newsletter on
intellectual freedom
IFC ALA

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

ISSN 0028-9485

March 1989 ☐ Volume XXXVIII ☐ No. 2

portrait of a censor

By John F. Wakefield, Associate Professor of Education, University of North Alabama. The following article is based on Dr. Wakefield's service on the Alabama State Textbook Committee in 1987-88. Personal names and some details have been altered to protect privacy.

My first recollection of Joshua was at the initial meeting of the textbook committee when he asked for a change of schedule. He was nearly hidden at the other side of the room, and his motion was rapidly seconded by the person beside him. The reason we should change our schedule was not clear, and the motion was voted down, 21 to 2.

At the next meeting, I got to know him better, and for the rest of our tenure on the state-wide committee I would eat lunch with him and spend unoccupied hours in the late afternoons talking with him about whatever crossed our minds. In all, I must have spent twenty or thirty hours with him, and in time, I began to understand him as a person and as a thinker.

He was well-educated, having come from a professional family and having graduated from an independent seminary. His father was a physician, and he was the eldest of several children. The church which he served as minister was a small, but affluent, group that had broken away from one of the main Protestant denominations. He was what many people regarded as a "fundamentalist," but then many people who knew my religious affiliation would say the same of me. Superficially, at least, the difference between us was that he was a preacher and I was a psychologist.

We talked about many things, some of them religious, but many not. The first time I ate with him he carried a volume on quantum theory, and the conversation varied from the Qabala to Lewis Carroll. I was amazed at his range of knowledge. He had tutored Greek and had a reading knowledge of Hebrew. He was more highly literate than I and probably had tried his hand at religious poetry, but he did not seem to have a good appreciation of art.

I came to appreciate the influence of religion over his mind only later, when I thought about the topics we had discussed. Religion always seemed to be just underneath a facade of highly literate social "talk." The talk was like a pseudonym or the book he carried that first day, concealing rather than revealing the person. I began to ask questions now and then to find out more about his background, interests, and opinions. On the textbook committee, he was beginning to take a more active role, and I was spending too much spare

(continued on page 55)

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

in this issue

portrait of a censor ..... p. 33

IFC report on FBI library awareness ..... p. 35

IFC report to ALA Council ..... p. 36

FTRF report to ALA Council ..... p. 37

censorship in Maine ..... p. 38

new science policy in California ..... p. 39

N. Carolina schools urged to teach on religion ... p. 40

something's missing from *Missing* ..... p. 40

in review: *Children, Culture, and Controversy* ....p. 42

censorship dateline: libraries, schools, student press, newspapers, military censorship, film art, foreign .....p. 43

report on world press freedom ..... p. 48

Soviets stop jamming .....p. 50

from the bench: U.S. Supreme Court, library meeting rooms, schools, religion in school, student press, McCarran-Walter Act, Ku Klux Klan ....p. 51

is it legal? library, obscenity and pornography, broadcasting, gay rights .....p. 58

success stories: library, school, student press, gay rights ..... p. 61

targets of the censor

books

The Abortion: An Historical Romance ..... p. 52
The Actor's Book of Contemporary Stage Monologues ..... p. 43
The Adventures of Huckleberry Finn ..... p. 43
Birdy ..... p. 38
Bones on Black Spruce Mountain ..... p. 61
A Confederate General From Big Sur ..... p. 52
Dynamics of Speech ..... p. 56
Go Ask Alice ..... p. 39
How to Eat Like a Child ..... p. 39
The Humanities: Cultural Roots and Continuities .. p. 52
I Have To Go ..... p. 38
I Know Why the Caged Bird Sings ..... p. 38
In the Night Kitchen ..... p. 43
Just As Long As We're Together ..... p. 38
Just Hold On ..... p. 61
Killing Mr. Griffin ..... p. 39
The Love Killers ..... p. 38
Maurice Bishop Speaks [Grenada] ..... p. 49
Night Shift ..... p. 44
One People, One Destiny [Grenada] ..... p. 49
The Pill Versus the Springhill Mine Disaster ..... p. 52
Rommel Drives on Deep Into Egypt ..... p. 52
The Satanic Verses [England] ..... p. 47
Stars, Spells, Secrets, Sorcery ..... p. 39
This School Is Driving Me Crazy ..... p. 38
Thomas Sankara Speaks [Grenada] ..... p. 49
Trout Fishing in America ..... p. 52
Women in Fiction, II ..... p. 38

periodicals

Bad Astra [Lindbergh H.S.] ..... p. 54
Crossfire [Colby College] ..... p. 44
Dartmouth Review ..... p. 53
The Militant [Grenada] ..... p. 49
Penthouse ..... p. 46
Playboy ..... p. 46
Revolutionary Worker ..... p. 45
Stars & Stripes ..... p. 45
The Union [CSULB] ..... p. 61

films

Children of the Corn ..... p. 44
The Last Temptation of Christ [Greece, S. Africa] .....p. 49, 50
Missing ..... p. 40
Mississippi Burning ..... p. 46
1984 ..... p. 38
Sammy and Rosie Get Laid ..... p. 51

comic strip

Doonesbury ..... p. 45

(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 LibraryAssociation. 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.

IFC report on "library awareness"

FBI to continue targeting libraries

The following status report on the Federal Bureau of Investigation's Library Awareness Program and related matters was submitted to the ALA Executive Board and ALA Council by Intellectual Freedom Committee Chair C. James Schmidt on January 8, 1989, at the ALA Midwinter Meeting in Washington, D.C.

There have been several developments related to the FBI and its attempts to secure confidential information from libraries since the 1988 Annual Conference in New Orleans. These developments are summarized below.

1. Media Coverage

On July 13, 1988, the ABC *Nightline* program was devoted to the FBI's visits to libraries. Appearing on the program live were: Judith Krug, Director of ALA's Office for Intellectual Freedom, and James Geer, FBI Assistant Director for the Intelligence Division. Mr. Geer had testified that day before Rep. Don Edwards' Subcommittee on Civil and Constitutional Rights (testimony which had been scheduled originally for June 20 when ALA, ARL, SLA and others testified).

Attached is a list of the media coverage which is known to me or the OIF. [Readers interested in obtaining a copy of this list may write to the ALA Office for Intellectual Freedom.] The ethical commitment of ALA to the privacy rights of library patrons, ALA's commitment to uninhibited access to unclassified information, and ALA's commitment to open libraries available for use by all are consistently supported and even applauded in the items listed. To be sure, contrary views also have been expressed, e.g., *New York Post*, November 14, 1988, editorial: "Liberal paranoia, library division."

2. IFC Meeting With FBI Officials—September 9, 1988

In New Orleans, the Executive Board and Council approved a budget supplement to the OIF which enabled members of the IFC, a representative of the Executive Board, OIF staff, and ALA's counsel to meet in Washington with FBI officials to discuss our mutual concerns. The meeting was held in the board room of the D.C. Public Library at 1:00 p.m. on Friday, September 9, 1988. Five representatives of the FBI attended, including Mr Geer, his deputy Thomas Duhadway, and the head of the Bureau's New York office, James Fox. Although we were unable to get an agreement to cease library visits from the Bureau, the meeting was important because the two organizations had not previously exchanged views directly.

Following the meeting, Director William Sessions wrote to Representative Don Edwards (see below) announcing decisions he had reached about the Library Awareness Program. Some have characterized this letter as conciliatory (e.g., *New York Times*, 11/12/88; *Washington Post*, 11/15/88). I do not regard it so. While Director Sessions says he "shares concerns" about public and university libraries, he states that agents will continue to visit them. While he says that the Bureau will not ask for circulation lists, he states that they will "inquire further" about what certain Soviet or Soviet-bloc nationals are reading.

In December, 1988, John Otto, Acting FBI Director, on behalf of Mr. Sessions reported to Representative Edwards (see below) on the results of an analysis they had done of the state confidentiality statutes applicable to fifteen of the known library visits. The analysis concludes that there either were no state statutes in effect at the time of the visits, or that no *records* were requested except in one instance where a grand jury subpoena was obtained.

3. Congressional Developments

In part as a response to the publicity about the Library Awareness Program, a bill was considered by the 100th Congress which would have provided federal protection against disclosure of personally identifiable information kept by libraries about library patrons. Council endorsed passage of H.R. 4947/S. 2361 on July 13, 1988, in New Orleans.

In October, acting for ALA, I agreed that the library portion of the bill should be withdrawn. I reached this conclusion reluctantly and only because a Senate amendment had been prepared which would have a) replaced the court order requirement with a lesser standard—a "national security letter," b) imposed a gag order on any library employee(s) who may have been questioned by an agent of the FBI, and c) subordinated state confidentiality laws for national security cases. The bill, without the library portion, passed and was signed by President Reagan. Now video rental records are protected by federal law from unauthorized disclosure.

In the last days of the 100th Congress, Reps. Edwards and Conyers introduced H.R. 5369, the "Federal Bureau of Investigation First Amendment Protection Act of 1988." Hearings on this bill did not occur, but we expect that it will be reintroduced in the 101st Congress by its sponsors.

4. Legal Action and FOIA Requests

At the Annual Conference in New Orleans, the Intellectual Freedom Committee voted to recommend that ALA join the Freedom to Read Foundation in a lawsuit against the FBI challenging the Library Awareness Program. However, after careful consideration and advice from counsel, it was decided instead to file new and clarified FOIA requests. It seemed that a lawsuit directly challenging the FBI Library Awareness

(continued on page 62)

IFC report to ALA Council

The following is the text of the Intellectual Freedom Committee's report to the ALA Council, delivered January 11, 1989, at the ALA Midwinter Meeting in Washington, D.C., by Chair C. James Schmidt.

Earlier in this Conference, I reported to you on activities regarding the FBI Library Awareness Program (see page 35). During this week, the Intellectual Freedom Committee has taken several actions regarding this and other matters.

Legislation

During the fall, the Intellectual Freedom Committee and OIF staff worked hard on two pieces of federal legislation: the Child Protection and Obscenity Enforcement Act and the Video and Library Privacy Protection Act.

1. The Child Protection and Obscenity Enforcement Act (P.L. 100-690) passed, in modified form, as an amendment to the Omnibus Drug Enforcement Act, in the last hours of the 100th Congress. The efforts of the Intellectual Freedom Committee, the OIF staff, and officers and members of chapter Intellectual Freedom Committees nationwide who called, wrote and visited Senators and Representatives avoided passage of a considerably more broad and objectionable version of this bill.

The final version, though less draconian than the one we faced in July, nonetheless exposes librarians to criminal prosecution and libraries to confiscation. The obscenity enforcement portion of the bill makes it a crime to knowingly sell or *transfer* obscene books and articles in interstate commerce. The criminal provisions of the bill apply only to those who are "engaged in the business" of trafficking in obscenity. Unfortunately, the definition of "engaged in the business" is very broad. Anyone who sells or transfers two or more obscene books and articles, or a combined total of five such obscene books and articles, is presumed to be engaged in the business of trafficking in obscenity. IFC members are concerned that the Act's provisions could be used as threats against libraries which maintain materials with sexual content, e.g., sex education materials, which are protected by the First Amendment.

We are also very concerned about the forfeiture provisions of the bill. Mandatory *civil* forfeiture provisions were deleted from the bill, but *criminal* forfeiture provisions remain. On the civil side, the law now leaves the decision on the amount of property to be forfeited—other than the obscene articles themselves—up to the ruling court's discretion. Among other things, the court is required to take into account the extent to which property was used in the commission of the violation. The criminal forfeiture provisions are mandatory, and require forfeiture of all property used to further a criminal violation of the statute, and any proceeds of the violation.

The Act contains record-keeping provisions which require each link in the distribution chain to maintain records showing that each person depicted in a sexually explicit visual image is an adult. Failure to maintain such records creates a legal presumption, in a criminal prosecution, that the persons depicted are minors. A possible result is that libraries and bookstores will be unwilling to acquire materials which are not delivered with the required identification records. Publishers, on the other hand, may not wish to provide such records in order to avoid an implied admission that they are producing "lascivious" materials which require such documentary back-up. The resulting chilling effect at all points in the distribution chain is of great concern to the IFC.

Violations of obscenity statutes were added to the Racketeer Influenced and Corrupt Organizations Act, or "RICO" as it is known, as acts of "racketeering." These may be used to establish a violation of RICO which itself contains severe forfeiture provisions and provides for a civil action for treble damages.

Discussions with other organizations, including the Freedom to Read Foundation, about legal actions against some of the more stringent provisions of the Act, have resulted in the resolution I now put before you for your approval (see below).

2. The Video and Library Privacy Protection Act (H.R. 4947, S.B. 2361) was on its way to passage by the 100th Congress when the FBI urged a national security exemption be provided, in the form of a "letter disclosure process," whereby an official of the FBI, simply by writing a letter to a library stating that there was a national security need, could obtain records which are otherwise confidential. The so-called "national security letter" would have replaced the requirement of a court order.

The IFC reluctantly withdrew its support for the library portion of the bill. The bill passed as a video privacy protection bill only, without amendments allowing exemptions—national security or otherwise. We will be alert to opportunities in the current congressional session for legislation to grant libraries similar federal protection, without exemptions. In the meantime, we recognize a risk to state confidentiality statutes. As I mentioned to you earlier this week, the FBI has stated its opinion that many state statutes are inflexible and did not adequately account for national security interests. Thus, we believe it is reasonable to expect efforts to seek exemptions and amendments to state statutes.

As the first part of an educational program, the IFC plans to present a program on the Ethics of Confidentiality, cosponsored by the Committee on Professional Ethics, at the Annual Conference in Dallas. Also, the IFC is developing guidelines for libraries for coping with visits by law enforcement agencies.

(continued on page 65)

FTRF report to ALA Council

The following is the text of the Freedom to Read Foundation's report to the ALA Council, delivered January 9, 1989, at the ALA Midwinter Meeting in Washington, D.C., by FTRF President Robert S. Peck.

It is a pleasure to have this opportunity to report to you on the activities of the Freedom to Read Foundation since ALA's Annual Conference in New Orleans. The Foundation concluded a very productive meeting on Friday. I would like to divide my report into two parts. The first is a report on issues of organization and planning; and the second is a more traditional litigation report.

First, of special interest to the Council, is action the Foundation took in response to a request from ALA President William Summers, requesting that the Foundation allow the Board's liaison to vote in place of either the President or President-Elect of ALA, whenever that officer cannot be present for the Foundation's Trustees Meeting. Rather than treat this as a request to amend the Foundation's By-Laws, which would have delayed the action while observing the requirements for changes in By-Laws, the Foundation Board voted unanimously to treat Bill's request as a permanent notice of proxy. Since the By-Laws permit voting by proxy, Bill's letter will now constitute written notice on behalf of all future ALA Presidents and Presidents-Elect, giving the Board's liaison a single vote on behalf of either office should it not be represented at our meeting.

I am also pleased to report that instead of meeting for a single day as has been our practice, we began our meeting Thursday afternoon, in order to re-examine the Foundation's goals, priorities, and interests. In the course of that afternoon, we found that we were very happy with the direction in which the Foundation has been going, but wanted to increase the level of its activities. Much of our Friday was spent taking the steps necessary to implement that sentiment.

The Trustees have agreed to meet at their personal expense several more times before the Annual Meeting in Dallas to assure that we do what is necessary to: increase membership, raise additional funds, and increase the Foundation's visibility so that librarians and library users are aware that the Foundation is the preeminent defender of their First Amendment rights.

We authorized, out of funds in our Endowment, the addition of 0.5 FTE staff to assure that our 20th anniversary celebration in Dallas is an event worth remembering, and that it benefits the Foundation in terms of the receipt of grant funds and additional members. We believe that such staff, concentrating on Foundation business, will be able to identify fundraising possibilities that will enable us to maintain such staff in the future and to become more active in litigation when necessary.

We appointed a "Third Decade Committee" that will engage in long-range planning, and define the intermediate steps the Foundation will need to take to reach the goals set out. We will be appointing a national advisory council of well-known individuals who will be able to assist the Foundation in its fundraising needs by virtue of their positions and contacts. We will also be making greater use of targeted mailings in areas of the country where the Foundation is prosecuting an important case and where those who believe in intellectual freedom will be likely to support us by joining our Foundation and making special donations.

In addition, and very important to us, we voted to take the steps necessary to mount a major constitutional challenge to programs like the FBI's Library Awareness Program by focusing on government policies that effectively restrict access to unclassified, but allegedly sensitive, information available in libraries. I hope that you will agree with me and the other trustees of the Foundation that we took a number of important steps last week that will assure that the Foundation maintains a national leadership position in protecting intellectual freedom.

I would now like to review some of the litigation in which the Foundation plays a role. As Lucille Thomas, who was kind enough to appear on my behalf, reported to the Executive Board in October, the United States Supreme Court in January, 1988, certified two questions of state law in *American Booksellers Association* v. *Commonwealth of Virginia* to the Virginia Supreme Court. Since the highest court in any state is the highest authority about how that state's laws are interpreted, the Supreme Court was seeking a definitive interpretation of the "harmful-to-minors" law from Virginia. These questions asked the Virginia court to decide whether the specific books entered into evidence in the federal case would be considered "harmful to minors" under the disputed statute. The plaintiffs, as well as the "friend of the court" brief filed by the Foundation, claimed that these well-known books would be covered by the law and would be required to be placed in a restricted section if the law was upheld. The Virginia court was also asked to define the standards that would be used to determine the statute's scope, including the measures a bookseller would have to take to comply with the statute.

In September, the Virginia court answered that none of the books would be covered by the law, since they defined "harmful to minors" as lacking serious literary, artistic, political, or scientific value for a "legitimate minority of older, normal adolescents." In other words, if the books are not legally obscene for, say, 17-year-olds, they are not harmful to minors. The Virginia court also stated that a bookseller who had a policy of not allowing juveniles to read in the store those books juveniles are not allowed to buy under the statute, and who prohibits such conduct when observed, complies with the statute. The court thought it reasonable that a bookseller would keep a special shelf within view of store employees to accomplish this monitoring of youngsters in the store (see *Newsletter*, January 1989, p. 19).

It appears that the Virginia court's answers effectively changes the statute into an "obscene for 17-year-olds" law, at best, a narrow range of books that are somehow not obscene for adults, 18 or older, but are for those a year younger. Nevertheless, the decision leaves booksellers' with a dilemma in deciding which books must be restricted to juveniles within that narrow standard. The case is now before the United States Court of Appeals for the Fourth Circuit where the statute was previously declared unconstitutional. Within a short time, we expect the Court of Appeals to issue a new decision that takes Virginia's answers into account.

The Child Protection and Obscenity Enforcement Act was passed by Congress as an amendment to the Omnibus Drug Enforcement bill. Though amendments narrowed some of our concerns with the law, its provisions still invade our personal liberties. The statute makes it a crime to knowingly receive or possess, with intent to distribute, so-called obscene books, magazines, pictures, papers, films, or videotapes, which have or will travel in interstate commerce. The bill applies to those "engaged in the business" of trafficking in obscenity. One is considered to be engaged in the business if two or more obscene books or articles, or a combined total of five obscene items are sold or transferred. Though congressional sponsors said they intended to exclude coverage of legitimate bookstores, libraries, and others engaged in the sale of transfer of materials protected by the First Amendment, it is not clear that the statutory language accomplishes this. The Foundation voted Friday to join a lawsuit being brought against the Act by the Media Coalition. By joining as a plaintiff, we will assure that the issues of concern to libraries remain central to the legal action.

The Foundation is also the plaintiff in an action challenging an ordinance in Bellingham, Washington, that makes pornography actionable as a violation of women's civil rights. The ordinance is nearly identical to one that was held unconstitutional by the U.S. Court of Appeals for the Seventh Circuit and summarily affirmed by the U.S. Supreme Court (see page 58).

Unfortunately, there are no final victories in the battle to protect the freedom to read. We anticipate further battles over the extent of free expression for students as an outgrowth of last year's student newspaper case and the continued popularity of harmful-to-minors statutes. We are grateful for the involvement and support of a growing number of committed Foundation members who value all efforts to preserve and extend freedom of expression and access to information. I believe that the Foundation did much this past week to assure that it is up to the challenges ahead. I know many, if not all, of you are Foundation members, and for that I am grateful. I invite you as leaders in this profession to take an active role in what one of my brethren at the bar, some 254 years ago, called "the best Cause . . . the Cause of Liberty."□

censorship in Maine

As previously reported (see *Newsletter*, January 1989, p. 8), attempts to censor library materials and school textbooks—all unsuccessful so far—are on the rise in Maine. According to a list compiled in early January by Deborah Locke, chair of the Maine Library Association's Intellectual Freedom Committee, since September, 1988, more than ten books and one film have been targets of formal or informal censorship pressures. In addition, the cities of Augusta and Old Orchard are considering the adoption of anti-obscenity ordinances that may affect libraries.

The following is a summary of events as of January 11:

• The novel *Birdy*, by William Wharton, was challenged in early September at Mary Taylor Middle School in Camden. A review committee decided to retain the book in the library collection and the school board agreed to reverse a previous decision to remove the book (see *Newsletter*, January 1989, p. 8, 28).

• "Still Life With Fruit," by Doris Betts, a selection in a textbook anthology called *Women in Fiction, II* was challenged for classroom use in Wells High School in Wells. The parent objected to "vulgar and offensive language and a degrading portrayal of the delivery of a baby (in the 1940s) and a distorting picture of the Catholic faith," said Superintendent Robert Kautz. After a formal review, the school board voted in December to retain the book.

• *I Know Why the Caged Bird Sings*, by Maya Angelou, was challenged by a parent for use in a ninth grade English class in Mount Abram Regional High School in Strong. Teachers picked the book because it's a good way to teach about segregation, Principal Gilbert Eaton said. But parents of two children objected to a scene in which the author at age 8 is raped by her mother's boyfriend. The two students were assigned another book and a review committee recommended that the book be retained in the ninth grade curriculum, but moved to the second semester.

• A donated paperback, *The Love Killers*, by Jackie Collins, became the object of controversy in Guilford after the parent of a fifteen-year-old girl objected when his daughter signed it out of the public library. The library's board of trustees voted to retain the book and reaffirm the *Library Bill of Rights*.

• In school district 55, which includes the towns of Cornish, South Hiram, Porter and Baldwin, a letter was received from a parent who objected to the children's book *I Have to Go*, by Robert Munsch. In addition, a faculty member expressed concern about Judy Blume's *Just As Long As We're Together* and an administrator raised questions about *This School Is Driving Me Crazy*, by Nat Hentoff. No formal complaints were filed, however.

• In the town of Bath, classroom use of the 1983 videotape version of the film *1984*, starring Richard Burton and directed by Michael Radford, was challenged by Morse High School

Principal Francis Lyons, who objected to nude scenes. English teacher David Ingmundson agreed to stop showing the R-rated movie pending completion of the review process. Lyons had approved use of an edited version of the movie, but Ingmundson said he believed the edited portion, a scene in which the protagonists are captured by the "thought police," is crucial to understanding the film.

A review committee voted 3-2 that the movie was inappropriate "for students in a classroom setting," but also indicated that "if the film were shown only to juniors and/or seniors, the vote might have gone the other way." In January, the school board overturned the committee ruling and allowed use of the unedited film.

- In South Portland, a parent challenged a book at Mahoney Middle School called *Stars, Spells, Secrets, Sorcery,* by Barbara Haislip. The complaint described the book as a set of "step-by-step instructions to set up an occult group." After meeting with school officials, however, the parents agreed to withdraw the complaint.
- In Cape Elizabeth, *How to Eat Like a Child,* by Delia Ephron, was questioned by a parent for use in the middle school library because of offensive language and promotion of "negative social values." The complaint was withdrawn after the parent conferred with librarians and school officials.
- *Killing Mr. Griffin,* by Lois Duncan, was called "totally inappropriate" for the middle school library by a parent. A formal complaint had not been filed, however.
- A formal complaint was filed at the King Middle School in Portland against the anonymous *Go Ask Alice,* a book about teenage drug abuse. As a result, an assistant superintendent issued a directive that parental permission be required for a student to sign out the book while the reconsideration process proceeded. Reported in: *Bangor Daily News,* December 19; Maine Library Association Intellectual Freedom Committee.□

new science teaching policy in California

Despite objections from Christian fundamentalists, a new policy statement on science teaching designed to strengthen classroom instruction about evolution and other controversial topics was approved January 13 by the California State Board of Education. The new policy, approved unanimously at a board meeting in Sacramento, defines and distinguishes between the teaching of scientific theory, such as evolution, and teaching about beliefs, such as Bible-based views that man was created in his present form.

Only science, including tested theories that explain natural phenomena and are based on evidence, should be taught in science classrooms, the new policy declares. Discussions of competing beliefs, which are partly matters of faith and not subject to scientific testing, should be encouraged in social science courses.

Supporters of the new policy said it is part of a larger effort to rebuild the quality of science teaching at a time when studies show U.S. students are deficient in their understanding of basic scientific principles. Part of the problem in California, many argued, was the state board's sixteen-year-old "anti-dogmatism' policy, adopted as a compromise after an earlier battle between fundamentalists and scientists. That policy, which was replaced by the new statement adopted in January, called for "conditional" statements to be used in discussing the origins of life and the Earth.

Critics charged the old policy led textbook publishers and teachers to neglect or be ambiguous in teaching widely accepted scientific theses about prehistoric times and human development. In addition, some teachers were using the policy as a rationale for introducing into classrooms creationist views, which are not endorsed by any major scientific organization.

"This is a clearing the air document, and I think it will be very useful," said state Superintendent of Public Instruction Bill Honig of the new Statement on the Teaching of Science. "It's a statement of what is and what isn't science."

Honig and members of the Science Curriculum Framework and Criteria Committee, which drafted the statement, said that although few science teachers give equal time to creationism, many are so intimidated by the fundamentalists and confused by current policy that they omit evolution instruction. The confusion stems from the state's existing policy on science education, which calls evolution a tentative theory. All of science is tentative and subject to revision, scientists point out. Singling out evolution makes it seem different from other scientific theories. Students, Honig said, currently "get no sense of the problematical nature of science." The new statement changes that, he said.

The statement omits any reference to evolution, placing it on the same plane as other scientific theories and ideas. Elizabeth Stage, chair of the committee and director of mathematics education at the Lawrence Hall of Science at the University of California at Berkeley, said that even though evolution is not mentioned specifically, teachers will understand how the statement applies to evolution instruction. She said many teachers, especially those in communities with strong fundamentalist organizations, have asked for a stronger science statement. "Now the teacher has something to say that is clear," she said.

The statement "protects on both sides," Honig added. Just as teachers cannot argue for the existence of God by teaching creationism in science classes, they cannot argue against the existence of God by saying that evolution contradicts religious beliefs. "Those are issues of faith" that should be discussed outside science classes, he said.

The Rev. Lou Sheldon, president of the Orange County-based Traditional Values Coalition, criticized the new policy. "We see a very good anti-dogmatism statement being somewhat watered down," he said. Sheldon charged state

education officials with attempting to teach evolution as fact and with "putting themselves in a further adversarial role to family values. The issue is not creationism versus evolution. The issue is to criticize evolution as a theory."

Sheldon, whose church-based group lobbied board members to reject the new statement, said the battle is not over. He and state education officials note that the new policy statement is only the first step toward adoption of new, detailed science teaching guidelines. Those guidelines will shape the content of the next generation of state-funded science textbooks used in the 1990s in classrooms throughout California.

In addition to fighting for their view to be reflected in science teaching guidelines and new textbooks, the creationists will put pressure on local school boards not to support the state board's new policy, Sheldon said. Reported in: *San Francisco Chronicle,* January 6; *Los Angeles Times,* January 14.□

North Carolina schools urged to teach about religion

North Carolina schools must teach more about religion or deprive students of knowledge that makes much of history, literature, art, and modern life intelligible, a special state-appointed committee has concluded. "We believe strongly that the current situation only prolongs existing ignorance, confusion and prejudice," the committee said in a report presented to the state Board of Education November 30. "We need better textbooks, better educated teachers, and a more informed citizenry."

The ten-member committee—appointed by the board and chaired by N.C. State University history professor Burton F. Beers—recommended that the state train teachers how to teach the role of major religions in history, geography, and economics courses. It also recommended that the state examine whether religion is neglected in other subjects such as literature and biology and that publishers be urged to include more about religion in textbooks. "There were no substantive disagreements among members of the committee," Prof. Beers said.

Students cannot fully understand Western history, the abortion debate, or turmoil in the Middle East without knowing about Judaism, Christianity, and Islam, the committee said. Although teaching about religion in school will likely be controversial, the report acknowledged, most people would not object. Two years ago, a Gallupp Poll showed that 79 percent of those surveyed do not oppose teaching about major religions in school.

The influence of religion should be taught throughout the social studies curriculum, particularly in middle and high school grades, the report said. Details would be left to curriculum specialists, but the report provided some examples of how religion might be infused into history courses.

In American history, for example, the report suggested students could be taught the role of holy men among Indians, the influence of religious beliefs on the Salem witch trials, religious arguments for and against slavery, religion's role in the civil rights movement and the religious reasons a Quaker would have for refusing to go to war.

The report appears to be "a real good attempt to try to expose North Carolina children to diversity," commented Cathy J. Rosenthal, executive director of People for the American Way in North Carolina. If the board decided to adopt its recommendations, however, its biggest challenge will be making sure teachers carry it out without violating the Constitutional separation of church and state, Rosenthal added.

The committee also expressed fears that not all teachers would understand the distinction between teaching religion and teaching about religion. "We are particularly concerned about the impressionability of all students and the potential for proselytizing—whether intended or not," the report said.

Because of that potential, the committee recommended that teachers be informed about the legal constraints on religious instruction and that such lessons focus on older, more mature and less impressionable students. Many teachers also need to learn more about religion, added John D. Ellington, a committee member and director of the state Department of Public Instruction's social studies division. "Most of us just don't know about religions other than our own," Ellington said. Reported in: *Raleigh Times,* November 28.□

something's missing from *Missing*

By Patricia O. McGhee, AV Coordinator, Waukesha High School, Waukesha, Wisconsin.

In an interview for the March 1988, issue of *American Film,* Jack Lemmon reflected on Hollywood of the old days—the days of Harry Cohn, Louis B. Mayer and Jack Warner. Asked whether the motion-picture industry has changed drastically since he first started, Lemmon responded, "Lots of films these days—like *Missing*—couldn't have been made then." *Missing* may have been made in 1982, but if you have seen MCA Home Video's 1986 release of the film, you would have to disagree with Lemmon. His 1982 film couldn't have been made now either. Buy the video and see what I mean. Be prepared for a shock, because something is missing from *Missing.*

Like Ed Horman in the film, my faith in truth led me to discover information that caused me to progress from a state of complacency to one of utter disbelief. My interest in *Missing* began when I first saw it at a theater in 1982. I remember thinking then, as I do now, that this film more than any other in recent years, epitomized America's dedication to freedom of expression. For only in America could a film like this be

produced and shown, without reservation, in movie houses across the nation. The fact that Costa-Gavras and Donald Stewart received the 1983 Academy Award for Best Screen Play On Material From Another Medium strengthened my conviction and increased an already inflated sense of pride in my country. When the film aired on TV, I taped it and subsequently viewed it quite often. Just recently I found that MCA Home Video, a subsidiary of MCA, Inc., was marketing the tape. I decided to buy it with the expectation of better sound and picture quality. I certainly didn't expect to find the film drastically edited. But such was the case.

The two most flagrant violations of the film's integrity occurred at the beginning and end. Edited out at the beginning of the film is the Preface, scripted across the screen, with Jack Lemmon's voice-over "This film is based on a true story. The incidents and facts are documented. Some of the names have been changed to protect the innocent and also to protect this film."

Edited out at the end of the film is the voice-over Epilogue, reporting that Edmund Horman sued eleven American officials, including Secretary of State Kissinger, for complicity and negligence in the death of his son. Contrary to the assurances of the U.S. Embassy, Charlie Horman's body was not returned to the United States for seven months, making an autopsy impossible. After years of litigation, the case was finally dismissed.

Within the film itself, there are three instances when English subtitles are used. They are edited out. The effect is confusing, especially the first instance where the information given is critical for the scene and ensuing action and, as it turns out, for the story as a whole.

First instance:

It is morning. Beth arrives home after being caught by the curfew in downtown Santiago and forced to spend the night hiding in a walkway. The house is in shambles. Beth walks from room to room calling for Charlie. A Chilean man appears at the door.
Man: (In subtitles) The soldiers came last night.
Beth: My husband . . . Did you see my husband?
Man: (In subtitles) I don't know. But you better leave. Soldiers might come back.

Second instance:

Beth and Ed are at Beth and Charlie's house going through the debris. There is a tap at the window. It is a young Chilean boy.
Beth: Local artist. (She walks over and opens window.)
Boy: (In subtitles) Beth, the duck is not here?
Beth: (In subtitles) No. he's gone.
Boy: (In subtitles) He'll be back with Charlie?
Beth: (In subtitles) Yes, I hope so.

Third instance:

Ed, Beth, and Dave McGeary of the Consulate are searching for Charlie in the incurable ward of a mental hospital. A disfigured dwarf, playing a harmonica, runs through the corridor yelling:
Dwarf: (In subtitles) Another one! Another one!
Patients, doctors, Ed, Beth and Dave gather at the window. A body sweeps past in the swift current of the river below.

The editing does not stop with the Preface, Epilogue and subtitles. Indeed, the few obscenities in the film, mild by mid-1980s standards, are either muted or electronically dubbed over. The resulting dialogue is ludicrous at best.

In my estimation, the film, as it stands today, though still powerful in its statement, is living testimony to the ravages of an oppressor. Who ordered this lobotomy?

When contacted, MCA, Inc. denied any responsibility for the editing, insisting that it was done by Universal Studios before they obtained the copyright in 1986. In response to a further question, MCA maintained they have only one version of *Missing* on the market, the edited one.

A phone call to Universal Studios, Inc., confirmed MCA's assertion about the editing.

Q: When and why were the Preface and Epilogue edited out?
A: They were edited out about two years before its release to MCA. They were put in for legal reasons.
Q: Do you know what the reasons were?
A: No. But it was so close to the times.
Q: Do you mean politically?
A: Yes.
Q: Why were they edited out?
A: The film was too long.
Q: So, they were left in for legal reasons and edited out for mechanical reasons?
A: That's what I've heard.

I was about to give up my investigation at this point when a friend, who works at a video store, showed me something that refuted what both MCA and Universal Studios told me—an unedited version of *Missing,* copyrighted in 1982 by MCA, Inc. of Canada, an MCA company since 1980 or before. Most importantly, the Canadian unedited version is 122 minutes long. MCA's domestic, edited version is the same length. (MCA, Inc. was purchased by Golden Nugget, Inc. July 6, 1984. The Board of Directors for MCA has remained relatively stable and unremarkable over the years with the notable exception of Senator Howard H. Baker, appointed to the Board in 1986.)

After shopping around a bit, I found at least one other video store that still had the 1982 unedited version. There are probably more. Nevertheless, they are undoubtedly the last of the breed, like Charlie Horman, destined to disappear.

Whether executed in the stadium or edited in the studio, Charlie and *Missing* share the same fate, for reasons still unexplained. MCA was right, in a way. For all intents and purposes, an unedited version of *Missing* no longer exists and Americans are much the poorer in many respects for its demise. Now, all that is seen is a disemboweled entity, living out a half-life of desecration. As Peter Chernin of the Ford Foundation said to Ed Horman, after telling him he had reason to believe his son was dead, "This is a terrible, terrible tragedy."□

in review

Children, Culture, and Controversy. By Mark I. West. The Shoe String Press, 1988.

What do these have in common—Anthony Comstock, children's librarians, religious fundamentalists, Concerned Women for America, Action for Children's Television, psychologist David Elkind, media critics Marie Winn and Neil Postman, the New Right? According to Mark West, in *Children, Culture, and Controversy,* all opposed some form of popular culture in the belief that it threatened childhood innocence. On the way from Anthony Comstock's attack on dime novels to Marie Winn's questions about children and television, West travels from juvenile book series, radio shows, and comic books to movies, young adult novels, and rock and roll.

Despite its promising title, *Children, Culture, and Controversy* is a slight book in both size and substance. The text is barely one hundred pages. Each of its ten chapters seems more appropriate for a popular magazine than for a scholarly work, although the footnotes and bibliography suggest that West had an academic purpose in mind. The book's major theme seems largely derived from other works. The opening chapter, "The Idea of Innocence and Its Impact on Children's Culture," for example, draws from Philip Greven's study of colonial America, and citations include some landmark studies such as Bernard Wishy's *The Child and the Republic* and Christopher Lasch's *Haven in a Heartless World.* In fact, West's bibliography is probably the book's strongest feature, including a tempting variety of primary and secondary sources for the interested reader.

Given the quality of works cited, the book is an even greater disappointment. The materials from which West draws suggest that the issues raised are important, complex, and changing over time, that even the most outspoken observers are occasionally ambivalent and perplexed. In contrast, West sees the issues without nuance: anyone who questions the worth of a new cultural format or its impact on children is depicted as naively seeking to preserve some wished for but unattainable state of childhood innocence.

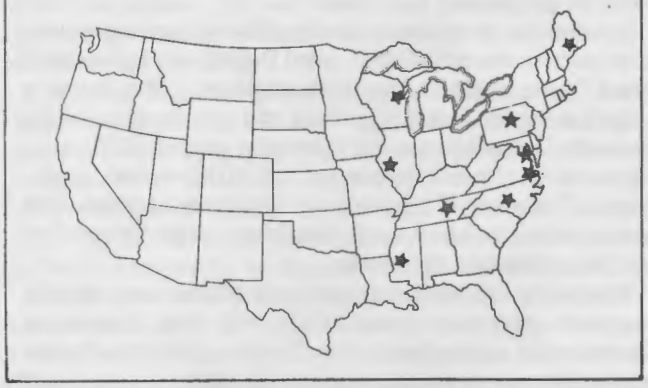
The book is nonetheless entertaining, and some chapters are of interest. West's discussion of the opposition of "Scarsdale mothers" to children's radio shows in the 1930s is particularly well done. Other chapters, however, seem oddly out of focus: Fredric Wertham's challenge to comic books and Jimmy Snow's attack on rock and roll may have been more a product of personal motivation than any desire to protect childhood innocence. West's choice of *The Moon Is Blue* to discuss movie censorship is peculiar. Other chapters deal with the impact on children of stories or programs aimed at children; *The Moon is Blue* was an adult film raising a different set of questions or issues altogether.

West's view of librarians in these matters illustrates the limits of his vision. In his chapter "The Response of Children's Librarians to Dime Novels and Series Books," he cites *Library Journal* articles from the mid-1880s to the late 1920s to show how librarians resisted popular potboilers for children and sought to guide children to the best of juvenile literature. In describing more recent attacks on books by Judy Blume and Norma Klein, however, he largely ignores the role of librarians. Although he cites the *Newsletter on Intellectual Freedom,* he does not mention how librarians have defended the right of children to read the works of these authors or the right of libraries to own and circulate them. Nor does he cite the *Library Bill of Rights* or its interpretations of children's right of access to library materials. Many of the issues which troubled librarians in the early days of the profession are with us still, but West acknowledges neither the complexities of these issues nor the growing sophistication of librarians in facing them.

West overlooks other relevant controversies and parallels. In his discussion of rock and roll, for example, he fails to mention the current efforts of the Parents Music Resource Center in exposing the sexually explicit language and images in rock music records and videos. His chapter on the Tennessee textbook controversy does not mention the Alabama case, litigated at the same time, in which parents sought the removal from classroom use of required texts alleged to promote "sexular humanism". West also neglects comparable questions that arise over materials aimed at adult audiences. Debates over the purchase of Harlequin romances by public libraries, the impact of cartoons featured in men's magazines, and the emergence of tabloid TV, all indicate that these issues are not necessarily confined to the protection of childhood innocence.

For the most part, readers would be better served by reading the items in West's bibliography. Heywood Broun and Margaret Leech's biography of Anthony Comstock is a classic; the Tennessee textbook controversy was better covered in the *New York Times.* West's index is barely adequate. It fails, for example, to include the *Newsletter on Intellectual Freedom* or *Library Journal,* both mentioned in the text. The volume does include some nice illustrations and, although not likely to become a classic itself, it is produced on acid-free paper. Only the most comprehensive or the most popular collections need consider this volume.—*Reviewed by Jean L. Preer, Assistant Professor, School of Library and Information Science, The Catholic University of America.* □

censorship dateline



libraries

Champaign, Illinois

An award-winning book by noted children's author and illustrator Maurice Sendak was challenged in early January by a Champaign parent because of nude drawings. A mother at Robeson Elementary School requested that Sendak's *In the Night Kitchen* be removed from elementary school libraries. In the books, a young boy dreaming floats around in the nude. The boy's genitals are shown in several pictures. The complainants said the pictures were "gratuitous."

The book was reviewed by a district committee consisting of assistant superintendent Arlene Blank, a teacher, a librarian, two parents, and two students. The committee unanimously recommended that the book be retained, but the final decision was in the hands of the school board. The last book challenge in the district, *My Darling, My Hamburger,* by Paul Zindel, was denied by the board, although it originally split 3-3 on the decision.

In the Night Kitchen was a Caldecott honor book when first published in 1970. At that time, the book's drawings also generated controversy, and some school districts pasted white triangles over the nude drawings to give the boy diapers. Reported in: *Champaign-Urbana News-Gazette,* January 7.

Sevierville, Tennessee

The Adventures of Huckleberry Finn will remain on the library shelves at Sevier County High School a review committee decided January 5, but the uncle of a black student who objected to being assigned the book in English class said he planned to take legal action against the school.

Stanley Parton, a Sevier graduate, appeared before the review body on behalf of his niece, Jacquie McDermott, a 17-year-old junior. McDermott, the only black student in her English class and one of just eight black students in the school, said the decision to keep the book made her mad. "They are not looking at it from my point of view," she said. "They can only see it from a white point of view."

She said she found the use of racial slurs and dialect so offensive that she never got past page three, and that when she objected, her teacher gave her another Mark Twain book, *The Prince and the Pauper.* "That was an OK book," she said. "I liked it." But she noted that she had to leave the room while her classmates discussed *Huck Finn.*

Parton said he was moved to support his niece after watching her attempt to read the book. "I saw her sitting there, and I kept waiting for her to turn the page. When I found out what was wrong, I told her 'You have rights. Ask for another book.' " McDermott's mother went to talk to the principal, and that's when McDermott was assigned a different book.

"When she accepted that alternate book, she was left out," Parton said. "We got a complaint form, and we sent it back stating that the book should be banned. Children can't understand it. Maybe the underlying message is anti-slavery, but 17-year-olds do not have the life experience or the maturity to be able to get through to that."

Principal David Messer said the issue had brought important factors to the attention of the school. "In all facets of instruction we need to be concerned about the feelings and perceptions of all of our students," he said. "We have 1,500 kids and 12 of them are black. That can create a problem if we fail to see those students and be aware of their concerns." He said the school would investigate the way the novel is presented in class.

Review committee member Samesena Miller added that she would be watching to ensure that the school complies with recommendations to present material with sensitivity to minority concerns. Reported in: *Knoxville Journal,* January 6; *Knoxville News-Sentinel,* January 7.

schools

Virginia Beach, Virginia

When Linda Hickman picked up a book brought home from a ninth-grade drama class at Salem Junior High School by her 15-year-old daughter she was shocked to find that a vulgar word for sexual intercourse appeared thirty times on the first page. "At first I didn't believe she got the book from school," Hickman said. "I was outraged . . . I read the book cover to cover. And the more I read, the more disgusted I got."

The Actor's Book of Contemporary Stage Monologues contains racial slurs, profanity, and lewd descriptions of sexual

encounters, Hickman said. After she filed a protest, Principal Julius C. Wooten recalled all 35 copies of the book pending a review. "I guess some people talk like that," Wooten said, "but that's not appropriate language for the classroom."

Though no formal decision was reached, three school officials said November 29 that the book was inappropriate. "It was meant to be a resource book for teachers, but it was ordered as a classroom set, which was a mistake," said Diane D. Cauthen, director of instructional specialists. "In dealing with lots of numbers . . . that can happen." Reported in: *Norfolk Virginian-Pilot,* November 30.

Green Bay, Wisconsin

A couple who complained about the use of the Stephen King story *Children of the Corn* and its film version in a Green Bay high school class appealed the decision of a district committee to retain the book in school libraries.

Eric and Kitty Larsen complained to school officials after the story and film were used in a freshman language arts class at Green Bay Southwest High School. The Larsens were told that the book would be banned, but questions were raised by school board members about the administrative decision (see *Newsletter,* January 1989, p. 11). The Larsens then decided to file a formal complaint.

However, a three-member building-level committee denied the request to ban the story and film from classrooms and decided that the book *Night Shift,* which includes the King story, would remain in the school library. The Larsens decided to appeal to Duane Hoerning, executive director of secondary education, because "we want them to clearly state that the movie should be out of the classrooms.

The Larsens charged that the short story and movie teach about the occult and rebellion by children and make a mockery of Christianity. "We have a responsibility to feed young minds with good, rich literature that will benefit them and benefit society," Mrs. Larsen said. School officials said the complaint would be reconsidered by a district-level review body. Reported in: *Green Bay Press-Gazette,* November 17, December 21; *Green Bay News-Chronicle,* December 13.

student press

Waterville, Maine

A conservative campus newspaper that poked fun at Michael Dukakis, Jesse Jackson, gays, and women so angered student leaders in November that they voted to withdraw $700 in financial support. The loss of student funding will not kill the irregularly published *Colby Crossfire,* however, because editor Gregory Lundberg said he could raise funds off campus.

"It was definitely an attempt to censor us," said Stephen N. Hord, a *Crossfire* contributor. "It's going to fail. We're going to get another issue out."

The decision to withdraw funding followed the appearance of an election eve edition that called Dukakis a "hypocritical Greek" committed to "stylized socialism." But it was a crude joke about Dukakis' sex life and a comparison of the Democratic candidate to the television puppet ALF, comments on the "moral decadence" of AIDS victims, a putdown of lesbians—"Spandex is a godsend. Lesbians with power are not"—and a crack about overweight women that got the publication in trouble.

Reacting to student complaints, the student association's board of governors voted 15-1 with two abstentions November 16 to stop funding the *Crossfire,* which had relied on student money to cover operating costs.

"I didn't think that was something that was worthy of college money," said student association president Marc Enger. "I didn't think it had any political or literary value." Most student leaders and many faculty members agreed with Enger, who contends the paper lost its right to funding because the student association must try to protect the rights of all students regardless of sex or sexual preference. "We weren't opposed to the printing of a certain set of political views," Enger said. "Tastelessness is what brought up the controversy."

For Lundberg and his associaties, who admitted they were deliberately provocative to win readers, the sweeping condemnation of *Crossfire* was overkill. "If people can get that offended, there's just no sense of humor," Lundberg said. "It's generally an uptight campus as it is. There were about three lines in the whole issue that offended certain groups. A lot of people took it with a grain of salt. People who know me know it was just sarcasm."

Conceding that some of the material in his paper was "off-color," Lundberg said the student association should be sufficiently broad-minded to accept divergent points of view, especially at a liberal arts college that prides itself on promoting diversity. "They gave us funds and said, 'You can print what you want'," he said. "Then we printed what we wanted, and they said, 'No, we don't like what you printed.' "

Lundberg noted that censorship flies in the face of Colby's longstanding traditions. The college holds a convocation every year to honor nineteenth century publisher and Colby graduate Elijah Lovejoy, who died in 1837 at the hands of a mob outraged by his newspaper's opposition to slavery.

The defunding decision won the support of the *Colby Echo,* the "mainstream" campus newspaper. In an editorial that described the *Crossfire* as "an embarrassment to the college," the *Echo* said the right-wing paper's staff was "immature and narrow-minded" and that it "deserves nothing less than what it received."

Later, however, David Russell, editor-in-chief of the *Echo,*

expressed second thoughts. He noted that his paper gets about $10,000 a year from the student association, about forty percent of its income. He said the student association's decision to deny funding to the *Crossfire* could set a dangerous precedent for the *Echo*.

Conceding that the right-wing paper's election issue was "kind of obnoxious," Russell said that was not enough reason to silence the paper. "Different people have different thoughts. We're not all the same. People should be allowed to express those thoughts," Russell said. "This is an institution of higher learning. They constantly reiterate the point that we're supposed to be exposed to different viewpoints."

Russell also noted that had the association not severed its ties with the *Crossfire*, which is now free to publish whatever it wants with private funding, a compromise might have allowed student funding with some acceptable oversight. The student association may simply have called attention to a small, poorly read newspaper. Reported in: *Portland Telegram*, November 27; *Maine Times*, November 25.

newspapers

Winston-Salem, North Carolina

The hometown newspaper of R.J. Reynolds Tobacco Co. refused to publish a "Doonesbury" comic strip featuring a Reynolds job applicant bursting into laughter when asked to say: "Cigarettes do not cause cancer." A one paragraph statement on the *Winston-Salem Journal's* December 11 editorial page said editors pulled the strip because they "felt it singled out for an unfair attack the city's largest company and would be personally offensive to its employees, their families, and a large number of the *Journal's* readers."

Universal Press Syndicate, which distributes Doonesbury to 900 newspapers worldwide, said it was the first time Garry Trudeau's comic strip was pulled from a newspaper "in deference to a corporation."

More than forty *Journal* reporters and editors sent a memo to publisher Joe Doster protesting the removal of the comic strip. Four people called John Gates, editorial page editor, to complain. "Virtually to a person, they said they felt they were old enough to determine whether something was offensive for themselves, and I have long since given up trying to make the distinction between censorship and editorial judgment to these people," Gates said.

Gates said the Doonesbury strip was "hilariously funny." But he added that its "timing was bad," coming on the heels of the buyout of RJR-Nabisco, Inc., R.J. Reynolds' corporate parent, by Kohlberg Kravis Roberts & Co. "It was sort of like kicking somebody when he was down," Gates said.

But Salem countered: "When else would one talk about R.J. Reynolds, except when it's in the news?" Maura Payne of R.J. Reynolds said the strip "misrepresents the company's position on the subject of smoking and health and does a disservice to our employees." Reported in: *Minneapolis Star-Tribune*, December 14.

Huntingdon, Pennsylvania

At Huntingdon State Prison there are about thirty subscribers to the *Revolutionary Worker*, weekly newspaper of the Revolutionary Communist Party. But since October, 1987, the Publications Review Committee of the prison has rejected every issue of the newspaper. According to the newspaper's supporters, the banning "gives Huntingdon the distinction of being the second place to ban the *Revolutionary Worker* outright—the first was, fittingly, South Africa."

Censorship of the *Revolutionary Worker* began in May, 1985, when the paper began extensive coverage of the police bombing of the MOVE house in Philadelphia that resulted in eleven deaths. The Publications Review Committee began to reject and withhold from prisoner subscribers various issues, using as justification Administrative Directive 814 of the Pennsylvania State Bureau of Corrections. That directive allows for banning published materials "which advocate violence, insurrection or guerrilla warfare against the government or which create a clear and present danger within the context of the correctional institution."

In response, several prisoners filed complaints and two pursued law suits in defense of their right to receive the paper. In the first of these cases, the censorship was upheld. Then in October, 1987, the committee began to reject all issues of the newspaper. Prison officials pointed to a statement titled "Three Main Points" which began running in every issue. One of these points reads: "The system we live under is based on exploitation—here and all over the world. It is completely worthless and no basic change for the better can come about until this system is overthrown."

The *Revolutionary Worker*, whose circulation to about 500 subscribers in over thirty prisons is supported by the Prisoners' Revolutionary Literature Fund, called the decision of the Pennsylvania prison authorities "a blatant act of censorship." In November, they called on supporters to send telegrams of protest to Steve Polte, Media Review Committee, or Thomas A. Fulcomer, Superintendent, State Correctional Institution at Huntingdon, Huntingdon, Pennsylvania. Reported by: Prisoners Revolutionary Literature Fund.

military censorship

Washington, D.C.

Military commanders censor or manage the news in the armed forces newspaper *Stars & Stripes* to such an extent that sweeping reforms are needed, including replacing military editors with civilian ones, the General Accounting Office (GAO) said in a report released in mid-December. The first in-depth study of the newspaper, published by the Defense Department for service men and women around the world, said an advisory panel from the Society of Professional Journalists found "conclusive" evidence of censorship in the Pacific edition of *Stars & Stripes* and repeated attempts by military commanders in both the Pacific and

European editions "to influence the reporting of news."

The GAO report contended there is "an inherent cultural conflict" between civilian journalists on *Stars & Stripes*, who believe in reporting bad as well as good news about the military, and commanders who view the paper as a place for only positive, "company" news.

Responding to the report, the Pentagon said "the calculated withholding of unfavorable news is strictly prohibited" and promised to conduct its own study of the newspaper, which has a circulation of 39,000 in the Pacific and 134,000 in Europe. *Stars & Stripes* is distributed by the Pentagon but is financially self-supporting.

The GAO recommended that the editors of *Stars & Stripes* should not only be civilians, but should be given fixed terms of office to protect them from sudden dismissal by military commanders who do not like what they read. Also, the GAO said, the Pentagon should issue new guidelines for the newspaper, to ensure that military officers "not interfere with or attempt to influence news content" and to emphasize that "investigative reporting is allowed."

In citing examples of censorship, the GAO stated that the deputy commander of the U.S. European Command directed "the paper to withhold a January 1984 wire service story about the removal of a German general from a key position in NATO because of alleged homosexuality. Second, the deputy commander decided which letters to the editor about his decision to withhold the story would be printed."

In another instance, the GAO said, a commander would not tell a reporter how much it cost to build an ornate portico outside his European headquarters because those questions "constituted investigative reporting." The GAO also cited a *Stars & Stripes* reporter's stories on F-16 fighter plane crashes in Europe that so infuriated the area military commander that he ordered his subordinates never to talk to the reporter again. Under pressure, "the commander told his subordinates they could talk to the reporter but they could not give him any information."

In response, the director of the American Forces Information Service sent a message to European and Pacific commanders stating that *Stars & Stripes* reporters "shall be granted access and the same treatment as that afforded reporters from commercial media."

"U.S. Air Force Europe continued to stonewall the reporter," the GAO report said. "The director, American Forces Information Service, told us that stonewalling the reporter was legal and in accordance with his message because reporters from the commercial media are also occasionally stonewalled." Reported in: *Wasington Post*, December 12.

Washington, D.C.

In the waning days of the Reagan administration, a Republican senator from Colorado urged the president to sign an executive order banning the sale of sexually explicit magazines, including *Playboy* and *Penthouse*, from federal facilities, especially military bases Sen. Willilam Armstrong, an evangelical Christian, met at least twice at the White House with President Reagan on the issue.

White House representative Leslye Arsht said the Justice Department informed the president that Armstrong's proposal would present "serious constitutional problems" because it would be "broader than the court definition of obscenity." However, the president did study the proposal and indicated personal support for it.

In a 1988 speech to the National Association of Evangelicals, Armstrong described soft-core pornography magazines as a serious national problem. "I personally believe that the erosion of values and the undermining of lifestyles that is part of the *Playboy, Penthouse, Hustler* mentality is a very serious threat to this country," Armstrong told the group. "It is very closely allied with the drug problem and has very close ties with hard-core pornography and ties to the underworld as well. That's how important it is."

The senator said it was especially important that magazines such as *Playboy* and *Penthouse* be removed from sale at military facilities. "If our armed forces don't honor the living God, how can we expect that he will sustain strength in us," Armstrong said.

The senator told the evangelicals that he had Reagan's support, although the proposal was belittled by some in the administration. "Basically their notion was: We've got murderers running around loose, we've got issues of war and peace, and here is somebody who wants us to worry about dirty pictures. There was just this general attitude of sophisticated ridicule," Armstrong told the evangelicals.

"It is possible that Sen. Armstrong is going to pursue this, but I don't think he's going to be very successful," said Terri Tomcisim of *Playboy*. "The government doesn't have the power to regulate material based on content." Reported in: *Minneapolis Star & Tribune*, December 8.

film

Philadelphia, Mississippi

The owner of the town's only theater said January 8 that she would not show the film *Mississippi Burning*, a fictionalized account of the deaths in Philadelphia 25 years ago of three civil rights workers. "We're not going to show it—no way," said Lula Ellis. "It's not worth it, I just see no reason why we should play it. It's a mess." She said church groups were threatening to boycott the theater if it showed the movie.

Ellis said she discussed the film with her son, Shelly Steiger, the theater's manager, and decided not to show the movie. "I just don't play controversial pictures," Steiger

said. "There are too many good pictures."

Monte Royal, owner of two cinemas in Meridian, about forty miles southeast of Philadelphia, said he would be featuring the film by February 10. "Even though the picture is fiction based on a factual incident, it is indeed pertinent and part of our past," he explained. Reported in: *New York Times,* January 10.

art

Washington, D.C.

Seven artists pulled their works from an exhibition of prints at the Art Society of the International Monetary Fund December 9 in solidarity with a Washington artist whose print was removed because it was deemed "too political" by IMF Art Society officials. "Censorship is the real key," said artist David DeLong, who withdrew his work "Pocono."

"We don't want to be in a show where this kind of thing would happen," added another artist, Brazilian-born Heloisa Tigre. "For someone who was juried in, this is only censorship." The other artists who withdrew their pieces were Judith Andraka, Ann Zahn, Maxine Ross, Magda S. French, and Deborah Schindler.

At the center of the controversy was a print by artist Norman F. Strike called "Lonesome George and the Bushwhackers," which was to hang at the Art Society gallery in an exhibition of close to a hundred works from November 29 to January 12. The black and white linoleum cut depicted a caricature of President George Bush as a cowboy singer, sitting astride an old nag dubbed Ol' Campaign '88. Three backup singers, dressed like spies, croon into a cactus. And on the right side Strike listed their "greatest hits": I Never Promised You a Rose Garden, Thank God, I'm a Contra Boy, Nobody Knows the Trouble I've Seen (Yet), Stand By Your Man, and Iran and Iraqed My Brain Over You.

It was the last title that apparently offended an Iranian member of the society, who saw it on the day of the opening. Strike was then informed by society President Martin Gilman that the work had to be removed. "He told me they couldn't afford to offend anyone, " said Strike. "I guess it was okay to offend me."

The next morning Gilman told Strike he could submit a different print. The artist selected another, which concerned homelessness, but changed his mind. "It was shabby the way they treated me, and if they put another one in I thought it wouldn't be right," he explained. "It just stuck in my craw."

"It's terrible for Mr. Strike," said Gilman. "It's a good piece, but there is a standing rule in the society that, considering the international nature of the venue, it's not an appropriate place to make a controversial political statement." Gilman said the society had previously refused to display some highly political pro-Palestinian art. He said that he did not have an opportunity to view Strike's work in advance of the opening because he was out of the country. "If we had seen it early on, the timing of taking [Strike's] work out of the show would have been better."

Strike said he was "flattered" by the support of other artists. "I sent 25 artists in the show a letter, asking them to support my position with letters of protest, and I did not feel that I could ask them to do anything else," he said. "I am overwhelmed by the sympathy and concern I have received." Reported in: *Washington Post,* December 10.

foreign

Bradford, England

Indian-born novelist Salman Rushdie's latest prize-winning novel, *The Satanic Verses,* was set afire in a ritual book-burning January 14, organized by leaders of the West Yorkshire city's large Moslem population. Prominently displayed photographs of the book in flames were part of extensive media coverage of the decision by W H Smith, Britain's biggest bookselling chain, to withdraw *Satanic Verses* from two Bradford stores on the advice of police who took threats to Smith's staff and property seriously.

Editorials castigated both religious intolerance and W H Smith's decisions. On January 17, Smith's chair Sir Simon Hornby, announced that *Satanic Verses* was back on sale in Bradford—apparently under the counter rather than visible on the shelves—and still on display in the chain's 428 other shops, despite earlier suggestions that it would be withdrawn "for purely commercial reasons." The bookseller originally announced that the book was being withdrawn because of poor sales, but Rushdie noted that the novel had risen from ninth to sixth place on a major bestseller list and gone into an eighth printing in the week preceding the book burning.

Banned in Pakistan, Saudi Arabia, and Rushdie's native India soon after it was published last September, *Satanic Verses,* and the campaign against it, had received limited attention, despite earlier demonstrations organized by radical Islamic groups demanding its withdrawal.

"People in the Islamic world will go to great lengths to prevent free expression and prefer burning books to reading them," Rushdie said. "But the image of book-burning in Britain in 1989 horrified lots of people who are disturbed by this central iconic image of barbarism. Although the campaign had been going on for several months, this simple image of a burning book finally alerted people in this country to something extremely dangerous and ugly, even people who cannot stand me as a writer."

The controversial title and two dream sequences turn on two verses that the prophet Mohammed is said to have removed from the Koran, believing they had been inspired by Satan

report charges U.S., Britain curb press

Press freedom was undermined in 1988 by governments in the United States, Britain and other democracies, the International Press Institute said in a report released December 20. The report called the development the "most worrying aspect" of its annual *World Press Freedom Review,* which surveyed the status of the press in 82 countries.

"The hopes and encouragement of nations which are on their way toward more freedom and who rely on an example from countries with a democratic system, an open society and freedom, must not be crushed by governments in the free world," director Peter Galliner wrote in an introduction to the report.

The institute, which has offices in London and Zurich is an independent body representing two thousand publishers and editors in more than sixty countries. Its report cited these examples of official interference in Anglo-American press freedom:

• Washington "continued its efforts to limit public access to information held by the American government."

• The U.S. Supreme Court upheld the conviction of a former intelligence analyst for giving satellite photographs of a Soviet ship to a British magazine. Samuel Loring Morison is serving two years in prison (see *Newsletter,* January 1989, p. 17).

• Prime Minister Margaret Thatcher's British government tried to ban publication of extracts from the *Spycatcher* memoirs of former intelligence agent Peter Wright (see *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; January 1989, p. 5, 15).

Elsewhere, the report found, "the media under dictatorships remained all too predictably under lock and key." In Chile, there were violent assaults on 24 foreign and Chilean journalists while five journalists in Colombia were forced to leave the country. Jordan and Malaysia cracked down on their press, Singapore continued to pressure the media, and China reasserted control on open discussion and suppressed negative news.

South Africa closed two church newspapers for three months and the country's most outspoken anti-apartheid paper, the *Weekly Mail,* was suspended for four weeks (see *Newsletter,* January 1989, p. 31). On the other hand, the report noted, many visible and invisible restrictions were lifted on South Korea's press, and in Taiwan economic and political liberalization extended to the media. Reported in: *Washington Times,* December 21.□

---

masquerading as the angel Gabriel. The book is, in Rushdie's words, "a fairly radical critique of Islam seen from a secular humanistic point of view."

"I expected those with absolute literalist views would dissent strongly from what I had written," the author added. "I was not writing to please the mullahs of Pakistan, Saudi Arabia, Iran, Britain or the U.S., and I knew I was breaking long-enshrined taboos. But I did not anticipate the size, nature and ugliness of the protest."

Rushdie added that "rather sadly, the whole debate has centered on a very small part of the novel," whose main theme is the "migration from one culture to another and the metamorphoses and hybridization that result." *Satanic Verses* wass inspired by the author's own experience of being born a Moslem and living in India until he was 14, and then "coming from one old world to another old world," in Britain, which "created a different set of accommodations and resentments."

Rushdie's book was published in the United States in January. The author said he and his American publisher, Viking, had received "fairly extreme threats" from people "who had not bothered to read the book." Rushdie said he expected similar censorship pressures in the U.S. and said, "Viking has taken precautions." Reported in: *Washington Post,* January 18.

London, England

The British government introduced legislation November 30 that would make unauthorized disclosure of information by a member of the security or intelligence services a prima facie criminal offense, punishable by up to two years in prison and a fine. A present or former member of these secret branches of government would not be permitted to claim any defense under the provisions of the law.

The legislation would replace Section 2 of the 1911 Official Secrets Act, which on paper makes it a crime for any government official to make an unauthorized disclosure about anything, including how many buses London Transport has. Home Secretary Douglas Hurd said the new bill would actually narrow the categories of government information protected from disclosure and require prosecutors to prove harm resulted.

"The government still firmly believes that for members and former members of the security and intelligence services and some others closely connected with their work, to disclose information about their work without authority is always harmful to the public interest and should therefore always be an offense," Hurd said.

For unauthorized disclosures in five areas—information about defense, international relations, criminal investigations, wiretaps and interceptions, and confidential communications

from other governments or international organizations—the new bill would require the prosecution to show harm to government operations or to the public interest. Critics argue that this would be too easy.

"A first question to ask is why does the government want to possibly imprison a member or former member of the security services for revealing crime or fraud or iniquity?" asked Richard Sheperd, one of the Conservative Members of Parliament who oppose the new bill. "Why is it that no defense or argument is to be permitted?"

The new law would also make it a crime for third parties—journalists, for instance—to publish unlawfully disclosed information or documents that come into their possession. A newspaper editor would have to know, or have "reasonable cause to believe," that the disclosure was damaging to be found guilty of violating the law. Since leaks by present or former members of the security and intelligence services would always be forbidden under the law, they would almost automatically be considered damaging, the bill's critics say.

The prosecution, in cases involving the security services, would not be required to disclose the damaging information and show how it was harmful to the public interest, the bill says, but simply to show that it "falls within a class or description of information, documents or articles the unauthorized disclosure of which would be likely to have that effect."

British prosecutors have tried to keep two books by former members of the security services—*Spycatcher,* by Peter Wright, and *Inside M.I.6,* by Anthony Cavendish—from publication on the grounds that civil servants of the secret agencies had a lifelong duty of confidentiality (see *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; January 1989, p. 5, 15).

David Leigh, an associate editor of *The Observer,* said that *The Wilson Plot,* a book he had just published on how British and American intelligence agencies plotted to discredit Prime Minister Harold Wilson in the 1970s, would have to be withdrawn after the new law came into force. "Are people like me going to have to move to the United States if we want to write in future?" he asked. Reported in: *New York Times,* December 1.

Athens, Greece

Add Greece to the lengthening list of places where Martin Scorsese's controversial film *The Last Temptation of Christ* has been banned. The movie, based on a novel by the late Greek writer Nikos Kazantsakis, was banned for a month by an Athenian high court. After a month, it was expected that a new trial would be scheduled to determine if the film should be permanently proscribed and if punitive measures will be taken against its Greek distributor. Violent demonstrations by priests and their followers marked the film's October 13 Athens debut. Outside the capital, exhibitors refused to open the movie, fearing violence.

The court deliberated three weeks before reaching its decision. Although censorship is forbidden under the ruling Socialist government, a constitutional clause forbids display of art forms that "offend the public decency." Eight religious organizations initiated a petition to ban *Last Temptation* on those grounds. They charged that the film "insults religious sensibilities" and that "its basic premise is indecent." Reported in: *Variety,* November 30.

St. George's, Grenada

Customs officials in Grenada seized four cartons of books published by U.S.-based Pathfinder Press October 19 as Pathfinder representative Norton Sandler arrived to attend a rally sponsored by the Maurice Bishop Patriotic Movement commemorating the fifth anniversary of Bishop's assassination and the subsequent invasion of U.S. troops. The cartons contained 92 titles and several dozen copies of *The Militant* newspaper.

Among the books confiscated were *One People, One Destiny: The Caribbean and Central America Today,* edited by Don Rojas, Bishop's former press secretary; *Maurice Bishop Speaks;* and *Thomas Sankara Speaks: The Burkina Faso Revolution, 1983-87.* Other books were by Nelson Mandela, Karl Marx, Che Guevara, Fidel Castro, and Malcolm X.

Grenada Prime Minister Herbert Blaize defended the action during a televised broadcast November 4. He said the books were "subversive to the peace and security of the country." The Grenada government also barred Rojas and other activists from entering the country.

Responding to the seizure, Rojas, who was touring the Caribbean to promote his book, noted that the government "could not even identify the law allegedly making such literature illegal." Rojas called the Grenada government, installed in the 1983 U.S. invasion, "a puppet regime not content to ban political activists such as myself, but [which] must now ban political literature as well."

"Such is the desperation of the unpopular rightist regime, such is their fear of a revival of struggles under Bishop's banner, that Blaize has now joined company with Chile's tyrant Pinochet and racist South Africa as a regime that officially bans books," Rojas wrote in a column for the U.S.-based *Militant.*

"No other Caribbean country today has such a policy," Rojas charged. "This makes Grenada a pariah in the Caribbean Community. Indeed, this book banning has outraged Caribbean public opinion and has been protested in the last couple of weeks by popular forces in Trinidad, St. Vincent, Barbados, and Antigua."

At an October 25 ceremony in Grenada commemorating the 1983 U.S. military action, U.S. Secretary of the Navy William Ball read a message from then-President Reagan

hailing the period since that action as one of "dramatic progress" in restoring democracy. The Reagan message also spoke about "major economic progress" in Grenada, but, Rojas pointed out, the country's unemployment rate has balooned since 1983 from 12 percent to 45 percent and its foreign debt has more than doubled. "The failure of the Blaize government to create the economic showpiece that Washington promised . . . helps explain Blaize's desperate attacks on democratic rights," he said. Reported in: *The Militant,* November 25.

New Delhi, India

A leftist who was one of India's most popular street theater directors was beaten to death January 1 after he refused a politician's demand to stop a drama in support of an opposing candidate. Safdar Hashmi, 35 years old, was one of India's youngest playwrights and a pioneer in political street theater. The politician who reportedly told him to stop his play, a member of the ruling Congress Party, was one of four men arrested and charged in the killing.

The incident occurred when Hashmi and his troupe of actors, among them his wife, traveled to Sahibadad township, an industrial neighborhood near New Delhi, to perform in support of a Communist candidate in local elections. Witnesses said the Congress Party politician, Mukesh Sharma, approached and ordered the troupe to stop performing. Hashmi refused.

Then, witnesses said, a mob numbering more than a hundred men attacked with iron bars and sticks. Hashmi told his players to flee, but he was isolated from the others and beaten, then left unconscious and bleeding profusely in the street. He died the next evening. Sharma and three other men were charged with murder and rioting.

"The goons have taken over," said M.K. Raina, a prominent Indian movie and stage actor and playwright and a friend of Hashmi. "This kind of violence seems to have become the way politicians and managers deal with opponents these days."

Political violence surrounding elections in India has been on the rise. In special elections last June, the use of armed gangs by political parties was especially widespread; in one incident, in Allahabad, a band of armed men drove up to a polling place, while police officers slept nearby, and threatened to shoot an election official if they were not given ballots. Gangs of thugs tried to storm a Congress Party office south of New Delhi in the same election.

In the week before Hashmi's murder, Congress Party supporters burned homes, stores, and vehicles in Vijayawada in southern India, after a Congress Party legislator was killed by his opponents. Paramilitary troops were eventually sent to the state to restore order in one of the nation's worst outbreaks of political violence. Reported in: *New York Times,* January 4.

Johannesburg, South Africa

It will come as little surprise to most *Newsletter* readers to hear that South African censors agreed in November to ban Martin Scorsese's controversial film *The Last Temptation of Christ* after being deluged with public complaints. Publications Control director Braam Coetzee said a censorship committee watched the movie and rejected it, after his office was inundated with telegrams, letters, and petitions against the film. Coetzee refused to give reasons for the ban. Reported in: *Variety,* November 30.□

Soviets stop jamming foreign broadcasts

On November 29, the Soviet Union ceased jamming Russian-language broadcasts by the American-financed Radio Liberty and two other foreign radio stations, clearing Soviet airwaves of deliberate interference with foreign broadcasts for the first time since the early 1950s. Officials of Radio Liberty said listeners reported that broadcasts to the Ukraine, Byelorussia, the Baltic states, the Caucasus and Central Asia were "loud and clear."

The West German station Deutsche Welle and the Israeli radio, the other two stations that were still being jammed, also reported that interference was lifted November 29. The Soviet Union had already stopped jamming the British Broadcasting Corporation in January, 1987, and the Voice of America in May, 1987. Jamming had also been halted in recent years in all East European countries except Czechoslovakia and Bulgaria. The Czech government announced in December that it was also ceasing interference with foreign broadcasts.

There was no official announcement of the cessation of jamming from Moscow and no indication that it would not be resumed. But American officials at Radio Liberty and at human rights talks in Vienna said they had been expecting the move for several months. The officials noted that the decision came on the eve of Soviet leader Mikhail Gorbachev's trip to New York and London and that Moscow had traditionally saved dramatic gestures for the eve of such trips.

The jamming of foreign broadcasts began at about the time Western countries began beaming short-wave signals into the Soviet Union in the early '50s. With the growth of radio technology, the Soviet jamming network came to include about 200 large "skyway" jammers that bounced high-powered short-wave signals off the ionosphere to mingle with incoming broadcasts. In addition, tens of thousands of smaller "ground-wave" transmitters were mounted in cities and towns to interfere with radio signals in their vicinity. Reported in: *New York Times,* December 1. □

from the bench

U.S. Supreme Court

The Supreme Court agreed January 9 to decide whether a new federal law banning sexually explicit telephone message services violates the First Amendment right to freedom of speech. While the law was exclusively aimed at "dial-a-porn" services, the constitutional issues in the case have wider implications for federal broadcast regulation.

The 1988 law prohibited "any obscene or indecent communication for commercial purposes" over interstate telephone lines at any time of day. The law is a criminal statute with severe penalties: prison terms of up to two years and fines of up to $500,000 for obscene messages, and prison terms of up to six months with fines of up to $50,000 for indecent messages.

The law does not define either "obscene" or "indecent." But under First Amendment doctrine, "indecent" generally refers to material that is offensive without the predominantly prurient appeal that characterizes obscenity. While the measure passed both houses of Congress easily, some members said they doubted whether the ban on indecent messages would withstand constitutional scrutiny.

A provider of "dial-a-porn" messages in the Los Angeles area, Sable Communications of California, filed a federal suit before the law took effect last summer, seeking a declaration that it was unconstitutional in all respects. The company won a partial victory from U.S. District Court Judge A. Wallace Tashima in Los Angeles. He struck down the ban on indecent messages on the ground that it was "overbroad and unconstitutional." But he upheld the ban on obscene messages on the ground that the First Amendment does not protect obscenity.

Both the company and the Reagan administration appealed to the Supreme Court. In its appeal, *Sable Communications* v. *FCC*, the company is asking the court to strike down the ban on obscene messages. The administration, in *FCC* v. *Sable Communications*, seeks restoration of the ban on indecent messages. In accepting the case, the Justices consolidated the two appeals.

Before enacting the 1988 law, Congress tried for several years to find a narrower approach that would permit adults to use the services while screening out children. But that did not prove feasible.

In its appeal, the Reagan administration argued that the danger of exposing children to sexual language over the telephone was so great that Congress had a "compelling interest in taking effective measures," including a round-the-clock ban. Reported in: *New York Times*, January 10.

library meeting rooms

Framingham, Massachusetts

A Middlesex Superior Court judge October 25 enjoined the trustees of the Framingham Public Library from interfering with the showing of the film *Sammy and Rosie Get Laid* in the library. The order by Judge Elizabeth White came a day after the trustees rescinded their September 12 vote to bar the South Middlesex chapter of the National Organization for Women from showing the film because some board members found the title objectionable.

The film, rated R, deals with racial and class strife in England. Although part of the title is slang for sexual intercourse, most critics agreed with *Boston Globe* critic Jay Carr who wrote that *"Sammy and Rosie* has less to do with sex than with the way they're worked over by England's institutionalized violence. . ."

At the September meeting, board chair George P. King, Jr., said: "I have no idea what the movie's about, and frankly, I don't care . . . The point is we have somebody using our program room with language that is extremely objectionable. It's embarrassing to this library. . . . I think we should not allow these people to show this movie."

Added trustee Edward Burton: "I don't believe we should . . . allow anybody to view what they please. I liken it to a gay rights group. Do they have the right to come in here and show films on their sexual politics? You wouldn't allow a bachelor party. They can rent a private room in a hotel and do as they damn please." The September vote went against the film by a margin of 6-4, with two abstentions.

Attorney Michael Weissman, who, along with the Civil Liberties Union of Massachusetts, brought the suit, called Judge White's decision "an important victory for free speech rights." The film was shown without incident on November 17. Reported in: *Boston Globe*, October 24, 26.

Oxford, Mississippi

A conservative women's organization interested in family, political, and religious issues was entitled to a preliminary injunction requiring the Lafayette County and Oxford Public Library to permit the group to hold meetings in the library's auditorium, U.S. District Court Judge Neal B. Biggers, Jr., ruled September 16. The judge said that by its practice of opening its auditorium to groups unrelated to the library's mission, the library had created a public forum. Having done so, the library could not restrict access to its auditorium based on the religious content of a group's meetings. Reported in: *West's Federal Case News,* December 2.

schools

Redding, California

In a major setback to a school board that wanted to keep books away from students, a California state appeals court in November upheld a Shasta County Superior Court judge's 1979 decision that a number of books by Richard Brautigan must be made available to students and that a Redding-area school board acted improperly by trying to ban the books.

Acting in a suit first filed in 1978, *Wexner* v. *Anderson Union High School District Board of Trustees,* the Third District Court of Appeal in Sacramento struck down a school district policy that empowered the trustees to remove certain books from libraries. The court also reversed a trial court ruling in the case that allowed the board to prohibit classroom use of particular books and to require prior parental consent for minor students to have access to selected reading material.

The court avoided constitutional questions in the case by focusing on the provisions of the state Education Code. "There is no provision in this scheme which authorizes school districts to winnow library books based on their perceived offensive content or social unacceptability," Justice Coleman Blease wrote for the unanimous panel of the court. He was joined by Justices Frances Carr and Robert Publia.

"As related, Education Code section 18100 requires the district board to establish and maintain a school library or provide library services by contract with another public agency. This does not imply authority to cull from the library collection books found to be offensive," Blease wrote.

The court also noted that the state Legislature gave high school students extensive free speech rights in Education Code section 48907. That statute forbids censorship of student speech unless it is obscene, libelous or likely to disrupt the educational process. The Third District concluded that it would be "an anomaly to find the Board's authority to censor existing library books is governed by a different standard than that set forth in section 48907."

The case involved Anderson High School teacher V. I. Wexner, who had invited students in his developmental reading class to select books from the school library, his classroom or their homes to read and to report on for credit. Wexner had placed in his classroom and the library copies of books written by Brautigan. The principal learned that these books were available to students and, upon review, determined they were inappropriate.

Ultimately, the school board concluded that five of the books were not "socially acceptable to the people within the Anderson Union High School District because of obscenities and sexual references." The board then ordered the books removed from the library and barred their use in class. Wexner, another teacher, three students, and a publisher of the books filed suit.

The Brautigan books banned by the school board were: *The Abortion: An Historical Romance, The Pill Versus the Springhill Mining Disaster, Trout Fishing in America, A Confederate General From Big Sur,* and *Rommel Drives on Deep Into Egypt.*

Former Shasta County Superior Court Judge William H. Phelps ruled in February, 1979, that the students had a right to the books, but he also ruled the books could be kept in the library and only students with parental permission could read them. The appellate court overturned the parental permission portion of Phelps' ruling as "improvident and beyond the scope of the issues tendered by the pleadings," upholding the students' right to the books.

ACLU attorney Ann Brick, who has fought the banning since 1978, said the latest decision means that school boards in California do not have the right to purge their libraries of books they find "socially unacceptable." She said she would ask the court to publish its decision so the case can be used as a legal precedent in other districts. Reported in: *Los Angeles Daily Journal,* December 1; *Redding Record-Searchlight,* December 5.

Lake City, Florida

The Lake City school board did not violate students' constitutional rights when it removed a textbook from its curriculum because it deemed excerpts from Geoffrey Chaucer's *The Miller's Tale* and Aristophanes' *Lysistrata* to be sexually explicit and vulgar, a three-member panel of the U.S. Court of Appeals for the Fourth Circuit ruled January 16. Upholding a January, 1988, District Court decision, the appellate court concluded that on issues of curriculum, schools "have been accorded greater control over expression than they may enjoy in other spheres of activity."

"Of course, we do not endorse the board's decision," Judge R. Lanier Anderson wrote in his opinion. "[We] seriously question how young persons just below the age of majority can be harmed by these masterpieces of Western literature. However, having concluded that there is no constitutional violation, our role is not to second guess the wisdom of the board's action."

The controversy leading to the decision in *Vergil* v. *School Board of Columbia County* began in 1986 when the Rev. and

Mrs. Fritz M. Fountain complained about the works excerpted in *The Humanities: Cultural Roots and Continuities.* A school media committee recommended that the two excerpts not be assigned, but the school board chose to drop the book from its curriculum. Several parents sued, but a federal district court judge ruled in favor of the school board (see *Newsletter,* September 1986, p. 153; November 1986, p. 207; November 1987, p. 223; May 1988, p. 81, 98; September 1988, p. 150).

Like the district court, the appeals court said it relied most directly on the 1988 Supreme Court decision in the case of *Hazelwood School District* v. *Kuhlmeier,* which upheld a school's right to restrain expression in a school-sponsored student newspaper that was specifically part of the school curriculum.

Samuel Jacobson, a lawyer for the American Civil Liberties Union representing the students who objected to the book's removal, said he was "disappointed but not surprised" by the ruling. He said he would ask the Supreme Court to review the case. Reported in: *Wall Street Journal,* January 17.

religion in school

Westminister, Colorado

A federal judge January 3 ordered a fifth-grade teacher to stop reading the Bible at his desk and to remove religious books from his classroom, but directed his school to replace a Bible removed from the library.

Teacher Kenneth Roberts of Berkeley Gardens Elementary School had sued principal Kathleen Madigan and Adams County School District 50, charging them with censorship. After parents complained, Madigan had ordered Roberts to remove two books, *The Bible in Pictures* and *The Story of Jesus,* from his classroom library and told him to keep the Bible off his desk during school hours.

Madigan also told Roberts to remove a poster that said, "You only have to open your eyes to see the hand of God." The teacher frequently read from his Bible to set an example for students during daily fifteen-minute silent reading periods, but said he didn't proselytize.

However, U.S. District Court Judge Sherman Finesilver said that Roberts "underestimates the potential effect of his actions on impressionable fifth-grade students" who view him as a role model. "Taken in their totality, Roberts, reading the Bible and the religious books and poster in his classroom present the appearance that Roberts is seeking to advance his religious views," Finesilver said.

The judge said Roberts' right to academic freedom wasn't absolute and the school district acted appropriately to maintain religious neutrality in the school and to "insulate students from undue exposure to Roberts' religion."

Roberts said he thought the decision was a victory because the Bible must be placed in the school library and by court order cannot be removed. "What puzzles me is that there are books in the library that you can't have in the classroom," said the teacher.

The lawsuit was filed by attorneys for Concerned Women of America (CWA), a Washington D.C.-based conservative group. CWA representative Rebecca Hagelin said the decision would be appealed, but applauded the order to replace the library Bible as a "tremendous victory." Just how the Bible was removed had been disputed during the trial, but school officials said they intended to replace it, although it hadn't been done.

"In this age of enlightenment, it is inconceivable that the Bible should be excluded from a school library," Finesilver said. "The Bible is regarded by many to be a major work of literature, history, ethics, theology and philosophy. It has a legitimate if not necessary place in the American public school library."

But Finesilver said the two religious books in Roberts' classroom didn't belong there because they advanced Christian views. Since school attendance is compulsory, the judge said, "The students are in a real sense a captive audience vulnerable to even silent forms of religious indoctrination." Reported in: *Rocky Mountain News,* November 23, December 9, January 4.

student press

Hanover, New Hampshire

A judge has ordered Dartmouth College to reinstate two student journalists who were suspended last year after a scuffle with a black professor, but the controversy surrounding the school's conservative off-campus student paper appeared far from over.

In an opinion released January 3, Grafton County Superior Court Judge Bruce Mohl ruled that one member of the school's disciplinary panel harbored "substantial bias" against Christopher Baldwin and John Sutter when the two students were suspended for eighteen months last March after a classroom altercation with Professor William S. Cole.

The students had contended they were being punished because they worked for the *Dartmouth Review* and for the conservative views expressed in that paper. They charged the college's administration with interfering with their right to freedom of the press.

Mohl rejected those arguments. Instead, he ruled that it was "fundamentally unfair to the plaintiffs" for film professor Albert LaValley to have sat on the disciplinary panel. LaValley had written a letter that condemned the *Dartmouth Review* for its "slanderous articles" that "seriously threatened the principle of academic freedom." Mohl said

the letter "demonstrates substantial bias on his part against students who write for the *Dartmouth Review.*" The judge ordered Dartmouth to permit Baldwin and Sutter to enroll for the spring semester, but he left the door open to further disciplinary action by a new panel.

The students' attorney, Harvey Myerson, said, "The judge found a fundamental flaw in the process. It's really a vindication for the kids because their position all along was that the Dartmouth process was a sham. We will press on with our civil suits in court before a jury."

Dartmouth College official Alex Huppe claimed, however, that the decision "vindicates us. Their claim that the disciplinary process was unfair and that we were punishing them for their politics were proven wrong. It focused on alleged bias by one member of the panel. That's a very narrow ruling." Reported in: *Boston Globe*, January 5.

Renton, Washington

A Renton School District policy requiring students at Lindbergh High School to submit to school officials for approval any student-written material before such material could be distributed on school premises or at official school functions violated the First Amendment, Judge Mary M. Schroeder of the U.S. Court of Appeals for the Ninth Circuit ruled November 18.

Reversing a District Court ruling, Judge Schroeder noted that the case could be distinguished from the circumstances covered by the U.S. Supreme Court's 1988 decision in *Hazelwood* v. *Kuhlmeier* because the communications which the Renton policy targeted were in no sense "school-sponsored" and, therefore, were not within the purview of the district's exercise of reasonable editorial control.

The case, *Burch* v. *Barker*, arose from a May 20, 1983, incident in which students distributed copies of an "underground" student paper called *Bad Astra* on school grounds without submitting the material for predistribution review, as mandated by a 1977 policy. The school principal reprimanded the students for violating the review policy, but did not find any particular passage or article objectionable.

Although the district court found that the distribution of *Bad Astra* did not disturb school discipline or harm others, it found that "uncensored student writings have been published in other high schools that did cause, or had the potential for causing, much disruption because they were distributed without prior approval." Based on its finding that student-written materials could possibly cause disruption at some time, in some school, it held that the requirement of prior school approval in this case did not violate the First Amendment.

The appeals court rejected that argument. Citing *Kuhlmeier's* distinction "between speech that is sponsored by the school and speech that is not," Judge Schroeder concluded: "In this case the communications, like *Bad Astra*, which the school policy targets for review for censorship purposes are in no sense 'school-sponsored.' They are therefore not within the purview of the school's exercise of reasonable editorial control. The student distribution of non-school-sponsored material under the Supreme Court's decisions in *Tinker* and *Kuhlmeier* cannot be subjected to regulation on the basis of undifferentiated fears of possible disturbances or embarrassment to school officials, and no more than undifferentiated fear appears as a basis for regulation in this case. There is therefore no justification for this policy, which conditions all distribution of student writings on school premises upon prior school approval. Interstudent communication does not interfere with what the school teaches; it enriches the school environment for the students." Reported in: *West's Federal Case News*, December 2; *Daily Appellate Report*, November 21.

McCarran—Walter Act

Los Angeles, California

Striking down part of an aggressive U.S. government campaign against alleged terrorists, a federal judge December 22 declared unconstitutional both a recent law limiting free speech by members of the Palestine Liberation Organization (PLO) and parts of the 1952 McCarran-Walter Act allowing deportation of aliens who advocate world communism. U.S. District Court Judge Stephen V. Wilson said his decision "reaffirms the underlying values of the First Amendment," which include "the premise that only through the free flow of ideas can our nation grow and prosper."

The ruling arose from the case of seven Palestinians, two with permanent resident status, and one Kenyan in Southern California that drew wide national attention. They were arrested at gunpoint and ordered deported in 1987 by the Immigration and Naturalization Service on the ground that they supported the Popular Front for the Liberation of Palestine.

Although the ruling applied only to the Central District of California, the Justice Department said that it planned to appeal, setting the stage for a possible test in the U.S. Supreme Court.

In his ruling, Judge Wilson declared four provisions of the McCarran-Walter Act "unconstitutional on their face." Among other things, an alien could be deported if he advocated world communism, totalitarian dictatorship, or the unlawful destruction of property or was affiliated with groups that advocate such doctrines.

"In this case the government is trying to stifle certain ideas from entering our society from certain aliens through its immigration power," Judge Wilson said. "Our Society, however, was built on the premise that only through the free flow of ideas can our nation grow and prosper."

The judge said the government had numerous other laws to combat terrorism. He stressed also that the government

can still deport aliens who were retarded, sexually deviant, psychopathic, addicted to drugs, alcoholic, destitute, afflicted with contagious diseases, or convicted of moral crimes such as prostitution.

Citing the Fifth Amendment's guarantee of equal protection under the law the judge also voided parts of a new law passed by Congress in 1987 that barred ideological tests for foreigners wanting American visas. The section he threw out excepted members of the PLO from protection.

"Only PLO members who also advocate the prohibited McCarran-Walter ideas can be deported," Wilson noted. "PLO members who stay silent or introverted or advocate Chicago School economics or affiliate with the John Birch Society may stay within the country's borders. . . . Thus, we conclude that the PLO exception is not rationally related to a legitimate government end," he said.

Judge Wilson said a key question was whether immigrants have full First Amendment rights or were limited by Congress's authority to control immigration. He concluded that immigrants had full rights once admitted to the United States.

"Logically, to say that resident aliens have First Amendment rights in the domestic context but not in the deportation context is to deny them First Amendment rights at all," he said. "In other words, resident aliens would be chilled from exercising their First Amendment rights in the domestic field for fear that what they say could get them deported; consequently, they will not say anything at all."

"It's a wonderful, wonderful decision," commented Paul Hoffman, American Civil Liberties Union legal director for Southern California, and one of the principal attorneys in the case. "He has made it clear that everybody in the country has First Amendment rights." Reported in: *New York Times,* December 23; *Washington Post,* December 23.

Ku Klux Klan

Thurmont, Maryland

A federal judge in Baltimore ruled December 1 that the Town of Thurmont violated the free speech rights of the Ku Klux Klan by imposing unattainable financial charges and a racial nondiscrimination pledge as conditions for the white supremacist group to parade in the northern Maryland town.

In strong language, U.S. District Court Judge Walter E. Black, Jr., held that town officials illegally put up restrictions on the Klan's parade that effectively prevented it, while it allowed other groups to march without question.

"Our society must allow every person to speak—no matter how offensive the message—unafraid of who might prevail in the marketplace of ideas," Black wrote. He ordered the town to lift the restrictions in considering the Klan's application for the parade, which it had sought since May with the aid of the ACLU.

Black also questioned the motivation of the NAACP, which joined the case against the Klan. The NAACP contended that equal protection provisions of the Constitution requires the Klan to allow blacks and other non-Klan members to participate in any parade held on public streets. "This court naturally suspects that the NAACP does not really want to march side by side with the KKK," Black said. "The court does not go so far as to find that the NAACP's position here is a pretext to prevent the KKK from marching at all, but the question is there."

Leaders of the Invisible Empire of the Knights of the Ku Klux Klan, one of two active Klan groups in Maryland, originally asked for the permit allowing a whites-only parade for up to a hundred marchers. ACLU attorneys contended that the financial requirements forced the Klan to "pay for free speech," and the racial nondiscrimination pledge illegally nullified the political aims of the organization. Reported in: *Washington Post,* December 2.□

(portrait of a censor . . . from page 33)

time with him not to take a more active interest in his personality.

He volunteered a number of things which he asked that I not reveal to other members of the textbook committee. I did not, but I did begin to wonder why he chose to tell them to me. They had in common the characteristic that they could be used against him, and I understood that he thought that by concealing them from the committee, he was protecting his position. It was a defensive posture, like the hand of a fighter blocking a jab, while he punched with the other hand.

He casually spoke of others in humorous ways that left me with an ironic smile. He dismissed most religious marriage counselors as "baptized Rogerians" and the committee chairperson as "our fearless leader," much as dyed-in-the-wool Republicans like to speak of Democrats. Religion and politics were, in fact, closely linked in his mind, and he spoke on the need for Christians to become politically active, especially on social issues. He saw no reason why Americans, unlike Europeans, should not have religious affiliations for some of their political parties, presumably to elect Christians to office, as opposed to candidates whose religious affiliations were absent, unknown or non-Christian. I'm sure that he could envision himself as a political leader, studying and preparing until his chance had come (to paraphrase Lincoln), but I also wondered what he would think of Lincoln's problematic religious views.

His purpose seemed clear to everyone on the committee. He had an agenda, unlike most of the rest of us, who came with an open mind. He was there to knock books out of contention, and he obviously had some experience at it. At each meeting he reported his progress through the books,

searching for passages which conflicted with his religious values. One book in particular seemed to catch his attention because of its values clarification exercises. He asked me about it, and I said that in my opinion, these particular exercises were not wise because they asked children to make judgments on the assumption that heaven and hell were personal constructs, and that such exercises would be inconsistent with the religious beliefs of some students. My reasoning did not seem to register on him, which surprised me, although the implication that I would not recommend the book for adoption did.

When the committee received letters in praise or criticism of some of the books, it became clear that an organized group had submitted them. Among the criticisms were several objecting to the book that Joshua had shown me. They cited the values clarification exercises, and I suspected that Joshua had received the letters before the rest of us had. He had volunteered to me privately one morning that he had seen some of the letters before we as a committee had received them. There was something in the circularity of this input to the committee which made me uneasy, and I began to feel some distrust towards him. He seemed to be more interested in agreement with his position than in thoughtful consideration of opposing views.

The committee moved slowly towards its vote on hundreds of textbooks for children of all ages. Then, in the next to the last session, Joshua seemed to find a book that he was certain was there all along. Everyone (including the organized letter writers) had missed it but he. Its rejection became his cause for an attack with copious notes citing specific passages. These notes were handed out to the committee for consideration and discussion at its next meeting. I tried my best to understand what his objections were, both through my own reading and requests for clarification from him.

What caught his attention was a high school speech textbook, V. Myers and R.T. Herndon, *Dynamics of Speech,* that contained a relatively lengthy discussion of individual needs, values and ethics. A picture of Maslow's pyramid of needs probably caught his eye, and what he read upon closer inspection appalled him. What distinguished this text from other texts appeared to me to be open advocacy of the dignity and worth of the individual, and the value of openness in communication. Joshua seemed to object to these values because they represented "secular humanism" to him, a philosophical religious movement that he found as difficult to pin down as "nailing Jello to the wall." It was odd, however, to hear the dignity and worth of the individual attacked as a *religious* value.

His attack differed from the stereotype because it was less threatening to a democratic system. Here I must digress. It is common to assume that attacks from religious conservatives are motivated by the insistence that there is an absolute right and wrong, and that this moral truth should be taught in the public schools. Joshua went to great pains to point out that this was not his argument, and he grew angry when others assumed that it was. He argued only that views which differed from his *not* be taught in the schools. In a sense, he was arguing that moral education in the public schools be minimal, and speech books which did not contain ethical reasoning or, indeed, any description of ethical behavior, were not attacked. In his view, moral education was part of religious education.

By focusing on one sentence, I think that I was able to comprehend his position. At one point in the discussion of ethics in speech communication, the text read, "Lying is unethical because it gives others a false basis for making their choices." This moral reasoning assumed not only the dignity and worth of the individual, but the values of freedom of choice and openness in communication, values which appeared to me to be democratic (i.e., political) rather than religious in origin. I think that Joshua would have accepted this sentence had it read "Lying is unethical." It was the addition of a reason which he objected to largely because he believed in a "right" reason which was the only reason he could accept. It was as if he were operating from a religious position not only outside the democratic system, but inimical to it. This was an extreme view which militated against any ethical system outside itself. Other value systems were regarded as competitors, and he argued that in fairness, no reason should be given why lying is unethical.

What Joshua found most objectionable was the systematic reasoning about ethics, and his persistence seemed to sway more than a few members of the committee, who probably for the sake of peace were willing to sacrifice one book, while others remained unmoved. Whether they were persuaded or not, he did not think that most members understood his position. Joshua thought that they agreed with him because of their respect for him, not because of their thoughtful consideration of the issues, but he gladly accepted agreement "for whatever reason." A few committee members went back to study the textbook and the standards for adoption, which included a broad statement about moral education and values consensus theory. As one of this group, my thoughts were provoked to further study of the textbook and standards, but also to understand the pattern of Joshua's thinking.

One particular comment of his at the last committee meeting helped me put the pieces together. We were approaching the final vote to recommend whether specific textbooks be adopted for or rejected from an approved list, from which local selections would be made, followed by local purchases with thirteen million dollars of state funds. In the textbook industry, this preliminary approval is known as getting your "hunting license." We had decided as a committee to recommend a number of books for different categories on the list—e.g., low-level, advanced, basic, supplementary, etc.—to help the local committees make their decisions for specific categories of students. Joshua requested that we vote on category as well as on adoption/rejection. Apparently,

he wanted freedom to change classification as well as to vote "yea" or "nay." What was obvious to some on the committee was that voting by secret ballot on both issues at once might cause votes to be split and simple majorities to be lost.

I felt that this was not a strategy to reduce the chances of a book's approval. It seemed to be an oversight which led me to believe that typically, he did not think systematically. Although he was bright and generally well-informed, he was not logical in the systematic sense. He did not think through all of the possibilities. Like the evangelistic lawyer of *Inherit the Wind,* he was constant in his vision of the truth, but he denied to himself, and he wished to deny in others, the power of reason.

His flaw in thinking came from his apparent inability to entertain intellectual perspectives other than his own. At one crucial juncture in the discussion of the speech text I asked him if it were not important to suspend judgement long enough to understand the position of another, and I was surprised by his resounding "No." He especially claimed to that some prejudice always exists since suspension of judgment is theoretically impossible. He had a closed mind on some issues, and he was not interested in entertaining an intellectual view of what he considered to be exclusively moral matters.

It was more than ironic that open communication and reasoning about ethics formed the textbook which he attacked. He seemed to be attacking the values that threatened him the most. They offered others ways to challenge his interpretations. Indeed, they were little explored ways that he might use to challenge his own interpretations, if he were willing to consider other points of view. But he wasn't. He sacrificed values such as openness of communication to a pugilistic posture, if not to his beliefs. The sacrifice seemed unnecessary to me, and I tried to tell him so; however, he was unwilling to be persuaded that a conflict did not exist between himself and others and between religion and reason over vast areas of understanding. He seemed to acknowledge an area free of conflict only in mathematics and physics.

Openness of communication was a value exercised by most committee members in discussion, but it was not the only value of our proceedings. In the final session, we voted silently and privately. The chairperson read once again the law that said disclosure of the vote before contracts were made was a misdemeanor punishable by a fine "not exceeding $500.00" or "hard labor for a term not exceeding six months." Someone quipped that punishment constituted appointment to the next textbook committee. Whatever our vote, it struck me that we had experienced a debate that has been waged in one way or another over the centuries, participating in a trial of sorts, in which we decided the guilt or innocence of authors, particularly those few who had been attacked for their thinking.

I had also come to know one of the prosecutors. It was, and remains, my desire not to judge the truth of his accusations, but to identify the effects of zealotry on thinking. Passionate and sometimes fanatical commitment may be appropriate in the defense of great causes, especially in seemingly overwhelming circumstances. Zealotry can be—and has been—heroic, but the habitual resort to authority instead of reason and to controversial action instead of compromise leaves reason weakened and society conflicted, if not fractured. Weakened reason in turn leaves a person subject to the distortions of his or her own point of view, which cannot be corrected through rational consideration of other perspectives. The result of common instead of uncommon zealotry is a person who is a prisoner of his or her own perspective (righteous or not), and a perpetually conflicted society, the extremes of which might today be found in Belfast or Beirut.

After the committee dissolved, I mused to Joshua about some of my plans for the future, which did not include any more textbooks. I had had my fill of them, and of the controversy that one of them had evoked. He said that he had hopes of serving on the textbook committee in his home city, where "they play hardball," and that's where we left it. We exchanged invitations, then Joshua drove one way and I another, both towards home.

Now, a year after the committee disbanded, I can say that approval for purchase of the controversial textbook was denied in this state. By a close vote, we censored the attempt to develop moral reasoning through a text in speech communications. The impact of our vote was small, and for me, largely symbolic. I was a juror in a trial which does not end. As the character of Drummond in *Inherit the Wind* says, "You don't suppose this kind of thing is ever finished, do you? Tomorrow it'll be something else—and another fella will have to stand up." Another author, another book, another set of circumstances. Perhaps by sharing such cases, we give ourselves the courage to oppose unreasonable censorship.□

(linguistic pluralism . . . from page 67)

Resolved, That the American Library Association works with state associations and other appropriate agencies in devising ways to counteract restrictions arising from existing language laws and regulations; and it is further

Resolved, That the American Library Association actively encourages and supports the provision of library resources and services in the languages in common use in each community in the United States—*Adopted January 11, 1989, by the ALA Council.* □

is it legal?

library

Monterey, California

The city council of Monterey Park, California, is appealing a decision by Los Angeles County Superior Court Judge Riccardo A. Torres that the council overstepped its authority when it passed an ordinance replacing the City Library Board with a council-controlled advisory commission.

The Friends of the Library of Monterey Park, together with three of the four individual board members ousted by the new ordinance, sued the city council, claiming that the ordinance conflicted with state law requiring libraries to be governed by boards of trustees with the power to hire staff and oversee management of the library. The ordinance dissolving the board and creating a less powerful advisory commission was passed at the urging of councilman (not Monterey Park mayor) Barry L. Hatch (a nephew of Utah Senator Orrin Hatch), ostensibly to give the city manager and city council more control over the library and its one million dollar budget.

J. Craig Fong, who represented the Friends of the Library, and the three individual board members who sued, suggested a political motivation for the Council's action. "There was a feeling that the city council wanted to get rid of the board because some of the members had too active a voice, too loud a voice," he said. Board members and leaders of the Friends of the Library also had expressed fear that Hatch's true motivation for the ordinance stemmed from his desire to restrict acquisition of foreign language books. The Bruggmeyer Memorial Library in Monterey Park maintains a small collection of books, recordings and periodicals in Asian languages and Spanish. According to People for the American Way, which filed an *amicus* brief on the appeal level, Monterey Park is now 51% Asian, with a majority of the newcomers recent immigrants from China and Viet Nam. Councilman Hatch supported a resolution designating English as the nation's official language. In 1986, the city voted in favor of the resolution but later rescinded it. Michael Eng, president of the ousted board, had publicly opposed the resolution. However, of the four ousted members, Eng was the only one who did not join the lawsuit.

Board member Francesco M. Allunzo said he was concerned about the potential political impact of the council's action. "There are many, many dangers when you have a library run by politicians and by a city manager. . . [whose] main concerns are money, politicians, the political winds."

Under California's education code, a library board's five members serve staggered three-year terms which prevents any particular city council from radically changing the board's makeup. City officials have maintained that the state government code, rather than the education code, applies; the government code allows the creation of a library commission with purely advisory powers. Judge Torres ruled that the government code does not apply to library management, and the education code requires a board of trustees with full authority to oversee the library.

The lawsuit against the City of Monterey presently is limited to the issues of whether the Monterey Park city council acted beyond its powers, by creating an advisory commission and dissolving the library board. Underlying issues of diversity, selection of and access to foreign language materials are not presently before the courts. A decision of the appellate court is expected in the spring. Reported in: *Los Angeles Times,* May 5, 1988; People for the American Way press release November 10, 1988.

obscenity and pornography

Bellingham, Washington

The city of Bellingham declined to defend the constitutionality of an anti-pornography ordinance approved by more than 60 percent of the city's voters in the last election. After a closed session, the City Council voted November 28 to direct City Attorney Bruce Disend to acknowledge the unconstitutionality of the initiative in federal court. The action came just five days after a coalition of booksellers, librarians and artists filed suit against the ordinance, which restricts books, magazines, and movies that depict "the sexually explicit subordination of women" (see *Newsletter,* January 1989, p. 25).

The ordinance is nearly identical to a law 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 U.S. Court of Appeals for the Seventh Circuit in 1985 and by the U.S. Supreme Court in 1986. Like the Indianapolis statute, the Bellingham initiative 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 materials with sexual content.

An organizer with Civil Rights Organizing for Women, the group that put the measure on the November 8 ballot, said the council's decision was an affront to the electorate. "I have a city government that does not represent my interest or the interest of two-thirds of the city of Bellingham," Nancy Mullane said. "They're opting to not do what the citizens of the city directed them to do."

The city council had refused to approve the ordinance when it was first proposed and city attorney Bruce Disend lost a court fight to keep the initiative off the ballot on grounds it was unconstitutional. Disend said he expected the initiative's backers to intervene. "I think it's appropriate that the proponents have an opportunity to make their case," he said. Reported in: *Bellingham Herald,* November 29.

broadcasting

Washington, D.C.

Bowing to pressure from Congress, the Federal Communications Commission (FCC) said December 21 that it would enact an absolute ban on indecent and "adult" programming on television and radio, although it says to do so is unconstitutional. "The commission in the past has held that it is unconstitutional to ban it completely," said Rosemary Kimball, a commission representative. "We felt it was protected speech under the First Amendment."

The 24-hour rule, mandated by Congress in an appropriations bill, was set to go into effect January 31. It was initiated by Sen. Jesse Helms (Rep.-N. Carolina) in July and, after a battle with the House, was inserted into a $14.9 billion appropriations bill. On the Senate floor, Sen. Helms said the purpose of the legislation was to prevent "garbage" from flooding the airwaves (see *Newsletter,* January 1989, p. 23).

In the past, the FCC has sought to channel "indecent" material into late-night time slots in an effort to shield children, but not to censor it completely. Legally obscene material has long been banned. By the FCC definition, "indecent" material depicts or describes "in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs."

Attorney Timothy B. Dyk, who represented broadcast companies and First Amendment advocacy groups in an earlier challenge to a redefinition of FCC indecency rules (see *Newsletter,* July 1987, p. 143, January 1988, p. 29; March 1988, p. 60; May 1988, p. 102; September 1988, p. 169; November 1988, p. 210), said the new ban is unconstitutional and would be challenged. "My view is that it is plainly unconstitutional," Dyk commented. "You cannot label this breadth of material indecent. Much of it has real social significance. You're not talking about dial-a-porn here."

FCC Commissioner Patricia Diaz Dennis agreed that the rule was unlikely to withstand a constitutional challenge, although she noted that the appropriations bill left the agency no alternative but to pass the rule. "The majority correctly concludes 'the directive of the appropriations language affords us no discretion' in this matter," she said. "Nevertheless, I have serious doubts whether our new rule will pass constitutional muster." Reported in: *Washington Times,* December 22.

Washington, D.C.

The Federal Communications Commission (FCC) plans to examine on a "case-by-cases basis" requests to waive its rule prohibiting direct ownership, operation or control of both a radio station and a television station in the same market. Although the commission stressed that it was retaining the "one to a market" rule, its December 13 decision drastically relaxed the restriction on common ownership.

The rule has prohibited ownership of a radio and VHF television station or any broadcast operation and a daily newspaper in the same market. Exceptions to the 1970 rule are considered only when they involve a UHF television station and a radio station in the same city.

The change means the commission will consider exceptions to the rule if its waiver criteria are met and the public interest benefits would outweigh the costs of broadcast combinations, but it focused on the nation's top twenty-five television markets.

"Although we would retain the current radio-TV cross ownership rule, we would entertain waivers of the rule on a case-by-case-basis if certain specified criteria were met," said Michele Farquhar, an FCC staff member who was the primary author of the proposal.

"The FCC will look favorably upon the grant of waiver applications where those applications involve radio and television stations located in the top twenty-five markets where at least thirty separately owned or operated 'voices' would remain after the proposed combination," the commission stated.

"I think we have a moderate approach," said Commissioner James H. Quello. He said the exclusion of several other broadcast classifications such as cable and satellite, and the insistence on thirty voices in top markets, should assure the diversity in programming that the commission favors. Reported in: *New York Times,* December 14.

gay rights

San Francisco, California

This spring, the U.S. Court of Appeals for the Ninth Circuit, in San Francisco, sitting *en banc,* will decide whether the military may continue unimpeded its ongoing campaign to expel lesbians and gay men from its ranks. Last February, a three-judge panel of the court stunned the Pentagon by declaring Army regulations excluding such soldiers unconstitutional.

The panel used the equal-protection clause of the Fourteenth Amendment to strike the Army regulations, declaring that gays and lesbians are entitled to the same protection against unreasonable government discrimination as racial and ethnic minorities. But the issue also has a First Amendment component. Challenges to military rules now in the federal courts suggest that regulations limiting homosexual activity also stifle speech about being gay. By extension, they also chill speech about sexual matters even by heterosexual soldiers who, given the nature of the rules, would likely be discouraged from reading books about homosexuality or gay civil rights, or from associating with gay civilians they may work with on bases, out of fear they might be assumed to be gay.

The case of former Army Sgt. Perry Watkins, currently before the Appeals Court in San Francisco, has gained the most publicity. In 1967, Watkins, then a teenager, was drafted into the Army despite his declaration that he was homosexual. A physician certified him fit for service after Watkins said he would be willing to serve in Vietnam. For sixteen years, Watkins remained consistently honest about his gay sexual orientation, even performing in drag shows at the request of his commanders. When the regulations changed in 1980, however, the Army abruptly terminated Watkins' career, four years short of retirement.

In two other cases now in federal courts, the Army Reserve has been challenged for violating the First Amendment by discharging two women simply for saying they were lesbians, though there was no proof they had engaged in sexual acts prohibited by military regulations. Last August, a federal judge in Wisconsin ruled that one of the women, Army Reserve Sgt. Miriam ben Shalom, had a reasonable enough chance of succeeding in her challenge to order the Army to process her reenlistment. Ben Shalom won a similar challenge in 1980 after the Reserves tried to dismiss her in the midst of her enlistment.

The other case, involving comments Capt. Dusty Pruitt made to the *Los Angeles Times,* is on hold, awaiting the decision on Watkins. After a tour of active duty, Pruitt enlisted in the Reserves while pursuing ordination as a minister. In 1983, the *Los Angeles Times* published an article about her role as a pastor with a church serving gays and lesbians. In the interview, Pruitt talked about the conflict she had felt, as the daughter of a Baptist minister, when she began confronting her sexual feelings. She acknowledged staying in the closet in the Army. Although Pruitt was at the time of the article primarily a civilian, a week after the piece appeared, the Army blocked her promised promotion to major—and eventually dismissed her.

The Justice Department attorney defending the military in both the Watkins and Pruit cases, E. Roy Hawkens, argued that neither equal protection nor the First Amendment should be allowed to overturn present policy. He denied that the rules chill freedom of speech or association for heterosexual soldiers, claiming in one brief that they are free to "sympathetically relate to homosexuals . . . express an interest in homosexuality. . . or advocate changes in civilian laws or military regulations regarding homosexuals."

Hawkens has argued that the Supreme Court has already recognized that the military may restrict any speech impairing its effectiveness, and that declarations of gayness or lesbianism could create disturbances in the ranks. The courts, he said, have no business interfering with "a quintessential military decision regarding the proper composition of the armed forces." Reported in: *The Nation,* January 2.□

(IF Bibliography . . . from page 68)

Sender, B. "Good Cases Make Bad Law, and This Curriculum Ruling Shows the Opposite May be True." *American School Board Journal,* v. 175, September 1988, p. 7.

Smith, Robert Ellis. "Workrights." *Privacy Jouronal,* Washington, D.C., 1988.

Spiegel, J.L. "The Classified Information Procedures Act." 21 *Maryland Bar Journal,* September-October 1988, p. 26.

Student Press Law Center Report, Student Press Law Center, Washington, D.C., v. X, no. 1, Winter, 1988-89.

Sullivan, Andrew. "Big Sister: The 'Authoritarianism' of Mrs. T." *The New Republic,* January 2, 1989, p. 7.

Susman, Tim. "The Privacy Act and The Freedom of Information Act: Conflict and Resolution." 21 *Marquette Law Review,* Summer 1988, p. 703.

"Symposium on Academic Freedom." 66 *Texas Law Review,* June 1988, p. 1247.

Veeser, C. "Great Books and Bayonets." *Harper's,* v. 1277, October 1988, p. 20.

"Waiving the Flag." *The New Republic,* January 23, 1989, p. 7.

Weingarten, F.W. "Communications Technology: New Challenges to Privacy." 21 *John Marshall Law Review,* Summer 1988, p. 735.

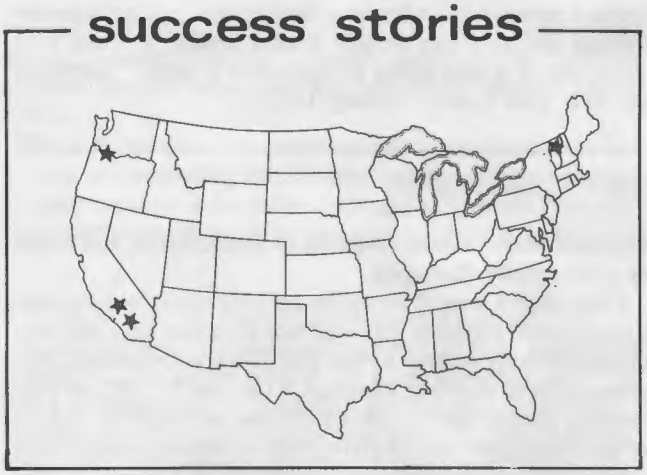
_____. "Privacy, Pornography and the Supreme Court." 21 *John Marshall Law Review,* Summer 1988, p. 703.

Wright, R.G. "*Hustler Magazine* v. *Falwell* and the Role of the First Amendment." 19 *Cumberland Law Review,* 1988, p. 19.

Wuerl, D.W. "Academic Freedom and the University." *Vital Speches of the Day,* v. 55, November 1, 1988, p. 41.

Zentella, Ana Celia. "English-Only Laws Will Foster Divisiveness, Not Unity; They Are Anti-Hispanic, Anti-Elderly and Anti-Female." Chronicle of Higher Education, v. 35, no. 13, November 23, 1988, p. B1.

success stories



library

Vancouver, Washington

Just Hold On, by Scott Bunn, a novel about teenagers whose lives are shattered by alcoholism and sexual abuse, will remain in the library of Covington Junior High School. Breaking an earlier deadlock, the Evergreen School District's instructional materials committee voted 5-2 December 6 to deny a parent's request that the book be removed from the library.

James Wandrey, who filed the complaint, said the book's profanity made it appropriate for junior high school students. "I just don't feel the book is in good taste for 13- or 14-year-old students," he said. He was supported by parent Vic Bartkus, who told committee members that the book was "a real attack on the family and on the nation. Books have a tremendous impact on all of us," he added. "Garbage in, garbage out."

But Covington librarian Sue Fowells defended the book, which she selected on the basis of a review in *School Library Journal,* a procedure approved by the district. Fowells said the book deals with some unpleasant but very real issues affecting children in Evergreen schools. "Some of our students are being raped by family members," Fowells said. The issue "needs to be brought out into the open, not shoved under the carpet."

Barbara Wills, librarian at Wy'east Junior High, said that junior high school libraries must cater to an especially wide range of interests, tastes and maturity levels. "We don't accomplish this task by removing books from the shelves," she said. "We must remember this is a story. . . . This book was not meant to be a self-help book." Reported in: *Vancouver Columbian,* November 18, December 7.

schools

Bennington, Vermont

Cries of censorship were heard at a November 21 school board meeting as more than fifty parents demanded the removal of a controversial book from the fourth grade curriculum. But the Bennington School District board didn't give in to the crowd, voting unanimously not to remove *Bones on Black Spruce Mountain,* by Vermont author David Budbill. Board members also refused to consider creating a parent committee to review books, a suggestion raised by several parents.

The board hearing on the book was prompted by a complaint from parents Don and Lorraine Peschken. They said their fourth grade son was asked to read the book, which contained "hell," "damn," and "slang words for urinate and defecate." The Peschkens' son was offered another book to read, but they asked the board to remove the book.

"The issue is not whether or not it's a good book," author Budbill commented the following day. "The issue is that the First Amendment is at stake." The 1978 novel for children won the Dorothy Canfield Fisher Children's Book Award. Reported in: *Bennington Banner,* November 22; *Brattleboro Reformer,* November 30.

student press

Long Beach, California

A student judiciary board reversed a decision cutting off funds to an alternative student newspaper at California State University at Long Beach. On September 28, the Student Senate terminated funding for *The Union,* a weekly paper, after it published a satirical edition with erotic drawings, which student government president Roger Thompson said showed poor taste (see *Newsletter,* January 1989, p. 12). In early November, however, the judiciary committee ruled the senate could not cut off the newspaper's funds without going through a student publications board. Thompson said he would recommend that the Senate drop the matter. Reported in: *Chronicle of Higher Education,* November 9.

gay rights

West Hollywood, California

A West Hollywood tenant and his landlords reached an out-of-court agreement December 20 under which the tenant will be allowed to resume flying a gay pride banner from his balcony. John Stout had filed suit in Los Angeles Superior Court contending that the owners and managers of his apart-

ment complex violated his First Amendment righte when they ordered him to take down the flag.

"I'm really glad that it's resolved at last," Stout said. "This means I can continue with my life style; that I can express myself freely whenever I want to."

Stout contended that he was allowed to drape the flag over his second floor balcony railing—located directly over the main entrance to the 43-unit complex—for two years before ordered to take it down last May. He started displaying it again in August, and a few weeks later was threatened with legal action by a lawyer for the apartment's management complex.

"Our client does not permit signs, flags and the like, no matter what organization is represented, with the exception of permitting American flags to be displayed on national holidays," attorney Stephen C. Phillips wrote.

Stout again removed the banner, but his lawyers disputed the company's claim, saying that while the house rules mention "signs, advertisements, notices, doorplates, and similar devices," they "don't say anything about flags, which are in an altogether different category." His suit also charged that the removal order was motivated by the landlords' discovery that he is gay.

Under the agreement, Stout will be permitted to fly the flag within the confines of his balcony, rather than draped over the railing, which the landlords said made it seem like a statement on behalf of the whole building. Reported in: *Los Angeles Times,* December 21.

New York, N.Y.

As a result of an agreement reached with the Gay and Lesbian Alliance Against Defamation, beginning with its 1989-90 editions, Yellow Pages directories, published by the Nynex Corporation, which provides telephone services to New York State and New England, will include a previously unpublished listing: gay and lesbian services.

In 1987, the Alliance asked Nynex to establish a separate listing in its Yellow Pages for organizations offering specialized services for gay people. The group also filed a lawsuit, charging discrimination in a public accommodation and arguing that the estimated 300 businesses and agencies that cater to gay people more than met the Yellow Pages minimum of three companies required for a separate category.

In December, following discussions with the alliance and staff members from the New York State Consumer Protection board, the company agreed to a compromise. Alphabetical listings—one under "G" and another under "L"—will refer to the phone books new "Human and Social Services" category, of which gay and lesbian services will be a subcategory. Nynex will organize all social service agencies under separate headings in the new category.

Richard M. Kessel, executive director of the Consumer Protection Board, said, "It's a breakthrough for the gay and lesbian community, who have had trouble getting separate listings and therefore trouble getting people in touch with them, and it is also going to help other groups." Reported in: *New York Times,* January 18.□

(FBI . . . from page 35)

Program would almost certainly be unsuccessful and might be strategically damaging.

First, such a lawsuit would be unlikely to succeed because a court would probably conclude that librarians have not been injured directly enough by the FBI Library Awareness Program to have standing (through ALA and FTRF), to sue. Second, courts tend to uphold official activities in support of legitimate government goals, such as anti-espionage, even if they have an incidental chilling effect on speech. To succeed in a lawsuit, we would have to sustain challenges to our standing and prove that the purpose of the FBI Library Awareness Program is to stifle or limit speech. The record as we now know it would make supporting this claim difficult.

Second, strategically, if we were to file a lawsuit with a low prospect for success, we run the risk of establishing negative precedent on the issue of our *standing* to sue. We also risk undermining the credibility of the library profession's opposition to the FBI Library Awareness Program, because a government victory in court, even if only on standing rather than the merits, might be seen by the public as a judicial endorsement of the Program.

Thus, it seemed our best course was to pursue additional FOIA requests with the FBI and other agencies of the government. This maintains the possibility of a lawsuit if the agencies' responses are inadequate.

New FOIA requests have been filed with several government agencies, including the Department of Defense, the National Security Agency/Central Security Service, the Defense Logistics Agency, the United States Air Force/DADF, the Defense Communications Agency, the Defense Intelligence Agency, and the Defense Investigative Service, as well as the FBI. We have received a response only from the Office of the Assistant Secretary of Defense. That response stated that the Office was unaware of any Department of Defense participation in the FBI Library Awareness Program, that each element of the Department of Defense maintains its own Freedom of Information function, and that we should write to the separate elements of the Department. ALA Executive Director Thomas Galvin responded to that request by noting that we felt DOD was interpreting our request too narrowly. He pointed out that it was the responsibility of the DOD officer to assist us in directing our request to the appropriate elements of the Department. The latest requests sent to the various agencies noted were carefully written to be both broad enough to encompass all of the records we are in-

terested in seeing, and to minimize the possibility of an agency interpreting the request narrowly to exclude relevant records which we are entitled to receive under FOIA.

The latest of these requests was sent out on December 22. It is my understanding that the statutory time for responding to these requests is ten days, and thus has passed. We will be consulting with counsel on appropriate next steps.

5. Context For The Library Awareness Program

In the eighteen months the Program has been monitored by the IFC, the larger context for it has become clear. The FBI's visits to libraries are part of a systematic, coordinated interagency effort to prevent access to unclassified information. This effort is coordinated by the interagency Technology Transfer Intelligence Committee—a group representative of twenty-two agencies and hosted by the CIA. The TTIC produced a report in 1982 on Soviet acquisition of western technology and published an updated version in 1985. Much of the justification for the Library Awareness Program presented in Congressional testimony and in the meeting on September 9 is contained, often in the same words, in these reports. It is worth noting that the 1985 version appeared during the controversy over the "sensitive but unclassified information" directive (NSDD 145).

6. Next Steps

The IFC will continue to monitor developments in this area. There will be a major program at the 1989 Annual Conference in Dallas, cosponsored by the IFC and the Committee on Professional Ethics, on confidentiality. The IFC is developing a set of guidelines for libraries which can accompany the Policy on Confidentiality of Library Records and the Model Procedures for implementing the Policy. IFC will monitor the progress in the 101st Congress of H.R. 5369. Libraries will report visits by FBI agents and representatives of other law enforcement agencies to OIF. In every instance where it is possible to do so, we will make public such reports.

7. Conclusion

It is clear that ALA's concerns for the privacy rights of library patrons have broad public support. It is clear that libraries have become the targets not only of the intelligence community but also of law enforcement agencies generally.

In the "doublespeak" of Washington, ALA must resist "collateral damage by engaging the enemy on all sides in order to secure a permanent pre-hostility." More simply, eternal vigilance is the price of freedom.□

text of FBI Director Sessions' letter to Rep. Edwards

The following is the full text of the September 14 letter from FBI Director William S. Sessions to Rep. Don Edwards, Chair of the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary, announcing decisions reached by the FBI about the Library Awareness Program.

Dear Mr. Chairman:

Thank you for your correspondence on the FBI's Library Awareness Program. Rather than detail its history or set forth in detail its importance to the Bureau's foreign counterintelligence work, I thought I would instead describe for you the direction I have decided this program should take.

(1) When deemed necessary, the FBI will continue to contact certain scientific and technical libraries (including university and public libraries) in the New York City area concerning hostile intelligence service activities at libraries. The purpose of such contacts will be twofold: to inform these libraries that hostile intelligence services attempt to use libraries for intelligence gathering activities that may be harmful to the United States, and to enlist their support, along the lines discussed below, in helping the FBI identify those activities. Incidentally, I share your concerns about public and university libraries, and where feasible the Library Awareness Program will not focus on them.

(2) The librarians at these scientific and technical libraries will be asked to advise the FBI of any contacts their personnel have with persons who identify themselves as Soviet or Soviet-bloc nationals assigned to certain Soviet or Soviet-bloc establishments in the United States and who do any of the following:

(a) seek assistance in conducting library research;
(b) request referrals to students or faculty who might be willing to assist in research projects;
(c) remove materials from libraries without permission; or
(d) seek certain biographical or personality assessment information from librarians themselves and/or on individuals who are known to the librarian being queried, particularly on students and academicians.

This information will also be sought on contacts with individuals who indicate that they are acting for such Soviet or Soviet-bloc nationals. These criteria are narrow, and in my opinion they will not require judgments by librarians as to who is of interest and who is not of interest to the FBI. More importantly, they should make it clear that the FBI is completely uninterested in the library activities of anyone other than those persons who meet these specific criteria.

(3) If and when individuals meeting these criteria are identified to the FBI, we will inquire further as to what these

individuals are seeking from librarians. The FBI is charged with keeping track of hostile intelligence service activities in the United States, and I believe it is essential that we make these inquiries.

(4) In conducting this program, 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.

(5) We intend to ask librarians for help along the lines set forth above. If they do not wish to help, that is up to them, but we are confident that they will help if the program is explained to them properly. To that end, training of FBI personnel participating in the program will be enhanced, where necessary, so that personnel will be particularly sensitive to the limitations that I have described in the above paragraphs.

Thus, I anticipate that the Library Awareness Program will help the FBI identify hostile intelligence service officers without causing the Bureau to collect library information on the general public.

As you are aware, in many cases the FBI will have already identified known or suspected hostile intelligence service officers and co-optees. When the FBI needs information about the activities of such persons, it will continue to contact anyone having that information, including librarians. Such contacts will be nationwide, and such contacts will be no different from any other FBI investigation. These contacts will, however, differ from Library Awareness Program contacts in one significant respect. In the Library Awareness Program, the FBI will be asking librarians to help in the initial identification process using the criteria set forth above. In any other contacts with libraries, the information sought will concern specified subjects.

I hope that the foregoing serves to answer your questions about the direction that the Library Awareness Program will be taking and about other FBI contacts with libraries. With respect to your request for various documents, the classified FBI report on Soviet Intelligence Service library targeting is being sent to you under separate cover. Other documents describing the Library Awareness Program were given to Mr. James X. Dempsey of your staff on July 12, 1988. Please contact the Bureau's Congressional Affairs Office if you need any additional materials.

Concerning your request for analysis of the impact of state library confidentiality statutes on the Library Awareness Program (or on other contacts with libraries), I am continuing to review this issue, and I expect to have further information for you shortly.

Thank you for your questions and comments about the Library Awareness Program. They have been extremely helpful to me in determining the direction the program will take, and I hope you will not hesitate to contact me if you wish to discuss this matter further. □

text of FBI report on confidentiality implications of 15 library visits

The following is the text of a December 8 communication from Acting FBI Director John Otto to Rep. Don Edwards reporting on the results of an FBI analysis of the state confidentiality statutes applicable to fifteen known FBI library visits.

In furtherance of our prior correspondence, enclosed is an analysis, prepared by the Special Staff of the Bureau's Intelligence Division, of fifteen library contacts with respect to which questions have been raised about the applicability of state library confidentiality statutes.

Of the fifteen contacts, twelve were conducted pursuant to specific investigative leads in furtherance of FBI counterintelligence responsibilities and were not related to the Bureau's Library Awareness Program. Two of the contacts were in connection with the Library Awareness Program, and one was in response to an unsolicited telephone call to the FBI from a staff member of the particular library.

Of the thirteen contacts for purposes unrelated to the Library Awareness Program, six were in states that had no confidentiality statute in effect at the time. Of the remaining seven contacts, in six instances no records were requested, and in the seventh, records were obtained pursuant to a grand jury subpoena. The two Library Awareness Program contacts did not involve requests for records, such that the New York statute was not at issue.

Underlying factual information on these contacts, which is classified, is available to you and to any members of your staff who possess requisite security clearances. Please contact Supervisory Special Agent John S. Hooks, Jr., at the Congressional Affairs Office, telephone number 324-4515, who will make arrangements for you to review this material if you wish to do so.

Broward County Library, Ft. Lauderdale, Florida

Prior to requesting any information, the FBI Agent asked the librarian if there was any legal prohibition against such disclosure. After being advised by the librarian that state law required production of a court order, the Agent left without making any further request.

There was no violation of state law, nor did the Agent encourage any violation since no request for information was made after being advised of the statutory requirement of a court order.

University of Michigan Engineering Library

There was no violation of state law since the FBI's contacts occurred *prior* to the enactment of Michigan's statute (1982, effective March 30, 1983) requiring confidentiality of library records.

New York Public Library (NYPL) and Contact Of An NYPL Librarian At His Residence

There was no violation of the New York Statute restricting disclosure of library records since the FBI neither requested nor obtained any records during either of these contacts.

University Of Utah

There is no state statute in Utah prohibiting or restricting disclosure of library records. All library records in the state of Utah are considered public records, with unrestricted access by any person or agency.

Princeton University, New Jersey

The FBI's contact at Princeton University, circa 1978, involving an FBI investigation of GRU officers, occurred *prior* to enactment of the New Jersey statute (1985) restricting disclosure of library records.

University Of Cincinnati

There is no statutory authority in effect in the state of Ohio prohibiting or restricting disclosrue of library records, although legislation is currently pending in the Ohio legislature which will require that these records be made confidential.

University Of Maryland Chemistry Library

There was no violation of Maryland state law since there was no state statute in effect at the time of the FBI's contacts at the University of Maryland restricting or prohibiting disclosure of *university* library records.

In 1984, the Maryland legislature enacted legislation restricting disclosure of public library records, however, this statute did not include records of university or college libraries. In June, 1988, the Maryland legislature enacted a statute which will now require that library records of educational institutions also be confidential, with restrictions on disclosure.

University Of Houston

There is not statutory or judicial authority in the state of Texas prohibiting or restricting disclosure of library records.

University Of Wisconsin

There was no violation of the Wisconsin state statute inasmuch as the FBI did not make any requests for library information from the interviewee.

NYU's Courant Institute

This was a library awareness contact. There was no violation of the New York statute since no requests for records were made during the FBI's contact.

George Mason University, Fairfax, Virginia

There was no violation of the Virginia state statute restricting disclosure of library records since no requests for records were made during the FBI's contact.

Additionally, the FBI's contact at George Mason University was in response to a telephone call placed by a staff member of the library who was concerned about defense documents being checked out by an individual the librarian believed to be a Soviet. These contacts were initiated by the *library,* and not the FBI.

State University Of New York—Buffalo (SUNYAB)

In compliance with New York law, the FBI presented a Grand Jury subpoena to officials at the State University of NY—Buffalo (SUNYAB) requesting specific library records necessary to a criminal prosecution involving violation of the Foreign Agents Registration Act (FARA)

At a review by the University's legal staff, SUNYAB compiled with the federal subpoena.

Brooklyn Public Library, New York

This was a library awareness contact. There was no violation of state law since no records were sought or obtained during the FBI's contact.

University Of Pennsylvania

There was no violation of the Pennsylvania state statute since the FBI neither requested nor obtained any records which would fall within the purview of the statutory restrictions regarding disclosure of library circulation records.

University Of California

There was no violation of the California state statute restricting disclosure of library records since no records were sought or obtained during the FBI's contact.□

(IFC report . . . from page 36)

3. As a result, in part, of his concern about the Library Awareness Program, Representative Don Edwards (Dem.-California) introduced in the last days of the 100th Congress H.R. 5569, "Federal Bureau of Investigation First Amendment Protection Act." This bill was reintroduced in the 101st Congress on January 3 as H.R. 50 by Representatives Edwards and Conyers (Dem.-Michigan) joined by 33 cosponsors. The Intellectual Freedom Committee recommends your approval of a resolution endorsing H.R. 50 (see below).

Access By Minors To Videotapes In Libraries

For more than a year, the intellectual freedom committees in the youth divisions have been examining existing policies relating to access by minors to video materials in libraries. During this conference, the Intellectual Freedom Committee approved for circulation for comments from other

units a *draft* Interpretation of the Library Bill of Rights. This item is mentioned here for your information. Our goal is to present a final version of this Interpretation for your approval at the next Annual Conference. Videotapes are currently a topic of intense interest from a number of units. The youth divisions are cosponsoring a preconference in Dallas and the IFC program will be on videotapes, featuring Judith Crist as a speaker.

Minority Concerns Committee Report

At the 1988 Annual Conference, council approved the report of the Minority Concerns Committee. This report contained, inter alia, two policy recommendations, one of which was ". . . . that the *Library Bill of Rights* be reviewed during the next fiscal year to include the concepts of freedom of access to information and libraries without limitation by language or economic status."

During this conference, the Intellectual Freedom Committee decided to begin this review by looking at all twelve of the Interpretations of the Library Bill of Rights which have been approved since the first one in 1951. Our draft statement addressing the issue of access for minors to video materials, described above, reinforced the need for such a review; some of the needs which gave rise to some of the statements may well have changed. We will begin this review immediately, and will report on its status in Dallas. This review will certainly identify the nature and extent of changes needed in the *Library Bill of Rights.*

Confidentiality Of Library Records

The attention focused on the Library Awareness Program has heightened the consciousness of all of us regarding confidentiality of library records. In addition to continuing to monitor the FBI's activities in this area, the IFC determined that it should undertake a broad educational effort. We have identified two immediate steps. First, there will be a program during the Dallas Conference, cosponsored by the Committee on Professional Ethics and the Intellectual Freedom Committee, on confidentiality. Second, the Intellectual Freedom Committee will publish a set of guidelines for libraries to use in conjunction with the policy on Confidentiality of Library Records.

FOIA Fee Waivers For Libraries

Recent changes affecting the administration of the FOIA seem to eliminate the eligibility of libraries for fee waivers because libraries are not included in the definition of "educational institutions" use. The Intellectual Freedom Committee recommends your approval of a resolution on this issue to be presented later by the Legislation Committee.

Linguistic Pluralism

The Intellectual Freedom Committee has been studying the phenomenon of the so-called "English First" laws for the past year. We recognize a distinction between such laws which are permissive and ones which are, or are interpreted and administered to be, exclusionary. We concluded our discussions of this issue at this conference and recommend your approval of the "Resolution in Support of Linguistic Pluralism" (see below). This resolution is based in part upon Council actions in 1985 regarding proposed amendments to the U.S. Constitution then being considered by the House of Representatives.

Other Matters

During this conference the Intellectual Freedom Committee discussed several other matters which did not result in action recommendations. Among these were: a resolution from the Intellectual Freedom Round Table regarding integrity in research—deferred to the Dallas Conference; Computer Software Rentals Act (S. 2727)—referred to the Legislation Committee; definition of "librarian" in U.S./Canada Trade Pact—possibilities of joint action with journalists et. al. being pursued.

Members of the IFC and OIF staff are working together with members of the American Association of School Administrators toward an Intellectual Freedom Leadership Development Institute, to be held in February of 1990 in San Francisco.

In response to an increasing number of requests for such material, the IFC and OIF staff are also working to develop an intellectual freedom training guide and workshop outline for use by local library directors, so that they will be able to conduct intellectual freedom training sessions with their staffs for coping with complaints about library materials, and to be better prepared when the censor comes.

Last, the Intellectual Freedom Committee continued to wrestle with the vexing issues arising from the economic boycott imposed on South Africa: the selling of books and other materials published in the United States to South African libraries and the purchase by American libraries of materials published in South Africa. The Intellectual Freedom Committee is not at this time prepared to make a recommendation to Council.

I want to thank you and the Board for your support. I want to compliment the Office for Intellectual Freedom staff and the Washington Office for their assistance. Finally, I need to acknowledge the work of my Committee colleagues. All these make the impossible possible.

Thank you, and I look forward to seeing you at the Annual Conference in Dallas.□

Resolution on Challenging the Child Protection and Obscenity Enforcement Act of 1988

Whereas, the support and defense of freedom of speech and of the press, guaranteed by the First Amendment to the United States Constitution, is a priority of the American Library Association; and

Whereas, Article 3 of the Library Bill of Rights, as adopted by the Council of the American Library Association states, "Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment,"; and

Whereas, the American Library Association opposes the exploitation of children; and

Whereas, certain provisions of the Child Protection and Obscenity Enforcement Act of 1988 as enacted, including but not limited to the record-keeping and forfeiture provisions, impose a substantial chilling effect on the acquisition and dissemination of library materials which are protected by the First Amendment, and pose a serious threat to the collections, resources, services and operations of libraries;

Be It Resolved, that the Intellectual Freedom Committee urges that Council authorize the Executive Board to approve ALA's participation as a named Plaintiff in litigation being prepared by the Media Coalition on behalf of its members to challenge the constitutionality of the Child Protection and Obscenity Enforcement Act of 1988, pending review of the draft Complaint.—*Adopted January 11, 1989, by the ALA Council.* □

Resolution in Support of H.R. 50

Whereas, The American Library Association has demonstrated strong opposition to the Federal Bureau of Investigation's Library Awareness Program and other visits to libraries to investigate the identities and the activities of library users; and

Whereas, Congress, in holding hearings, has also shown concern for the chilling effect that these FBI library visits have had on the exercise of First Amendment rights in libraries by citizens as well as foreign nationals; and

Whereas, Congressman Edwards of California and Congressman Conyers of Michigan have introduced in the 101st Congress H.R. 50, "a bill to regulate the conduct of the Federal Bureau of Investigation in certain matters relating to the exercise of rights protected by the first article of amendment to the Federal Constitution"; now therefore be it

Resolved, That the American Library Association strongly supports the passage of H.R. 50; and be it further

Resolved, That the American Library Association expresses its deep appreciation to Chairman Don Edwards and the House Subcommittee on Civil and Constitutional Rights for their continuing interest and concern for protecting First Amendment rights of library users.—*Adopted January 11. 1989, by the ALA Council.* □

Resolution In Support Of Linguistic Pluralism

Whereas, Freedom of expression is the first of our liberties guaranteed by the Bill of Rights; and

Whereas, The freedom to read, an important component of the freedom of expression, is essential to our democratic society; and

Whereas, America's libraries fullfill a unique role in facilitating the freedom to read by making available a full range of resources and services to all individuals in our culturally and linguistically diverse nation, in the languages in common use in each community, in accordance with "Diversity in Collection Development: An Interpretation of the *Library Bill of Rights;* and

Whereas, English is *de facto* the primary language of the United States, and is important to national life, individual accomplishment, and personal enrichment and fulfillment; and

Whereas, Several states of the United States have enacted laws which could be used to discourage, abridge or deny the rights of citizens who speak languages other than English, thus inhibiting and limiting freedom of expression and access to resources and services; and

Whereas, Restrictionist language laws exert a chilling effect on the rights of citizens who speak and read languages other than English to inform themselves, to vote and to participate fully in the cultural and political life of the country; now therefore be it

Resolved, That the American Library Association strongly opposes all laws, legislation and regulations relating to language which have the effect of restricting or abridging pluralism and diversity in library collections and services; and be it further

(continued on page 57)

intellectual freedom bibliography

Compiled by Anne E. Levinson, Assistant Director, Office for Intellectual Freedom.

Abrams, J.M. and S.M. Goodman. "End of an Era? The Decline of Student Press Rights in the Wake of *Hazelwood School District* v. *Kuhlmeir. Duke Law Jouronal,* Spring 1988, p. 704.

Atkins, Robert. "Censor Sensibility." *Village Voice,* v. 33, no. 51, December 20, 1988, p. 116.

Barsamian, David. "Interviewing Michael Parenti." *Zeta Magazine,* January 1989, p. 100.

"Betraying Our Trust: A Status Report on First Amendment Rights." People for the American Way, Washington, D.C., 1988.

"Biology, Medicine and the Bill of Rights." Government Printing Office, Stock No. 052-003-01133-6. Washington, D.C. 20402-9325.

Boulding, Kenneth E. "Information: The Source and the Enemy of Knowledge." *California Media and Library Education Association Jouronal,* v. 12, no. 1, Fall 1988, p. 20.

Brenner, D. "Cable Television and the Freedom of Expression." *Duke Law Journal,* Spring 1988, p. 329.

Davidson, O. "The Bureau Goes to San Juan" [FBI and Police Surveillance of Independent Activists in Puerto Rico]. *The Nation,* v. 247, November 7, 1988, p. 456.

Fanning, D. "Fishing Expedition" [federal appeals court decision allows foreign governments to snoop through U.S. bank records of nationals]. *Forbes,* v. 142, October 3, 1988, p. 110.

Fields, H. "High Court Hears Arguments in Indiana Bookstore Case." *Publishers Weekly,* v. 234, October 14, 1988, p. 19.

F.O.I.—1988-89. Society of Professional Journalists, Sigma Delta Chi, 1988.

Florman, S.C. "Liberating Technologies." *Technology Review,* v. 91, October 1988, p. 18.

"Free Speech and the 'Acid Bath': An Evaluation and Critique of Judge Richard Posner's Economic Interpretation of the First Amendment." 98 *Michigan Law Review,* November 1988, p. 499.

Goodman, M. "Student Press Freedom: One View of the *Hazelwood* Decision." *NASSP Bulletin,* v. 72, November 1988, p. 38.

Hawkins, Gordon and Franklin G. Zimring. *Pornography in a Free Society.* Cambridge University Press, 1988.

Hentoff, Nat. "Is the Supreme Court Ready for TV?" *Village Voice,* v. 33, no. 49, December 6, 1988, p. 29.

Herman, Edward S. and Noam Chomsky. *Manufacturing Consent: The Political Economy of the Mass Media.* Pantheon, 1988.

Hertsgaard, Mark. *On Bended Knee: The Press and the Reagan Presidency.* Farrar, Straus & Giroux, 1988.

"The Imposition of Strict Civil Liberty on a Media Defendant for Publication of Truthful, Lawfully Obtained Information." 18 *Stetson Law Review,* Fall 1988, p. 119.

Jones, D. Gareth. "Coping with Controversy: Conflict, Censorship and Freedom Within Evangelicalism." *Perspectives on Science and Christian Faith,* v. 40, no. 1, March 1988, p. 32.

Knight, R. "Liberties Fall Victim to the Latest IRA Surge." *U.S. News and World Report,* v. 105, November 7, 1988, p. 47.

Kosulandich, Roseann. "A Catholic School View." *California Media and Library Education Association Journal,* v. 12, no. 1, Fall 1988, p. 14.

Krug, Judith F. "The Impact of the Reagan Years on Intellectual Freedom." *California Media and Library Education Association Journal,* v. 12, no. 1, Fall 1988, p. 8.

Mackenzie, Angus and Eve Pell. "Bush Says Shush." *The Nation,* December 26, 1988, p. 708.

Maremont, M. and K. Kelly. "Thatcher's Crackdown Could be a Boon to the IRA." *Business Week,* November 7, 1988, p. 57.

McDermott, J. "Spycatcher: Secrets and the Public Interest." 183 *New Law Journal,* October 21, 1988, p. 762.

Meyerson, M.I. "The Right to Speak, the Right to Hear and the Right Not to Hear: The Technological Resolution to the Cable/ Pornography Debate." 21 *University of Michigan Journal of Law Reform,* Winter 1988, p. 137.

Newman, M. "Founding Feathers" [role of the Iroquois in the development of the U.S. Constitution]. *The New Republic,* v. 199, November 7, 1988, p. 17.

Parini, Jay. "Academic Conservatives Who Decry 'Politicization' Show Staggering Naivete About Their Own Biases." *The Chronicle of Higher Education,* v. 35, no. 15, December 7, 1988, p. B1.

Pfeffer, L. "How Religious is Secular Humanism?" *The Humanist,* v. 48, September-October 1988, p. 13.

"Prisoners' First Amendment and Marriage Rights in Conflict with Prison Regulations." 56 *University of Missouri at Kansas City Law Review,* Spring 1988, p. 589-602.

Rea, Zhita. "Steps to Leadership." *California Media and Library Education Association Journal,* v. 12, no. 1, Fall 1988, p. 16.

"RICO: The Predicate Offense of Obscenity, the Seizure of Adult Bookstore Assets and the First Amendment." 15 *Northern Kentucky Law Review,* 1988, p. 585.

Rogers, T. "The Schoolbook Protest Movement: A Warning for Art Educators." *Art Education,* v. 41, September 1988, p. 6.

Ryback, Timothy W. "Red Suede Shoes." *The New Republic,* January 9 and 19, 1989, p. 13.

(continued on page 60)

NEWSLETTER ON INTELLECTUAL FREEDOM
50 East Huron Street • Chicago, Illinois 60611