Employees can be held liable for disclosure only if they knew or reasonably should have known material was classified or in the classification process and their action could have caused unauthorized disclosure. The office submitted the clarifications and the new form for publication in the *Federal Register*. Reported in: *Federal Times*, October 10.

free press

Washington, D.C.

A number of American media organizations are worried that the government has taken a serious step toward the licensing of journalists with a provision in the new U.S.-Canada trade pact. The agreement, designed to eliminate trade barriers between the two countries, defines a journalist as someone with a B.A. and three year's experience.

"Obviously, this provision is objectionable on a couple of fronts," said the Freedom of Information Committee of the American Society of Newspaper Editors. "First, there are many outstanding journalists who don't have college

degrees. But more importantly, if this kind of 'definition' is allowed to stand in a treaty that has the force of law, it could some day be used as the first step to license journalists, as many nations have when they have wanted to restrict freedom of the press."

The InterAmerican Press Association and the National Association of Broadcasters also objected to the provision. The trade magazine *Editor and Publisher*, the *New York Times*, and the *Washington Post* printed attacks on it.

The definition in question is part of the section of the agreement dealing with "temporary entry" of business persons. The section specifies four categories of business persons, one of which is professionals. This category lists forty professions, with qualifications specified for four—journalists, hotel managers, mathematicians, and librarians, who are denied by possession of an M.L.S. degree. Reported in: *Washington Times*, October 19.

obscenity and pornography

Sacramento, California

California Gov. George Deukmejian signed legislation September 27 that broadened the definition of obscenity in the state. The new law, drafted by state Sen. Wadie P. Deddeh (Dem.-Chula Vista) is intended to increase the number of prosecutions against adult movie distributors, booksellers and others who buy or sell "hard core" sexual material.

In redefining obscene material, the Legislature adopted statewide standards based on the U.S. Supreme Court's 1973 decision in *Miller v. California*. Under the old law, prosecutors had to prove that obscene material was "utterly without redeeming social value." The new law eliminates that language and replaces it with a requirement that the material be shown to lack "serious literary, artistic, political, or scientific value." Reported in: *Los Angeles Times*, September 28.

Bellingham, Washington

On November 23, a coalition of booksellers, librarians, and artists in the state of Washington filed suit to block enforcement of an ordinance passed by referendum on November 8, which restricts books, magazines, and movies that depict "the sexually explicit subordination of women." The suit, filed in U.S. District Court in Seattle, charged that the ordinance is unconstitutional because it restricts access to works that are not legally obscene and are protected by the First Amendment.

The challenged ordinance is nearly identical to an ordinance enacted by the Indianapolis, Indiana, City Council

in 1984, which focused on pornography as a violation of women's civil rights. That ordinance was struck down as unconstitutional in 1984, a decision upheld unanimously by the Seventh Circuit Court of Appeals in 1985, and affirmed by the United States Supreme Court in 1986. Like the Indianapolis ordinance, the new Bellingham law does not provide an exemption for material with serious literary, artistic, political or scientific value as required by current Supreme Court tests for laws regulating material with sexual content.

The Bellingham City Council had refused to approve the ordinance when it was proposed by students at Western Washington University, headquartered in Bellingham. The students went to court to force the city to place the issue on the November ballot, and it was approved in a referendum by a 3 to 1 margin.

The plaintiffs in the Bellingham suit are Village Books, a local bookstore; the American Booksellers Association, also a plaintiff in the Indianapolis case; the Pacific Northwest Booksellers Association; the Washington State Library Association, Dana Johnson Verhey, a citizen; Tom Sherwood, an artist; and Brenda Wilbee, an author. The lawsuit seeks declaration that the ordinance is facially unconstitutional, void, and of no effect, and asks the court to permanently enjoin the city from enforcing the ordinance and to grant costs and fees to the plaintiffs.

dial-a-porn

Washington, D.C.

A California company agreed November 7 to pay a \$50,000 fine and stop transmitting obscene messages on interstate telephone lines. Wendy King, operator of Audio Enterprises, Inc., of Mill Valley, California, signed the agreement, which entailed one of the first dial-a-porn fines imposed by the Federal Communications Commission (FCC).

"The \$50,000 payment that the dial-a-porn operator will have to pay to the government shows that there will be a high price attached to failure to obey the law scrupulously in this important area," said Gerald Brock, head of the FCC's Common Carrier Bureau. "This sends a signal there are some teeth in the law."

The FCC began its investigation of Audio Enterprises after a mother in California wrote that her 13-year-old son and his friends spent \$74 dialing a 900-number for 211 minutes. Also listening was the woman's daughter, who was later molested by two boys who had heard the tapes, the woman charged. "This phone call has damaged our lives," she wrote.

Federal law bars interstate transmission of sexually explicit speech that would be deemed offensive by contemporary community standards. But the law permits the transmission of less graphic speech to consenting adults. The FCC has referred some complaints to the Justice Department. In May, 1987, two dial-a-porn providers pleaded guilty of failing to comply with the commission's rule. The court fined them each \$50,000.

Earlier this year, Congress passed a dial-a-porn law that bans obscene and indecent commercial messages, but the law has not been enforced owing to legal challenges in New York and California. The principal issue centers on the definition of indecent speech. The commission deems speech indecent if it depicts or describes sexual or excretory organs or activities in a patently offensive way. Dial-a-porn operators say the definition is too broad, and unconstitutional. Reported in: *New York Times*, November 8. □


(from the bench . . . from page 22)

Pocatello, Idaho

Pocatello-area ordinances banning uninvited residential door to door solicitation violated solicitors' First Amendment right of commercial speech, a panel of the U.S. Court of Appeals for the Ninth Circuit ruled September 15. According to Judge William C. Canby, Jr., although the ordinances furthered privacy and crime-prevention interests, they were much more extensive than necessary. Citizens who desired privacy could post a notice to that effect or could inform a central registry established by the city. Crime prevention could be less restrictively served by requiring solicitors to register, as the plaintiffs' organization, Project 80's Inc., attempted to do. Reported in: *West's Federal Case News*, September 30.

Lincoln, Nebraska

A Nebraska "mass picketing" statute that prohibits any form of picketing in which there are more than two pickets within either 50 feet of any entrance to the premises or within 50 feet of any other pickets is unconstitutional, a panel of the U.S. Court of Appeals for the Eighth Circuit ruled September 8. According to an opinion by Judge Earl R. Larson, Senior District Judge for the District of Minnesota, sitting by designation, the statute was facially overbroad because nothing in it suggested that the limitations apply only in circumstances of violence or where ingress or egress is restricted. Reported in: *West's Federal Case News*, September 23. □

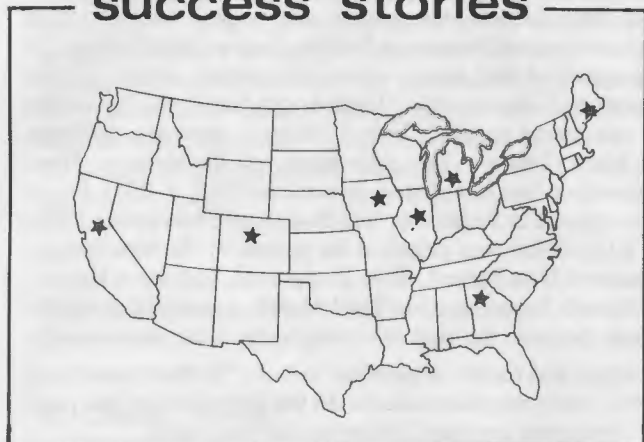


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success stories



libraries

Boulder, Colorado

On September 29, two Boulder teachers won their battle to free some children's novels that were locked in a reference collection at the Boulder Public Library. The library agreed to put the books—at least twenty titles—on a “junk food shelf.”

“Kids have a right to intellectual freedom,” said Kathy Higbee, a teacher at Fort Lupton Middle School who led the fight for the books. “We do feel like it's censorship.”

The books had been restricted to the library's children's reference collection, in a locked room that children had to ask librarians to open. The books included *The Giving Tree*, by Shel Silverstein, which librarians considered sexist; *The Phantom Tollbooth*, by Norton Juster, deemed poor fantasy; and *Charlie and the Chocolate Factory*, by Roald Dahl, which allegedly espouses a poor philosophy of life.

Children's librarian Judith Volc said the novels in the reference section were not selected for general circulation through the library's normal process. She explained that the books did not meet library standards with regard to quality and issues of racism and sexism. But some university students studying children's literature asked for the books and they were added to the children's reference collection. “We felt it was a way to answer the requests without compromising our selection process,” Volc said.

Volc acknowledged that some books are kept in the locked room because she believes they are best read to a child by a parent, or because they are widely recognized as controversial because they are racist, too morally slanted, or do not show characters learning the consequences of their actions.

“I would never take a copy of any of those books away from a child,” said Volc. “But I do have some reservations about recommending them. I don't have a problem with kids reading controversial books, which is why I bought them, which is why they're available for the kids to check out.”

Higbee and another teacher, Laurie Travers, launched a campaign to move the books to open shelves during Banned Books Week in September. They argued that children learn by reading “good things and bad things. Just having to ask the librarian is a psychological barrier,” Higbee said. “A library is there to provide access to all materials.”

Volc said that part of the reference collection would be reshelfed as part of an open “parenting section” including a “junk food shelf” that will include the controversial titles. The section was also to include books about child abuse, potty training, teaching children about death, and children's TV. Volc said the section would be clearly identified as a parenting section. However, if a child wanders into it from the nearby children's department and pulls a book off the shelf, Volc said neither she nor her staff will try to stop the child.

“We have never said ‘You can't check out these books,’ ” Volc explained. “The argument is that we are limiting access. Our purpose in buying those books was to facilitate access.” The Boulder Library Commission also agreed to review the children's reference collection and the book selection policy. Reported in: *Boulder Camera*, October 2; *Rocky Mountain News*, September 30.

Marietta, Georgia

Cobb County school officials refused in early November to grant a request that all books concerning the occult be banned from county middle school classrooms and libraries. Acting on the recommendation of the district's Library Media Committee, composed of teachers, administrators, parents and students, Associate Superintendent Stanley R. Wrinkle said banning the books would violate freedom of speech and religion.

“To remove the books from the library shelves . . . would constitute a suppression of exposure to ideas considered by you to be distasteful,” Wrinkle wrote in a letter to Annette Tatum, who requested the removal of six books last May. “Such action would be a violation of the First Amendment; therefore we cannot comply with your request.”

Tatum charged that the books encourage worship of Satan. She vowed to continue her fight by writing a book to inform people about the occult and the availability of mystical books in local schools. “I would like, personally, for this kind of garbage to be removed,” she said. “I think it's inappropriate. The majority of parents do not know these books are in the schools.” Reported in: *Marietta Journal*, November 5.

Camden, Maine

Following impassioned arguments by students, parents, teachers, school board members and concerned citizens defending First Amendment rights, the SAD 28 School Board

voted 6-1 September 20 to reverse its own September 6 decision removing the novel *Birdy*, by William Wharton, from the library of the Mary E. Taylor Middle School.

The earlier vote, also by a 6-1 margin, came after Camden resident Russell Spera presented the board with a letter he had written to the editor of the *Camden Herald* describing the book, which his eighth-grade son brought home. The letter listed ten separate phrases and sentences from the book, most of which contained sexual material and what Spera considered offensive language.

Board Chair Thomas Cox said the book would be referred to the curriculum committee, according to district policy, but Spera requested immediate action. Longtime local school critic Charlotte Iserbyt joined the debate, calling the book "pure pornography." "You can call me a censor," she said, "but you can't censor my words."

Feeling pressured, the board voted to ignore its own policy and remove the book at once. Only board member Andy Shapiro held out against the decision. "The book had been on the shelf for five years, and it is 300 pages long, while the complaint covered less than 20 lines. The material should be judged as a whole, not on individual sections," he said. "It should be judged on the basis of literary merit."

"If I ever had to do something over again it would be that vote," board member Lou Pelletier said later. Pelletier said he expected phone calls asking for the book's removal, but that instead people were irate about the board ignoring policy. Posters went up around town urging people to attend the next board meeting.

For over an hour and a half, the overflow crowd of 60 debated the issue. Camden-Rockport High School student Amy English said she represented a group of 50 other students who signed a petition in favor of keeping *Birdy* in the library. "A few ought not to decide for all the others," she said. "By banning *Birdy* the board would set a dangerous precedent to ban other books."

Principal Mike Weatherwax asked, "What is the purpose of the library?" and then answered his own question by saying it was to provide "a diverse collection of books for the students." Librarian Kathryn Foss also defended the book.

In the end, only board chair Cox voted to remove the book. As a member of the board curriculum subcommittee, which eventually reviewed the work, he said he found no source identifying the book as appropriate for the middle school level. Reported in: *Camden Herald*, September 8, 22.

Berrien Springs, Michigan

The Berrien Springs School Board voted unanimously October 20 not to ban three books targeted by protesters. *Of Mice and Men*, by John Steinbeck; *Clan of the Cave Bear*, by Jean Auel; and *Native Son*, by Richard Wright, had come under fire from some local ministers because of some sections the ministers called vulgar, profane, and sexually explicit.

Pastor Starley Baker of Mount Zion Church of Celebration filed formal requests for the books' removal from classrooms and libraries at Berrien Springs High School. "I am appalled and angry about the graphic details in this literature," Baker said. "These books tear down the morals of our young people's lives." Baker's previous challenge to Mark Twain's *The Adventures of Huckleberry Finn*, September (see *Newsletter*, November 1988, p. 201). Baker was rejected in September (see *Newsletter*, November 1988, p. 201). Baker was joined in his protest by Berrien Springs ministers John Parnell, Troy Sloderbeck, and Steve Rumer.

Schools Superintendent Tedd Morris opposed banning the books because he said the complaints were emotionally-charged and rooted in personal belief. "In their most basic form, these complaints deal with the imposition of one point of view over another," Morris told the board.

The controversy began when Baker's daughter read *Of Mice and Men* in her tenth grade English class. Baker called the book degrading and full of profanity. He also objected to short passages in the other two books—an account of a rape in *Clan of the Cave Bear* and a reference to promiscuity in *Native Son*.

In a letter to Principal David Paulsen, Baker wrote that "the objectionable material found within the contents of [*Clan of the Cave Bear*] leave us no other discourse (sic) but to demand its immediate removal. Upon investigation of this book we found that a movie had been produced by Warner Brothers Studios of its story and content. In speaking with Warner Brothers affiliate in Detroit, Marontate & Co., representative Mr. Felix Malinonski, we found the movie, a weaker version of the story in written form, was given an 'R' rating. An 'R' rating means no one is allowed to view such a movie 17 years of age or younger in a public facility. Knowing that most high school students are of this age or younger, and the book version being more explicit than the movie version (rated 'R') we demand as community leaders and parents that this material be immediately removed from the school curriculum."

Board President Thomas Faulkner said the entire board read all or parts of the books in question. Board member Robert Moon said their decision was based on the fact that students are offered book alternatives. "We live in a democracy based on give and take, and we do not force an individual to do something against his conscience," Moon said. "If we removed everything that somebody objects to we would have very bland [material] and very little [of it]."

While supporting retention of the challenged titles, several board members expressed concern about the district's selection policy and procedures. It was noted that *Clan of the Cave Bear* was not listed in the district Curriculum Guide, covering books reviewed by the selection panel. "There are holes in that process," Board President Faulkner said. "We need to tighten up our belts to make sure we follow procedures set up. Committees will be addressing those issues."

Whether these measures will satisfy Baker remained

unclear. After the vote to retain the books, the minister told the board, "I'm sad and very ashamed for the decision made tonight. We have alternative routes we will take to try to change your mind." He did not elaborate on the nature of the "alternative routes." Reported in: *Berrien Springs Journal Era*, September 28, *Detroit News*, September 21, *St. Joseph Herald Palladium*, September 22, 23, 27, October 11, 21.

schools

St. Charles, Illinois

A series of books on the occult should return to sixth-grade classrooms, the St. Charles School Board ruled September 26. The 15-part series, called *The Dark Forces*, was removed last spring after a parent objected to giving students unsupervised access to the books. In April, a committee of teachers and media specialists decided the books were acceptable material for pupils. The board voted unanimously to accept that finding.

Frances Martz complained to the board when her son was allowed to read a book called *The Charming*, which tells a story of a young girl possessed by the devil. Martz said she thought the district had to update its selection and review policy.

Board member Anne McCausland said she thought the book, while not in the "canon of great literature," was appropriate for most sixth graders. She said sometimes more sensational books are needed to attract children to reading, even if the material is of lesser quality than the classics. McCausland said teachers and librarians must have freedom to decide on reading materials. Parents should express their concerns to teachers about books on an individual basis, she added.

Martz said she was satisfied the board had given her case a thorough review. Reported in: *St. Charles Weekly*, September 14, 28; *Aurora Beacon News*, September 27.

student press

Sacramento, California

The Rio Americano High School student newspaper was distributed November 1 after a review by the school district determined it could not legally be withheld from distribution. The newspaper, the *Rio Mirada*, was confiscated by administrators October 28 because it carried a satirical front-page article spoofing homecoming and likening its pain to the suffering of Jesus Christ.

Rio Americano Principal Ron Uzelac said he found the article "totally offensive to the school, students and the community." But Ted Witt, a representative of the San Juan Unified School District, said that while the article might have been controversial and offensive to some, it was not libelous. "California law does not allow prior restraint of student newspapers unless there's material that is obscene or libelous or appears to incite students such as to present clear and present danger of committing unlawful acts," he explained.

Uzelac said that as a result of the controversy the school would set up a review committee of teachers, students and the administration to review articles before the paper went to press.

Said Witt, "While the principal may have been prudent to ask for a legal review to make sure we were on safe grounds, now that the review is through, we feel we should go forward and distribute the newspaper. That isn't to say that the principal or anybody else agrees with the writers, but the issue is to protect the students' right of free expression." Reported in: *Sacramento Bee*, October 29, November 1.

Iowa City, Iowa

In an out-of-court settlement, the University of Iowa agreed in October to allow a student group to publish for free three issues of its lesbian culture magazine after earlier refusing to do so because of an issue including sexually explicit photographs. The settlement ended a 1986 suit that questioned the university's standards for publication of student material (see *Newsletter*, November 1986, p. 212).

The magazine, *Common Lives/Lesbian Lives*, had paid the university \$2,000 to print 2,500 copies of its 1986 fundraiser edition, which was the first issue to include photographs of nude women. The university's decision not to print the issue prompted a petition to its human rights committee, a group of seven administrators who agreed with the editors' claim that their First Amendment rights had been violated.

The university agreed to print three issues for free because of the time taken to make the decision and financial losses to the student group during the long period before the settlement was reached. Reported in: *Chicago Tribune*, October 12.

(censorship dateline . . . from page 16)

Jerusalem, Israel

Israel's treatment of the Palestinian press in the occupied West Bank and Gaza Strip was denounced by two non-partisan press-monitoring groups in a lengthy report released October 20. The two organizations are the Committee to Protect Journalists, whose honorary chairman is Walter Cronkite, and the London-based Article 19, an international center on censorship chaired by William Shawcross.

The 230-page report detailed Israeli suppression of Palestinian newspapers, harassment and detention of reporters, photographers, and editors, and an "onerous" regulation of the Palestinian press that "goes well beyond the stated purpose of preventing threats to national security and public order" in the occupied areas. Previously, the press groups wrote Israeli Defense Minister Yitzhak Rabin urging the release from detention of nineteen Palestinian journalists.

"By jailing so many Palestinian journalists without charge or trial, your government fuels skepticism toward the claim that it does not punish journalists for pursuing their profession," the letter said.

"No journalist is arrested or detained because of his profession or because of his views," countered Israeli official Yossi Gal. "Measures are taken only against those who are engaged in terrorist activities, incitement or calling for direct action against Israel. . . . Israel's treatment of the press sets an example of a sincere attempt to integrate the needs of security and the needs of the freedom of the press."

The groups' report acknowledged that the Palestinian press is "highly partisan [and] mobilized in the struggle for national self-determination," and noted that most publications in the occupied territories support the Palestine Liberation Organization. "Within limits, Palestinian newspapers are able to criticize the occupation and to cover the PLO favorably," the report admitted. But it added that the Palestinian press is subject to far stricter military censorship than the relatively freewheeling Israeli press.

"The Palestinian press must generally submit all copy each day for prior approval, including news, commentary, cartoons, poems, and photographs," the report said. "A wide range of items, particularly concerning Israeli policies in the territories, unrest and opposition to the occupation, are cut by the censor. Many items are cut for reasons whose relation to security is at best vague or remote. Palestinian papers are sometimes even prevented from printing items that appear in the Israeli press," the report charged.

Eric Goldstein, the report's principal author, emphasized that restrictions on the Palestinian press predated the outbreak of violent rebellion in the occupied territories. Reported in: *Washington Times*, October 20.

Jerusalem, Israel

On October 25, the Israeli government indefinitely suspended the press credentials of three foreign correspondents who it said violated military censorship laws by publishing detailed allegations about two undercover army units operating in the occupied West Bank and Gaza Strip.

Reuters bureau chief Paul Taylor and correspondent Steve Weizman lost their accreditation for a story by Weizman reporting allegations that the army was operating a "death squad" against organizers of the ten-month-old Palestinian uprising. The report quoted "security sources" as confirming that the squads had been deployed to counter those who

threw gasoline bombs and rocks, and had oral orders to shoot to kill fugitives "with blood on their hands."

The press card of *Financial Times* bureau chief Andrew Whitley also was suspended. His article had mentioned the undercover squads, but did not include the allegations that the units had engaged in assassinations. Both reports included charges that members of the units on several occasions had impersonated journalists to arrest or photograph suspects. Neither article was submitted to the military censor's office.

Yoram Ettinger, director of the government press office, said Defense Minister Yitzhak Rabin had personally conducted a meeting to decide how to punish the correspondents. Ettinger said the press credentials would remain suspended pending completion of a police investigation.

In a similar move last April, the Israeli government suspended the credentials of Glenn Frankel of the *Washington Post* and of Martin Fletcher of NBC News. The cards were returned several weeks later. In 1979, Whitley, a British citizen, was expelled from Iran for reporting on dissent within the regime of Ayatollah Ruhollah Khomeini. Reported in: *Washington Post*, October 26.

Jerusalem, Israel

Israel's Film and Theater Review Board voted October 17 to ban the controversial American motion picture *The Last Temptation of Christ*, directed by Martin Scorsese, on the ground that "its screening would offend the Christian faith and its adherents."

Yehoshua Justman, chair of the board, said public screening of the film would be contrary to Israeli law, which forbids offending other religions. The decision was only the second time the board had banned a film because its showing might be offensive to religious faith. In 1977, the board banned *The Passover Plot*. Reported in: *Washington Post*, October 22.

Tokyo, Japan

A Japanese textbook publisher deleted a lesson describing Japanese brutality in World War II after protests from ruling party politicians. The move drew criticism from educators and opposition politicians, who charged that Japan was once again trying to sanitize its past.

Sanseido Publishing Company, a major publisher, touched off a storm of criticism from members of the governing Liberal Democratic Party and the education division of the party's policy-making panel with a five-page lesson entitled "War," included in an English textbook for senior high schools. The lesson included accounts of wartime atrocities by Nazi Germany and American forces in Vietnam, as well as a vivid tale about a Japanese soldier in Malaysia who grabbed a baby from its mother and "threw the baby up into the air and ran his sword through it."

Although the lesson went on to say that "War makes people cruel. So we can not say one nation is more cruel than

another," Liberal Democratic politicians claimed the story exaggerated Japanese atrocities and lacked historic background. "We thought no teacher should use such a textbook as this," said Iwao Kudo of the Education Division of the party's Policy Research Council.

Although the textbook passed an Education Ministry screening last June and 24,000 copies had already been ordered, Fukuo Ishinabe, Sanseido's editor-in-chief, said the company agreed to replace the story with an excerpt from *My Fair Lady*, the popular musical, because "any material that causes misunderstanding is not good." The Japan Teachers' Union and the opposition Japan Socialist Party denounced the decision, charging that the ruling party and the Education Ministry had pressured Sanseido into dropping the offending passage. But Ishinabe contended that no one in the government had exerted pressure on the publishing house.

Few Japanese textbooks include references to the brutal Japanese occupation of Korea, the slaughter of civilians by Japanese troops in the Chinese city of Nanjing, and other wartime atrocities like the use of chemical weapons and biological experimentation on war prisoners. Even so, a group of Japanese historians has been trying for several years to rewrite textbooks to reflect their view that Japan was unfairly termed the aggressor in World War II by the victorious Americans. Attempts to substitute "advance into China" for "invasion of China" in textbooks, for example, prompted angry and alarmed denunciations from the Chinese. Reported in: *New York Times*, October 5; *Washington Times*, October 6.

Johannesburg, South Africa

On November 1, the government barred South Africa's most prominent opposition newspaper, *The Weekly Mail*, from publishing for a month. The order signed by Home Affairs Minister J. Christoffel Botha, said, "The production or publishing during this period from the date of publishing this order up to and including 28 November 1988, of all further issues of the periodical *The Weekly Mail* is hereby totally prohibited."

The Weekly Mail, a lively tabloid, has attracted a reader-

ship among affluent white South Africans, as well as those more active in the anti-apartheid movement, because of its trenchant reporting and irreverent style. Many of its staff members came from *The Rand Daily Mail*, an anti-apartheid daily that closed in 1984.

This was the first time *The Weekly Mail* was stopped from publishing, although two issues were seized by the police. The government threatened to suspend publication in April, but backed off after international protests. Two other weeklies, *New Nation* in Johannesburg and *South* in Capetown, were previously suspended, but resumed publication.

In a statement, the *Mail* editors said, "The Minister of Home Affairs had made abundantly clear how arbitrary his rule is; why has he acted against us this week and not last or next; why for one month and not two or three? The reality is that Minister needs to supply no reason and needs follow no logic—he simply decides, alone and without consultation, one man acting as prosecutor, judge, and executioner." Reported in: *New York Times*, November 2.

Harare, Zimbabwe

A violent crackdown on left-wing campus critics by Zimbabwe's Marxist government has aroused fears of a broad attack on academic freedom. Following the October incident, in which hundreds of students were arrested and an outspoken faculty member at the University of Zimbabwe was forced to leave the country, many academics said they were reluctant to speak out.

The conflict began when police moved onto the campus of the University of Zimbabwe and Harare Polytechnic and used clubs, tear gas, and rubber bullets to stop a protest march. The demonstration had been organized by the Student Representative Councils of the two institutions to attack alleged corruption in government.

The violence was followed by the sudden expulsion from the country of a university law lecturer, Sadrack Gutto, a left-wing Kenyan exile whom government officials apparently suspected of having sparked the demonstrations. Reported in: *Chronicle of Higher Education*, October 19. □

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