

newsletter
on
intellectual
freedom



IFC ALA

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**“most
censored”
stories
of 1989**

The growing threat of a handful of monopolistic global media lords to the international marketplace of ideas was named the top under-reported issue of 1989 according to a national panel of media experts. Ben Bagdikian, professor at the graduate school of journalism at the University of California, Berkeley, warned that mammoth private organizations, driven by the profit motive, already dominate the world's mass media and threaten the freedom of information which is the basis for all liberty.

The second most under-covered story of the year, cited by *Project Censored*, described how international sludge dealers are turning Africa into the world's toxic waste dump; the third ranked story revealed how U.S. officials are supporting “one of the most brutal holocausts since World War II” in Mozambique.

Now in its 14th year, *Project Censored*, a national media research effort conducted annually at Sonoma State University, California, locates stories about significant issues which are not widely publicized by the national news media.

Following are the top ten under-reported news stories of 1989 as announced by project director Carl Jensen, professor of Communication Studies at Sonoma State University:

1. *Global Media Lords Threaten Freedom of Information.* Five major media corporations already dominate the fight for hundreds of millions of minds throughout the world and they concede that before the turn of the century they may control most of the world's important newspapers, magazines, books, broadcast stations, movies, recordings and video cassettes.

2. *Turning Africa Into the World's Garbage Can.* Africa, already suffering from poverty, drought, famine, locusts, “contra” wars, and the AIDS epidemic, appears destined to become the world's toxic waste dump as international sludge dealers try to dump U.S. and European waste onto at least 15 African countries.

3. *The Holocaust in Mozambique.* A U.S. State Department official has called the attacks by the Mozambique National Resistance (RENAMO) “one of the most brutal holocausts against ordinary human beings since World War II.” More than one million, mostly innocent men, women, and children have already died. RENAMO is reported to be funded by South African sources and conservative, right-wing groups in the United States and Europe.

4. *America's Deceitful War on Drugs.* The government's war on drugs is more hype than reality. One of the nation's top narcotics prosecutors quit in frustration last year after State Department officials interfered in his investigations of top people in the cocaine

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

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NEA, Mapplethorpe controversies continue

As the *Newsletter* went to press in mid-June, members of Congress, White House officials and the chair of the National Endowment for the Arts (NEA) were working to try to resolve a thorny Congressional standoff about the sorts of restrictions that could be imposed on federal support of the arts. At the same time, preparation continued for the obscenity trial of the Contemporary Arts Center in Cincinnati, where a controversial exhibition of photographs by Robert Mapplethorpe was exhibited this spring. Criticism by Sen. Jesse Helms (R-NC) and other members of Congress of the Mapplethorpe exhibition, which was canceled by the Corcoran Gallery in Washington in June, 1989, began the long-simmering — and now boiling — controversy over federal arts funding.

The 25-year-old legislation that established NEA expressly prohibits government interference in artistic decision-making. But pressure from the religious Right and Republican conservatives led last year to the inclusion of a ban on the funding of obscenity in the Endowment's authorization legislation. The ban was perceived by many as a relatively harmless compromise.

This spring, however, Helms and other conservative legislators pressed for greater restrictions and some called for an end to the Endowment entirely. The Bush administration, along with NEA chair John E. Frohnmayer, have resisted imposing any language that would restrict artist subject matter. But the political impasse in Congress led administration officials, led by William Kristol, the Vice President's chief of staff, to seek some sort of compromise.

"There is pressure from all over the place, which is one reason we hope we can work out some resolution on this," said a senior White House official. "President Bush has said many times that he does not favor censorship, and he trusts people over at NEA to exercise good judgement."

In a meeting June 12 with Frohnmayer and Kristol, Rep. Paul B. Henry (R-MI) proposed that this language be added to the NEA funding bill: "The chairman and the National Council for the Arts shall insure that any award, grant, loan, or other form of support provided under this act demonstrates a commitment to artistic excellence, which is sensitive to the nature of public sponsorship, and does not deliberately denigrate the cultural heritage of the United States, its religious traditions, or racial or ethnic groups."

"The chairman and the National Council for the Arts shall insure that any award, grant, loan or other form of support provided under this act does not violate prevailing standards of obscenity or indecency."

Rep. Henry said: "I have talked to a wide range of people on this issue, and I am encouraged by their reactions to this language. I tried to address the constitutional problems of trying to develop legislative language, which deals with obscenity on one hand and at the same time responds to very

legitimate public concerns of the use of public funds."

Rep. Pat Williams (D-MT), who has been leading the House fight against legislative language that would impede the Endowment's freedom to make artistic judgements, said he could not support such language. "Mr. Henry has found what we have all found out," he said. "It is exceedingly difficult when dealing with subject restrictions to do that in a way to keep the censorship genie in the bottle and develop language that is benign. I suggest this language would probably result in mischief with regard to subject matter restrictions."

Support for the NEA appeared to be slipping partly as a result of an anti-pornography group's effort to blanket Congress with angry letters and copies of what it claimed are obscene pictures of an NEA-funded exhibit. After receiving some 300-400 anti-NEA letters and postcards as a result of a mail campaign by Rev. Donald Wildmon's American Family Association (AFA), Rep. James Saxton (R-NJ) was quoted as saying: "I think NEA reauthorization is in serious jeopardy."

Rep. Dean Gallo, another New Jersey Republican, reportedly sent a letter to NEA chair Frohnmayer after receiving an envelope containing copies of a number of explicit photographs and drawings sent by the Wildmon group. According to Wildmon, the images, part of an exhibit by photographer David Wojnarowicz, show a man licking a cow's rectum, a man licking another man's rectum, and Jesus Christ shooting up heroin. The Christ image was also used as the focus of a mailing to members of Congress in March by NEA opponent Rep. Dana Rohrabacher (R-CA).

It's not the kind of mailing you can send to the general public," Wildmon said of the photos his group sent to Congress. "I could be prosecuted by the U.S. Postal Service for that mailing. What I'm trying to do is put it into the hands of key leaders."

The mailing came almost seven weeks after the closing of the exhibit at the University Galleries of Illinois State University in Normal, Illinois. The show, funded in part by a \$15,000 NEA grant, ran from January 23 to March 4 and included more than 60 works. Six thousand people saw the show and only two registered protests, according to gallery director Barry Blinderman. After the show closed, and after Wildmon began to publicize the exhibit, the galleries received about fifty protest letters.

The exhibit included eight montages that made up a sex series, Blinderman said. The Wildmon mailing included blow-ups of insets that depict sexual images. "They've gone through the entire 128-page catalogue, which contains something like 140 illustrations, and they've just zeroed in on these insets, not showing you the collage, which could show you what it's about," he said. "They've taken a 6 foot by 9 foot work and given you one little scene."

Art experts likened the cropping to selective reproduction of details of Michelangelo's frescoes on the ceiling of the

garbage in, garbage out?

A recent poll commissioned by People for the American Way suggests some contradictory attitudes about art and censorship. According to the report, 84 percent of those surveyed agreed that the National Endowment for the Arts "should leave funding decisions for art projects to diverse panels of artists and citizens." But 53 percent of the same survey group think "art should be censored if it offends a majority of people." Although 74 percent agreed with the proposition that "censorship of the arts is not the American way," 51 percent believe that the NEA "should require artists who receive grants to sign an oath regarding the content of their art." Perhaps Americans are confused, but, then again, perhaps if you ask loaded questions you get worthless answers. Reported in: *The New Republic*, June 4. □

Sistine Chapel at the Vatican, which includes at least 19 penises on nude males.

While opponents of NEA funding were deluging Congress with such imagery, members of the arts community were also active. The Washington Project for the Arts, which last year hung the Mapplethorpe exhibit after the Corcoran declined to show it, said that it would strike a key phrase from the current anti-obscenity pledge required to qualify for a \$50,000 NEA grant. Shortly afterward, Joseph Papp, head of the New York Shakespeare Festival, said his group would decline a \$50,000 grant to protest the oath.

Meanwhile, in Cincinnati, Judge Carl B. Rubin ruled April 8 that the Mapplethorpe photographs could not be removed from the Contemporary Arts Center before the museum was tried on obscenity charges. The ruling guaranteed that the controversial exhibit would remain open throughout its scheduled stay.

The indictment against the museum was handed down by a grand jury the previous day. It accused the center and its director, Dennis Barrie, of two misdemeanor counts each: pandering and using minors in pornography. The maximum penalty for misdemeanors is six months in prison and a fine.

Judge David Albanese, a former assistant prosecutor who spent six years working for Cincinnati's crusading anti-pornography sheriff, was selected to preside over the case. Judge Albanese worked from 1975 to 1981 for Simon Leis during Leis's 12-year tenure as Hamilton County prosecutor. Leis, who became sheriff in 1983, called the Mapplethorpe photos "criminally obscene." In the past, he battled works he perceived as pornographic from the musical *Hair* to the shows *Oh, Calcutta* and *Equus*. He also succeeded in banning *Hustler* magazine from Cincinnati stores.

Louis Sirkin, attorney for the museum and director Barrie, said assignment of the case to Albanese could be worse. "There may be a few of our municipal judges that I think are stronger intellectually, but there are quite a few that would have made me a lot unhappier than Judge Albanese," Sirkin said. "He's kind of middle of the road. The bottom line is, he'll let us try our case."

As the exhibit opened, thousands of people lined up to see the controversial photographs. A block-long line formed outside, while inside hundreds stood five deep in a line that wound down a block-long atrium and back. Five thousand people attended an opening night preview and another 1,500 came on the second day — the largest crowd ever for an art exhibition in Cincinnati.

"I'm here to make a social statement, whether I enjoy the art I view or not," said Barton Canfield, a museum member standing in line. But as crowds gathered around the pictures, the sheriff's department ordered the temporary evacuation of the exhibit so that it might be videotaped by department officers. The evacuation was stalled, however, by the crush of protesters outside who formed a bottleneck at the entrance chanting "Tienanmen Square!" and "The whole world is watching!"

Patrons inside voiced outrage and embarrassment at the disruption. "We are the laughingstock of the country again," said graphic artist Richard Ringo as police ushered him and hundreds of others to the exit. "Just as totalitarianism is crumbling in eastern Europe, we have it right here in Cincinnati."

Cincinnati is the headquarters for the National Coalition Against Pornography. By law there are no bars that allow nude dancing, no peep shows, no adult bookstores. Residents cannot rent adult movies at video stores or buy hard core magazines. However, despite the city's anti-pornography reputation, a poll taken by the *Cincinnati Post* suggested that a majority of adults in the city opposed censorship of the exhibit.

According to a survey conducted for the newspaper by the University of Cincinnati's Institute for Policy Research, 58.9 percent of respondents said the museum should be allowed to display the explicit Mapplethorpe photographs. Slightly more than 55 percent of respondents said that "government officials and the courts should have no role at all in deciding what art museums can display."

A majority of the 561 adults surveyed in the random telephone poll believed the exhibit did not meet any of the Supreme Court's three criteria for obscenity. Nearly 56 percent said the show did not offend their personal standards and 50 percent said it did not appeal to an unhealthy interest in sex. Of those surveyed, 96.1 percent had heard about, read about or had seen the exhibit.

(continued on page 142)

record industry unveils warning labels

On May 9, Jay Berman, president of the Recording Industry Association of America (RIAA), unveiled the uniform logo developed to help consumers identify recorded material containing lyrics that deal explicitly with sex, violence or substance abuse (see *Newsletter*, May 1990, p. 75). The black-and-white sticker, which reads "Parental Advisory — Explicit Lyrics," represents a development in the system of voluntary labeling of recordings that has been in place since 1985. The logo, which will be standard in size, color and placement, will be placed on the permanent packaging in the right-hand corner, underneath the cellophane wrap.

"Our industry has attracted a great deal of attention about explicit lyrics and reports on how parents feel about lyric content. Lawmakers in some states would like to believe that a national movement of outraged parents is afoot," Berman said, referring to mandatory lyric labeling bills that were being considered at one time in 21 states. "We believe now as we have since 1985 that most people favor a voluntary system." Berman said that virtually all of the RIAA's 92 member companies had agreed to use the new system.

Tipper Gore, president of the Parents Music Resource Center (PMRC), applauded the standardized label, saying, "The music industry has affirmed its responsibility to alert consumers to graphic material in a way that fully protects the rights of artists to express themselves while recognizing the rights of consumers to know the content of music products before purchase."

The original announcement in March by RIAA that a standard label would be adopted led quickly to a halt in efforts by state legislators to pass labeling laws. At an April 5 press conference in Washington, the National Association of Recording Merchandisers and the PMRC released statements from legislators in Alaska, Arizona, Illinois, Iowa, Kansas, Maryland, Minnesota, New Mexico, New York, Oklahoma, Rhode Island, Tennessee and West Virginia that they were withdrawing their bills or would not submit planned bills. In May, Pennsylvania state Rep. Ron Gamble said that while his bill had passed the Pennsylvania House, given the adoption of the RIAA label, "we will make no efforts to move the bill" in the state Senate. "However," he warned, "in a year's time, if we are not satisfied, not only we, but other legislators as well, will be going back to the drawing boards."

In Delaware, state Rep. V. George Carey said that "half a loaf is better than none and I will probably strike my bill." Carey was initially skeptical of the black-and-white sticker — most bills mandated fluorescent yellow — but said, "maybe it will draw more attention than not."

But if the labeling plan prevented the adoption of state music censorship schemes, its chilling effects were already being felt among music listeners. Writing in *Rolling Stone*

magazine, reporter Michael Goldberg charged that the threat of state-mandated labeling laws had been exaggerated by industry leaders, who caved in to censorship.

"Prolabeling advocates have created the impression that thousands of unsavory records are being pushed down the throats of American children each year. In fact, although some 7,500 albums were released between January 1986 and August 1989, the PMRC has singled out only 121 albums, including 49 that already had warning labels," he wrote in an article published in the May 31 issue. "Currently, no record-labeling laws are on the books. Much of the proposed legislation had little chance of becoming law and almost no chance of passing a constitutional challenge in federal court."

According to Goldberg, although the stickers are theoretically just a warning device for parents, increasingly record stores will not sell stickered albums to minors. As of May, over 1000 stores had such rules, including the 248 stores of the Camelot Records chain and the 450 stores owned by Trans-World Corporation.

It is easier for stores to institute a "no minors" policy than to take the heat. "We don't want to pull any records," said Camelot's Jim Bonk, the new head of the National Association of Recording Merchandisers. "But we have to do business in these communities." The fear of arrest and prosecution — as happened to record dealers in Alabama and Florida — has also led retailers to remove stickered albums entirely.

"We can't afford to be shut down," explained Tom Anderson, general manager of Circles Records in Phoenix, Arizona, where anyone buying a stickered album must show proof of age. "I don't want to be the test case."

Although the Washington-based PMRC has gotten the lion's share of attention with regard to lobbying for labeling, other groups are also active. Missouri state representative Jean Dixon, who last year attempted to block performances of *The Normal Heart*, a play about AIDS, in Springfield, Missouri, introduced the first labeling legislation in the nation and has circulated nationally materials in support of record labeling. Dixon seems to equate rock music with the occult. "Rebellion is like witchcraft," she says. "That's what it is, it's like witchcraft."

Dixon was encouraged by Shirley Marvin, a lobbyist for Eagle Forum. In addition to her work with Eagle Forum, Marvin founded Missouri Project Rock after hearing Tipper Gore give a lecture at an Eagle Forum seminar in 1985. Missouri Project Rock's brochure lists the Rev. Shane Westhoelter as its director of music research. He believes the Star of David and the Hebrew alphabet are used as Satanic symbols. He sells audiotapes that include antisemitic remarks and refer to Martin "Lucifer" King. Westhoelter also claims that when played backward songs by Bruce Springsteen and Elvis Presley proclaim their devotion to "Lord Satan."

"The PMRC is merely a PR front to make the goals of the religious extremists look moderate and mainstream," says

Phyllis Pollack, a journalist who has followed the group's activities since 1985. In addition to its work with Eagle Forum and Missouri Project Rock, the PMRC has long endorsed the Peters brothers, two itinerant ministers who have made a career out of conducting record burnings at churches around the country. (Many of these burnings have been reported in the *Newsletter* over the past decade.) Dan and Steve Peters brag in their book *Why Knock Rock?* — a title on the PMRC's official recommended reading list — that their record burnings have accounted for the destruction of some \$10 million worth of albums and tapes. They state in their book that "rock music appears to be one of Satan's grandest schemes."

PMRC cofounder Sally Nevius has said of the Peters brothers: "It was guys like them who got the rock & roll wrecking ball swinging in the right direction."

"Five years ago the idea of labeling records was seen as a serious threat to freedom of expression," Goldberg wrote in *Rolling Stone*, "yet most [record] label heads now easily accept stickers, and some even think it's okay for retailers to institute eighteen-or-over sales policies." The new climate is also affecting what is recorded. RCA president Bob Buziak said he asked a new act to remove the word "motherfucker" from an old blues song. The group ended up dropping the song entirely rather than alter it.

"Three years from now you'll have a rating board," predicted Jeff Ayeroff, managing director of Virgin Records. "We'll have to submit records to a rating board, like films. Give me a break." Reported in: *New York Times*, April 6; *Washington Post*, May 10; *Rolling Stone*, April 19, May 31; *Variety*, April 4. □

Thornburgh Justice Department pushes obscenity prosecutions

In 1986, then Attorney General Edwin Meese created the Justice Department's well-funded National Obscenity Enforcement Unit upon the recommendation of his Attorney General's Commission on Pornography. Under Meese's successor, Richard Thornburgh, the unit continues to flourish and has become, according to attorney Martin Garbus, "the darling of the Bush administration's most conservative members." Indeed, 1989, the first year of the Bush administration, saw a 400 percent increase in obscenity prosecutions over the previous year, which followed a 100 percent increase from 1987 to 1988.

Thornburgh has told U.S. attorneys that he considers prosecution of "pornographers" a priority, and in October sent out a memo reiterating that position. The attorney general recently authorized the unit to hire four more lawyers, and is seeking to increase its budget to \$1.7 million for the next fiscal year. The budget for the current fiscal year is \$1.57 million.

Since its inception, the unit has drafted federal and state anti-obscenity legislation and lobbied with federal and state agencies to enforce obscenity laws. It has begun its own prosecutions, and has held consultations with state agencies and prosecutors. According to Garbus, writing in the *New York Times*, the unit "knows it cannot fundamentally change obscenity laws. It is determined not so much to roll back the Warren Court's definition of obscenity as to use federal funds and resources to condemn life styles it disapproves of and to stop what it perceives as the excesses of art."

In the last two years, the unit, working with U.S. attorneys in the field, has forced four nationwide adult-oriented mail-order companies out of business, largely by hitting them with the expense of defending obscenity charges in several states at once.

Because of the Supreme Court's community standard test adopted in the landmark 1973 case of *Miller v. California*, federal and state prosecutors can bring suits against booksellers and video distributors in 50 states and 95 federal judicial districts. If they lose in one, they can file suit in another. Prosecutors bring charges primarily in conservative communities where they have a greater chance of impaneling a jury that will judge sexually oriented materials obscene. In defending the concept of multi-state prosecutions, Mary Spearing, an Enforcement Unit prosecutor, said this "deliberate statement" was intended to create a "greater deterrent." In fact, even if a distributor is found innocent of all obscenity charges, in all states and judicial districts, the costs of defending against multiple prosecutions might be more effective in halting the circulation of legal materials than a single conviction might have in stopping distribution of items found obscene by a jury.

The unit has piled up convictions in 15 states, with fines totaling more than \$3 million. In six instances, prison terms were included in sentences. In March, the unit forced Karl Brussel, a Connecticut-based distributor, to plead guilty to distributing obscenity in Virginia, North Carolina, and Alabama. Brussel earlier filed a suit against the unit's harassment, but dropped it after pleading guilty. Garbus, Brussel's lawyer, said the movies at issue were less explicit than those available in local video clubs.

Last month, a North Carolina-based distributor called Adam & Eve, which annually sells \$20 million in contraceptives and adult magazines and movies, filed suit against the unit, charging illegal harassment. The company's owner, Philip Harvey, said he had been threatened with federal prosecution in Kentucky and Utah unless he cuts his inventory to only R-rated movies.

Bruce Ennis, Adam & Eve's attorney, charged that the unit is "a cadre of zealots" waging a "personal moral crusade" to censor sex-related speech. "We think it's clearly violating the First Amendment . . . to threaten prosecution for the bad faith purpose of stopping people from distributing protected speech," he said. Reported in: *Chicago Tribune*, April 6; *New York Times*, April 28. □

AAParagraphs embattled intellectuals

Librarians, who live by the free circulation of materials and ideas, might understandably look on with wonder — and perhaps a measure of complacency — as their colleagues in intellectual pursuits tussle with knotty freedom of information issues.

In Washington, D.C., historians complained bitterly that “an alarming increase in the proportion of documents withheld from publication owing to security concerns” was denying them access to State Department records sufficient to assure the accuracy of an official periodical series on American foreign relations. The chairman of an historians’ advisory committee of scholars resigned because he felt he could no longer “protect the integrity of the series” (see page 144).

And on Long Island, a New York state trial court judge used strong language to rebuke the board of a community college for refusing to give access to a film on human sexuality to a group denouncing its use in a course on family life and apparently bent on arousing community opposition (see page 140).

Lest their wonder turn to smugness, librarians might well ponder when and how they will next feel the not-unfamiliar chilling atmosphere of anti-intellectualism and obsession with secrecy that ALA’s Office for Intellectual Freedom has documented statistically as on the increase for a decade.

The historical series involved in the historians’ protest is entitled *Foreign Relations of the United States*, dates back to 1861, and is drawn from official State Department documents to which historians have traditionally been accorded full access with few security restrictions. But now, the Organization of American Historians has written to Secretary of State Baker, the series is experiencing “declining credibility,” and Dr. Warren I. Cohen of Michigan State University has resigned as chairman of the scholars’ advisory committee because the department has been withholding documents and tightening access to its files.

In an editorial entitled “History Bleached at State,” *The New York Times* (May 16) notes that the CIA’s widely recognized role in the 1953 restoration of the Shah of Iran was “fastidiously expunged” from the official history entitled “Iran, 1952-54” and calls this “*Hamlet*—without the prince of Denmark — or the ghost.” The *Times* cites a letter of concern from two Senate chairmen — Claiborne Pell of Foreign Relations and David Boren of the Select Committee on Intelligence — that advises Baker that deletions “should occur only rarely, and after a thorough and informed review by qualified historians to assure that the omissions are genuinely necessary.”

On Long Island, a group called Citizens for a More Informed America filed suit under New York’s freedom of information law for access to the sexuality film and records

associated with the kind of family life course that is taught on a vast number of U. S. campuses. The group contends that their tax money should not be used for teachings they find offensive.

The initial response of Nassau Community College — that the film could be viewed by anyone registered for the course, but should not be viewed outside of its educational context — led to a voluminous exchange of court papers. The provost and vice chancellor for academic programs of the State University of New York (SUNY), intervening in the local case, contended: “The development of curricula and the selection of course materials at both the community colleges and state-operated institutions of SUNY involve many layers of review and consultation between faculty and college administrators. Mandatory public access to academic course materials could make decisions about such materials vulnerable to pressure from groups and individuals external to the college who have neither responsibility for nor expertise in curricular matters. . . .”

But, in a decision now being appealed, Justice George A. Murphy of New York Supreme (trial) court, quoting from Montaigne and FDR on the fear of fear, found for the citizen group and rejected the college’s claim that academic freedom protected the curricular materials from public access under the freedom of information law.

That contention Justice Murphy termed “irrelevant,” saying that “it cannot possibly have anything to do with the basic and essential right of the citizen to inquire about and have informative access to any entity of government in those areas of function not expressly proscribed to public scrutiny by law.”

The college board, the judge wrote, “totally misreads, misunderstands and misapplies the freedom of information law’s high purpose, worthy objective and limited application . . . An institution that is dedicated to the pursuit of information and truth ought not to place itself, mistakenly, against affording that same democratic freedom to the people who support it. Such a public posture is lamentable as incongruous, timid, suspect, groundless and totally unjustified.”

If these controversies improbably disappear soon, others will no doubt take their place. □

This column is contributed by the Freedom to Read Committee of the Association of American Publishers and was written for this issue by Richard P. Kleeman, consultant to the Committee.

Vermont school libraries: 1990 intellectual freedom survey

by John Swan

Following hard upon our fall 1989 censorship survey of public, academic, and institutional libraries, the Vermont Library Association Intellectual Freedom Committee (IFC) conducted its first survey focusing particularly on school libraries. This was accomplished principally by Leda Schubert of the Vermont Department of Education, who arranged the distribution of our survey form to all of the 450 schools in the state (public and private), and Stephen Wolter of the IFC, who processed and reported the results.

Although only about 10% of the school libraries responded, the often thoughtful and revealing returns still tell us something about the climate for intellectual freedom in Vermont, which, as in the rest of our libraries, seems to be generally good, if not entirely untroubled. (It should be noted that a fairly large number of schools do not have librarians, which naturally reduced the number of respondents.) For the record, two titles that were challenged in Bennington-area schools, which did not turn up in the survey, should be mentioned. Both resulted in successful defenses against censorship efforts: David Budbill's *Dorothy Canfield Fisher Award-winning Bones on Black Spruce Mountain* (attacked principally for a few obscenities, but defended unanimously by the Bennington School Board) and Anthony Browne's highly praised *Piggybook* (attacked as "sexist," but successfully defended through informal negotiation.)

As the following results show, some familiar troublemaking authors and themes appear in this survey: Judy Blume, Robert Cormier, works on sex education. As in the fall survey, few libraries report that they give "questionable" materials special treatment (only 3%, versus 7% in the general survey). A greater percentage of school libraries have adopted selection policies than have other kinds of libraries (93% versus 67%), which is fortunate, since school libraries are most often the front line in defense against censorship. This is demonstrated in the number of reported complaints: 23% of the school libraries, compared with only 13% in the fall survey.

In both the school library survey and the general survey, only one complaint resulted in the actual filing of a complaint form, a fact which points up the importance of dialogue and negotiation. Four respondents on both surveys reported the practice of "kicking a book upstairs," or redirecting it to an older age group in response to a complaint. On the other hand, responses to questions about specific titles revealed much patient, firm defense of the principles of freedom (as well as some, but not much, surrendering to the censor). This includes a couple of examples of the laudable practice of adding materials with an opposing point of view, rather than reducing access, as in the case reported concerning literature about South Africa. □

booksellers blast censorship

When the American Booksellers Association (ABA) placed a full-page advertisement in 30 newspapers April 23, to protest increasing censorship efforts, the response was tremendous. More than 32,000 people responded to the ad in the next four days, mailing back the clip-out ballot at the bottom of the page and frequently adding a personal message — "congratulations" or "we're with you."

"We believe attempts to censor the ideas to which we have access — whether in books, magazines, plays, works of art, television, movies or song — are not simply isolated instances of harassment by diverse special interest groups," the ad said. "Rather, they are part of a growing pattern of increasing intolerance which is changing the fabric of America."

The association's ad was prompted in part by recent efforts by the Mississippi-based American Family Association (AFA), led by the Rev. Donald Wildmon, to organize a nationwide boycott of Waldenbooks, America's largest bookstore chain, because it sells *Playboy* and *Penthouse* magazines. Waldenbooks paid most of the \$400,000 cost of the ads and the chain's president, Harry Hoffman, co-signed it.

"I think we've got to start galvanizing public opinion against censorship and make people realize it is a growing problem," Hoffman said.

The fight began last fall when the AFA's Florida chapter asked Waldenbooks and other retailers to stop selling the magazines, declaring the organization would alert the public to their practice of selling "pornography" if they didn't stop. Waldenbooks then joined with *Playboy*, the ABA and various magazine distributors to sue AFA's Florida director under the Federal Racketeer Influenced and Corrupt Organizations Act (RICO), alleging the AFA tried to coerce them to stop doing something they have a legal right to do.

Rev. Wildmon said he did not mind the ad campaign because it "will let more people know they [Waldenbooks] are selling pornography." But he objected to the lawsuit. "I suppose the American Family Association and the Mafia are two peas in a pod," he said. "The only people I know that can censor is the government. Waldenbooks can sell anything they want to sell. But if they elect to carry pornography, we elect not to do business with them. We also elect to encourage people not to trade with them, through mailings and other means. We have a constitutional right to do that."

But Hoffman disagreed. "The basic issue in this lawsuit is crucial," he said. "Do Americans have the right to buy — and stores the right to sell — constitutionally protected material?" Reported in: *New York Times*, April 23; *Wall Street Journal*, April 20; *Chicago Tribune*, April 29. □

copyright dateline



libraries

Dalton, Georgia

For the first time in the library's history, a group of citizens has asked the Dalton Regional Library system to remove from its shelves several books it finds offensive. The books are the "Mission Earth" series by science fiction author L. Ron Hubbard, founder of the Scientology movement. The Concerned Citizens for a Better Library requested that the books be removed or labeled for adult reading only so that children could not check them out.

The controversy began in March after an elementary school student obtained one of Hubbard's books from a library bookmobile. His mother found passages objectionable and members of the citizens' group decided to investigate all of Hubbard's writings.

"We found repeated passages involving chronic masochism, child abuse, homosexuality, necromancy, bloody murder, and other things that are anti-social, perverted and anti-everything," said attorney Phil Woodward, a member of the group. "We were very concerned about the content of these books and their availability to children. Our concern was the choice of books, as extreme as these books are, when others are available and the funds of the library are limited, and the books' availability to children."

The library's Collection Development Committee met March 27 to review the group's requests. Commending the parent for "the care and interest she took in her child's reading," the committee decided to keep the materials on the shelves. The Concerned Citizens group was entitled to appeal the decision to the library board, and members suggested that they would eventually take such action. Reported in: *Dalton Citizen-News*, April 28.

Algona, Iowa

A decision by the Algona Public Library board to remove all 350 videos from the library's shelves was overturned May 16, as the library board adopted a new policy requiring borrowers of videocassettes to be at least 18-years-old to check them out. Library co-director Claudia Warner said she was pleased that the board voted to return the videos to circulation, but she accused board members of sidestepping the issue at hand and discriminating against children who use the library.

"I think the [new policy] restricts children's access to library materials," Warner said.

Previously, the library board voted 5-3 April 18 to remove the collection after a parent complained that a child had seen the R-rated film *Coming Home*. The film, which has scenes of nudity, was checked out by the minor. The decision to return the videos to the collection with restrictions was unanimous.

Board member Chuck Bloom, who originally voted to remove the videos, said some board members were uncomfortable with the provision in the *Library Bill of Rights* that guarantees access to materials by patrons of all ages. "My thinking is . . . if you were a 12-year-old and wanted to check out *Fatal Attraction*, they would not let you check it out," Bloom said. "But in a library, you are guaranteed the right to check it out. We as a group felt strongly that we did not want our children to feel free to go into the library and check out any material they want."

Bloom said there was some discussion of pulling only the library's seven R-rated titles, but he said removing only some movies would be censorship. "You either go none or all," he said.

Board Chair Michael McNeill said the board also was concerned that the library was taking business away from local video stores, since the library does not charge for rentals.

According to the new policy adopted in May, the library will require videocassette borrowers to sign a lending agreement each time they check out a video. Because only adults can sign such agreements, videocassettes will be loaned only to library users who are at least 18. Parents must accompany their children to the library to check out videos, board members said, and a new lending agreement must be filled out each time. Reported in: *Des Moines Register*, April 20; *Fort Dodge Messenger*, May 17.

Berlin, Maryland

Angel Dust Blues, by Todd Strasser, was ordered removed from the library at Stephen Decatur High School after Terry Greenwood, assistant superintendent of schools for Worcester County, complained about it. According to an account in the school's student newspaper, principal Tommy Tucker removed the book in February and read several passages that Greenwood found questionable because of their strong language and explicit sex. Tucker then handed the book over to Greenwood.

According to Greenwood, his attention was drawn to the book after a parent at Berlin Middle School voiced concern over its language. Although no formal complaint was filed at either school, Berlin principal Jesse Lynch discussed the parent's objections with the media specialist and Greenwood, who then asked Lynch to turn over to him the school's only copy.

According to district policy, a formal complaint must be lodged before a book can be removed from the shelves of any school library. According to media specialist Cynthia Gore, the issue was not whether or not the book should be removed. "I think the issue is that the book should go through the review process."

But Greenwood said the issue would not be reopened. "That book is in my office for the intent purpose of not being on the shelves," he said. As for district policy, Greenwood remarked: "If we followed all of the policies all of the time, we would have a meeting of the censorship board every week." Reported in: *Stephen Decatur H.S. Hawkeye*, April 30.

Frederick, Maryland

Two library books whose titles refer to the occult remain available to some Frederick County students, but a parent's complaint prompted school officials to remove one of the volumes from her child's middle school. *Stars, Spells, Secrets and Sorcery: A Do-It-Yourself Guide to the Occult* was removed from the library at Brunswick Middle School and restricted to high school libraries. The second book, *Curses, Hexes & Spells*, will remain in middle schools despite the parent protest.

The ruling was made May 2 by the Frederick County Board of Education on a 5-2 vote. It came after a review committee of administrators, teachers, students and parents found that "both books conformed to the guidelines for selection of school library materials" and that "the language, content and difficulty level of the books [are] appropriate for students in grades six and up." Reported in: *Frederick News*, May 3.

Minneapolis, Minnesota

When Becky Tighe's 12-year-old daughter checked out *The Painted Bird*, by Jerzy Kosinski, from her school library, she didn't know that it was a brutal story of a boy surviving the Holocaust. But once she found out, a chain of events began that led the Robbinsdale school district to remove the book from Sandburg Middle School library.

Tighe said the novel had no place in a middle school because it graphically depicts rape and other acts of violence and horror. "If you look at the book, the appearance of it is so thoroughly innocuous, there's nothing to make you think that there's that level of brutality inside of it," she said. "I am saying that my daughter never wanted to read that. She just wanted a good story to read, and she was ambushed."

A committee of school officials looked into the complaint and agreed. As a result, the district transferred the books from the middle school to a high school library. "The senior high can't get enough copies. It's a very popular book," explained Robert Cameron, director of secondary education and head of the review committee.

"It was not the profane language, it was nothing like that," Cameron said. "It was the power of the pictures that were drawn. I remember somebody saying, 'I genuinely think this can cause a 12-year-old to have nightmares.'"

But Kosinski, who offered to visit the school when he heard of the incident, said, "There's nothing in that book that the sixth- to eighth-graders haven't already seen on television."

"The school is just as free to ban my book as I was free to write it," the writer acknowledged. But, he said, by trying to shield the children the board was only hurting them in the long run. "Kids have all the imagination in the world. If this imagination is torpedoed right now, it won't develop. The classroom is a place where the First Amendment is, in fact, most needed," he added. "And, instead, it is being turned into a place where it is being more suppressed."

But Cameron said the issue was not censorship: "We don't burn books. We do try to use a little common sense. We do it every day when we order books, we decide what's appropriate. That's part of the judgment that we, as educators, make." Reported in: *Minneapolis Star-Tribune*, March 30.

St. Peters, Missouri

A book that prompted a heated debate in the Francis Howell School District was taken off the shelves at an elementary school but will remain in junior and senior high school libraries. The April 19 decision by the school board came on a 4-2 vote to uphold a March decision by the district's book review committee.

The book, *Cerberus*, by Bernard Evslin, is a story from ancient Greek mythology. It is illustrated with drawings by Michelangelo and other masters. Nanette Frank, the mother of an elementary school student had asked the school board to remove the book because her daughter found it too frightening (see *Newsletter*, May 1990, p. 84). She called the book's story line too graphic, its titles too gruesome, and its illustrations "pornographic." She also said the book encourages Satanism.

The decision was met with sharp criticism. "You are censoring material you admit is a fine piece of literature and contains great works of art, and students now will no longer have access to it," Murray Underwood of the Missouri Coalition Against Censorship and the Central Missouri Civil Liberties Union told the board. "This is a serious mistake." In an interview Underwood said the removal might be challenged in court.

Parents Pat and Mike Schwab said they opposed the removal. "I got the book and read it to my second-grader,"

she said. "He enjoyed the stories and we showed him the pictures."

The committee's report said that although the story, titles and content were appropriate for students in grades four through six, several illustrations were considered inappropriate for the elementary school grades. Reported in: *St. Louis Sun*, March 26; *St. Louis Post-Dispatch*, April 20.

Syracuse, New York

The poem by Nikki Giovanni is titled "I Laughed When I Wrote It (Don't You Think It's Funny)?" But parents of a West Genessee High School sophomore didn't think the four-letter words in the poem were funny at all. Wolfgang and Barbel Chrestin asked the school district to ban the book of Giovanni's poems — and all other books containing obscenities — from the school library's shelves.

The poem, included in the book *My House*, is about Giovanni's pursuit in turn by the FBI, CIA and Interpol. One obscenity appears four times. Kristine Chrestin took the book out of the school library after being assigned to write a report for her English class. She didn't realize it contained foul language until after she brought it home. The 16-year-old said it was hypocritical for the school to forbid students from swearing and then have books with obscenities in the library. However, she said that was not enough to warrant its removal. "I don't want anything taken out or censored," she said.

Her parents disagreed. "It has pretty bad language," Wolfgang Chrestin said. "Any book like it should be banned from the shelf."

"If parents want their children to read it, they can take it out in a public library," Barbel Chrestin added. Reported in: *Syracuse Herald-Journal*, March 15.

Massillon, Ohio

In February, the Massillon Public Library received a petition signed by "citizens and taxpayers" requesting that a videocassette of "the highly controversial and blasphemous film" *The Last Temptation of Christ* be removed from the library. Representatives of the group attended the library board's February meeting, where they represented their petition and spoke for 45 minutes. The protesters then left the meeting, but, before adjourning, the board voted 5-0 to adopt a resolution stating that it "will not censor or cause to be removed from circulation, materials which further the objectives of the library."

The protesters returned the next month. Claiming that the film is "extremely libelous, slanderous to Jesus Christ," the protesters argued that censorship does not apply to slander or libel. The group's leader, a clergyman affiliated with the American Family Association, argued that the community had already rejected the film because it had not been shown at local movie theaters.

Declaring that "it's not a public library," one protester

suggested that the public should have a greater say in what the library purchases. "We have taxation without representation," he declared. "We're paying for this and have no say; it's left in the hands of two or three individuals. These people have to be accountable to someone and right now they're not accountable to anyone."

The board refused to ban the film. No protesters attended the April meeting but a group of library supporters took the opportunity to present a statement of support for the board's stand. Reported in: *Massillon Evening Standard*, March 29, 30.

Tyrone, Pennsylvania

A special committee on March 8 postponed a decision about whether *Then Again Maybe I Won't*, by Judy Blume, will remain in the elementary library. Parents Michael and Pamela Johnson filed a complaint in February. "I don't think elementary children are ready for this," Mrs. Johnson said of the Blume book. She said the book should be moved to a middle school library. "It's our job as parents to teach our children right from wrong," Johnson continued. "Especially about masturbation and wet dreams. I don't want my child getting that at school." Reported in: *Altoona Mirror*, March 9.

schools

Montgomery, Alabama

A conservative citizens group has condemned as "invasive" and "inappropriate" a health curriculum used in 37 of the state's 130 school systems. The Alabama Eagle Forum targeted the Teenage Health Teaching Modules, a guide to teaching health classes developed and distributed by the Education Development Center in Newton, Massachusetts. The modules are guidelines for teachers, containing specific activities and suggested reading material on topics such as substance abuse, family mental health, handling stress and finding community health resources.

The material "undermines parental authority, family autonomy, and Alabama law," said Joan Kendal, chair of the Eagle Forum's education committee. Because the modules inform students how to seek outside help with problems if parents are absent or unresponsive, the Forum charged that they discouraged students from going to their parents with problems.

Eagle Forum also objected to "Protecting Oneself and Others," a module about substance abuse. The module encourages independent group discussion among students but discourages teacher input about the dangers of drug use, Kendal charged. "When it comes to drugs, alcohol or sex, these are not debatable things. Instead, this program advises the students to make these determinations based on what they feel is right, whether it makes them comfortable," she said. Reported in: *Montgomery Advertiser*, May 15.

Culver City and Empire, California

Two California school districts have banned a version of the classic fairy tale *Little Red Riding Hood*. In February, the Empire Union School District decided that a version of the tale by Brothers Grimm, in a 1989 edition published by Houghton Mifflin, in which Little Red Riding Hood's basket contains a bottle of wine as well as fresh bread and butter, could be seen as condoning the use of alcohol. The version of the story, written by Trina Schart Hyman, won a Caldecott Honor award.

Curriculum director Francine Gasper was also concerned about the graphic description of the huntsman's rescue, when he cut open the wolf "and after a few more slashes a little girl jumped out." The district decided that the story is inappropriate for first grade.

The same decision was reached in May in Culver City. "It gives the younger ones the wrong impression about alcohol," explained Vera Jashni, assistant superintendent for instruction. Jashni said the final paragraph of the story sealed her decision. After the woodsman kills the big bad wolf, "the grandmother drank some of the wine, and . . . after a while, the grandmother felt quite strong and healthy, and began to clean up the mess that the wolf had left in the cottage." Reported in: *Sacramento Bee*, February 4; *Chicago Tribune*, May 20.

Champaign, Illinois

A best-selling novel used in English classes at Champaign Central High School was challenged in May by three parents who claimed it contains unsuitable language. On May 14, a curriculum review committee asked the Champaign school board to reaffirm the use of *A Separate Peace*, by John Knowles.

The book, which tells of the experiences of two students at an all-boys school before World War II, has been used in Champaign schools for at least 22 years and had not been challenged before, said Assistant Superintendent Jim McCormick. The parents' objections dealt with language, specifically the use of "damn" and "goddamn", according to members of the review committee. Reported in: *Champaign-Urbana News-Gazette*, May 12.

East Meadow, New York

East Meadow school officials, concerned that several works by the slavery-era songwriter Stephen Foster are racially offensive, removed the material from an elementary school recital shortly before it was to be performed in May. Even though the fourth-grade performance at Barnum Woods Elementary School was strictly orchestral, with no singing, assistant schools superintendent Sidney L. Teitelbaum said he was concerned that the lyrics to several of the songs would be offensive to those familiar with them.

Some of Foster's lyrics, which romanticize the Old South, refer to blacks as "darkies," and have stirred controversy

elsewhere. "Performing that kind of music in public I would feel is inappropriate," Teitelbaum said. "An offense to me, to the blacks or the Jews or anyone else is an offense to all mankind. So why do it? There's so much glorious music in the world. Why?"

Teitelbaum said he received a call shortly before the performance alerting him to the inclusion of the material. He decided after consulting with other school officials to pull the songs. "It was not thought of, or anticipated as censorship," he said. "If it was censorship, then so be it."

School Superintendent Frank Saracino said the district ordinarily uses a committee to review challenged material, but that in this case the committee could not be consulted because the objections were raised at the last minute. He said the committee would review the decision and the suitability of Foster's work for future performances. Reported in: *Newsday*, May 18.

Jackson Township, Ohio

When a Jackson High School senior distributed a leaflet charging that a committee was secretly meeting at his school to decide whether certain books should be taken out of the college-level English curriculum, he was suspended for two days. Douglas Marohn was suspended for violating a rule in the school's student handbook prohibiting circulation or possession of printed material not authorized by the school's administration.

"We want the message to be that no matter how creative a student you are, you can't expect to run off what you want and pass it out on school property," said principal Tom Chain. But Chain acknowledged that a review committee had indeed been formed in December.

"We have put a novel selection committee in place," he said. "At this point there has been a lot of discussion. I wouldn't say any [books] have been actually banned. I would say we've put at least one on hold at this point." According to Marohn, that book was *Slaughterhouse Five*, by Kurt Vonnegut.

The committee was formed after a call from the parents of one college-level English student, Chain said, but the school administration had been considering forming such a committee already. The committee included 12-15 administrators, English teachers and parents, but Chain declined to identify members. "We're embroiled in an issue we're trying to handle internally," he said. Books being reviewed by the committee contain "profanity, sexual content and innuendoes," Chain said.

Marohn said faculty members told him that other books the committee was considering removing from the college-level curriculum included *Being There*, by Jerzy Kosinski, and the play *Equus*, by Peter Shaffer. Reported in: *Canton Repository*, February 16.

Charlottesville, Virginia

The Albemarle County School Board voted unanimously April 9 to censor information about masturbation in a video for fifth-grade boys until it has considered adding the controversial subject to the family life education curriculum. The issue arose when the board considered a recommendation to approve a new film, *The New Me: Accepting Body Changes*, for the fifth-grade puberty unit. Toward the end of the ten minute video, masturbation is described to students as normal or healthy.

School board member William W. Finley objected to the depiction of masturbation. "I frankly think nature does a better quality job of teaching a dumb animal than sometimes we do children. This is not a natural thing in nature. Animals in nature get rid of tension by running and jumping and whirling and twirling and prancing. This is what fifth-graders should be doing. Fifth-graders shouldn't be going into a dark room and relieving tension through [sexual] gratification," Finley said.

Though other board members disagreed with Finley's position on masturbation, they agreed the subject should not be discussed with students unless it is adopted into the curriculum. The board will consider adopting a change in the family life curriculum to include masturbation if its "community involvement team" recommends it. Until then, *The New Me* will be shown to fifth-grade boys with the information about masturbation deleted. Reported in: *Charlottesville Progress*, April 10.

student press

Miami, Florida

What can be advertised in a high school newspaper? That was the issue confronting the student newspaper of Cape Coral High School, which ran an ad for a church group that touched off objections from some members of the community. Critics said the ad violated the separation of church and state in a public school. Supporters said the advertising policy of the newspaper, *The Seahawk's Eye*, does not prohibit the ad and hence to bar it would be censorship.

The controversy began when a newspaper staffer approached his local church about buying an ad in the paper to promote his youth group, the Heirforce Youth Group. The church did it and no one complained. But the second time the ad ran three parents called to complain about its content: Bible passages and references to Jesus Christ.

"More than 50 percent of the page was typed up with quotes from the Bible, proselytizing, preaching and that type of thing," said Kristie Ross, one of the three. The parents then met with the school principal and the faculty newspaper adviser. Not satisfied with their response, the group appealed to the school board, which sought a legal opinion. The legal opinion recommended that libelous, obscene or disruptive

advertising be prohibited. The opinion also suggested a ban on "advertisements which proselytize a particular religious belief or denigrate a particular religious belief."

After securing that opinion, district officials told school officials to pull the church ads for the final two issues of the school year until a new districtwide policy could be adopted. It was this action that upset *Seahawk's Eye* staff members. The newspaper inserted a memo in the ad's space in the April edition that said "censored," and explained what had happened. Reported in: *Miami Herald*, April 30.

Peoria, Illinois

Peoria High School principal Richard Greene seized all 1,000 copies of a January issue of the school newspaper to prevent its distribution. Greene ordered the *Opinion* withheld after a complaint from parent Shirley Spencer. Spencer objected to an article about two local publications, an animal rights and vegetarian newsletter and *The Rag*, an underground newspaper.

Spencer, who encountered the article before publication in her capacity as an employee of P&P press, where the newspaper is printed, said high school students shouldn't be exposed to material like *The Rag*. "People who don't know about *The Rag* don't need to know about it," she said. "I don't want my child — or any child — to have access to it. Kids have enough problems."

"As I perused the edition of *The Rag* I was given [by Spencer], I saw that it was replete with questionable language and material," Greene said. "This was out of line. And I don't think a high school newspaper is the place to call attention to something like this, and there was consensus between myself and the staff."

Greene said there was little debate about balancing rights of minors with rights of parents, or about freedom of the press. "This was an easy decision," the principal said. "I'm comfortable with what I did. There hasn't been any outcry from students. And I feel fortunate that we were presented with this before it was distributed; we caught a lucky break." Reported in: *Peoria Journal Star*, January 22.

Beaver Falls, Pennsylvania

The student newspaper of Geneva College was shut down for the spring semester because of an anti-Catholic editorial written by the student editor. The editorial in *The Cabinet*, written by Eric Dugan, "absolutely produced a firestorm of complaints," according to William Gibbs, a member of the Student Publications Board, which ordered the shutdown March 27. The editorial said senior clerics of the Catholic Church had become authoritarian and that their councils and tradition "supersede Scripture." "And he who holds to teaching which contradicts the Bible finds a final resting place with the serpent," the editorial concluded.

Dugan said his editorial was a restatement of theological policy of the Reformed Presbyterian Church, with which

Geneva is affiliated. He said the board's action constituted censorship. "The college has responded in the way it has, in my opinion, not because of its theological persuasion but because of the wealth of their pocketbooks," the editor said.

The Student Publications Board is comprised of two faculty and staff and eight students. Gibbs said a secret ballot produced a vote of 8-2 to suspend publication. He said the action was taken because the newspaper's constitution made it "impossible to remove the editor very easily."

Gibbs said the shutdown was an expression of apology to the school's students and particularly to Catholics, who represent about a fifth of the student body and are the largest single denomination at the college. About 4 percent of the school's students are Reformed Presbyterians.

Gibbs said this was not the first Dugan editorial to create controversy. Last fall, an editorial accused the college of giving its athletic program a higher priority than its academic program. Reported in: *Pittsburgh Post-Gazette*, March 29; *Pittsburgh Press*, March 30.

Annandale, Virginia

Conflict between student journalists and the community surfaced when an Annandale High School principal banned an advertisement for a gay youth group. After an appeal to school superintendent E. Wayne Harris, the advertisement appeared in a later issue of *The A Blast*. Nevertheless, Annandale High School was one of only fifteen newspapers that initially published the advertisement. The ad, sponsored by Washington D.C.'s Sexual Minority Youth Assistance League (SMYAL), was submitted to 79 area high schools.

The ad's publication prompted circulation in several Fairfax County communities of a petition that called the ad destructive to traditional family values. Julie Morrissey, general coordinator of SMYAL, said the petition, originated by Sam Erikson of the Christian Legal Service in Maryfield, contained factual errors.

The problem initially received publicity after the student business manager and the paper's editor argued over whether to accept the ad. Despite a staff vote showing a majority favoring publication, principal Ray Watson refused to allow the paper to run the ad. Reported in: *Washington Post*, February 15; *SPLC Report*, Spring 1990.

colleges and universities

Wheaton, Illinois

Wheaton College president J. Richard Chase vigorously defended disciplinary actions taken in early May against nine students for their involvement in an underground newspaper. "There are limits to what we will have on our campus," Chase told a campus news conference May 15. "We believe there are biblical standards."

The student-initiated paper, *The Icecream Socialist*, was started to provide an alternative forum for student expression, including stories, art, poetry and editorials. One writer involved with the paper said he would quit school rather than be expelled. Two other staff members were suspended for a semester and five more placed on probation. The final student, a graduating senior, received a warning notice.

The actions divided the campus and led to a protest rally involving about 200 students. Wheaton College is a Christian liberal arts college and is the college home of evangelist Billy Graham.

The controversy arose over a poem and a stream-of-consciousness piece published in what became the final two issues of the paper. The poem was alleged to be filled with sexual innuendo. The stream-of-consciousness work contained obscenities and was submitted anonymously. In both cases, the staff of the paper was divided over whether the works should be published. Reported in: *Chicago Tribune*, May 16.

Cumberland, Kentucky

A scheduled visit by Barbara Bush and the presence of "controversial" language were cited as reasons for the cancellation of a student play at Southeast Community College. But college president W. Bruce Ayers maintained that his decision to stop the April 19-21 performances of *Krazy Quilt*, a play written by college professor Bob Henry Baber, did not amount to censorship.

Baber said Ayers told him of the decision to cancel the play on March 22. He said Ayers had asked to see the play's script after someone complained about some of the language that would be used. "He said 'It's not going to happen on this campus,'" said Baber. "He said, 'The message of your play is good, but I don't think the people here will get past its medium.'"

"There was some controversy to it," admitted Ayers, who also said he "wouldn't want to censor anything." However, the college president said, "I felt it needed to sit awhile and be looked at again . . . There's some language and other things in the play I felt an audience would not be able to move beyond." Ayers said his decision was also based on Mrs. Bush's planned visit to the school, where she was scheduled to give a commencement address on May 4. He said the college's maintenance workers would not have time to prepare for the play because of the Bush visit.

"With everything else we have going on it was pretty much of a practical decision," said Ayers. "The play looks like a major production [and] I didn't know whether the institution had the wherewithal to do it and do it well."

Baber said Ayers did not pinpoint which parts of the play troubled him. However, he said he assumed Ayers was mostly concerned about a scene in which the word "nigger" is used. Baber said he had talked with the play's black cast members and none had objected to his use of the word. "This play is very sympathetic to blacks," he said. "I've enlisted

the black community and they know the context in which the word is used." Reported in: *Whitesburg Mountain Eagle*, April 4.

Philadelphia, Pennsylvania

A Republican state legislative candidate who supports abortion rights and had been scheduled to speak at Villanova University's Earth Week observances said April 25 that she was pulled from the program at the last minute because of her pro-choice stance. Ellen Harley said she was told by a student coordinator of the event that the university's president, Rev. Edmund J. Dobbins, had canceled her address.

Officials at Villanova, a Catholic institution, said that the Harley speech on "performance zoning" was called off because it would have violated university guidelines.

"It is the policy of the student activities office not to provide a platform for candidates for public office whose views and values are contrary to the university's tradition and the teachings of the church," said Villanova representative Eugene Ruane. Ruane denied, however, that Father Dobbins had a voice in the decision. He also said that the decision to cancel Harley's invitation had been made in late March, not at the last minute.

"I definitely think it's an attempt to try to influence the outcome of the election," said Harley, whose candidacy represented the first real challenge to the district's entrenched Republican machine. Reported in: *Philadelphia Inquirer*, April 26.

periodicals

St. Louis, Missouri

A new magazine for black women was removed from St. Louis newsstands in April because it includes photographs of partially nude women, its editor and publisher said. Mary Anne Holley, editor and publisher of *S'azz*, said supermarket chains in the St. Louis area pulled 2,000 copies of the magazine's premiere issue from their shelves because of a photo essay depicting partial nudity of black women.

The magazine hit the newsstands March 27, and Holley said she learned a week later it had been taken off the shelves. She said that pulling *S'azz* was a form of censorship. "The market didn't get to decide if it wanted the magazines," she said. "Someone made that decision for them."

To make matters worse, the wholesalers shredded the 2,000 magazines that were returned. "Our contract states that any copies not sold should be returned to us and not be destroyed," Holley said. "The wholesalers know that's in the contract." Reported in: *UPI*, April 24.

New York, New York

Responding to pressure from its Group on Equal Rights for Women, the United Nations Secretariat removed all

"girlie" magazines from its newsstand and toughened guidelines on what constitutes an offending periodical. Allan Robertson, Chief of Commercial, Purchase and Transportation Service of the Secretariat said a previous ban against "pornography" had permitted the sale of "hard-core magazines such as *Playboy* and *Penthouse*."

Robertson gave the UN Newsstand new instructions not to carry any magazines "which carry nude pictures of females or males." Furthermore, Robertson dictated, "in the event that a non 'girlie' magazine such as *Time*, *Newsweek*, *Spiegel*, *Stern* or similar carries a nude picture (female or male) on its cover" it too will be banned.

Both the American Society of Journalists and Authors (ASJA) and the National Writers Union criticized the move. "We believe that all speech, even the speech that some of us find objectionable, must be protected," commented Claire Safran of the ASJA. "There is no such thing as a little censorship. The UN is a place where some nations walk out rather than hear what others have to say. It's only a short step from hands over their ears to hands over other people's eyes."

The president of the United Nations Group on Equal Rights for Women insisted the ban was imposed only against magazines that were "exploitative" or "offensive" to women and "did not represent creeping censorship."

"The UN has a responsibility to many different constituencies," insisted Kirsten Timothy, who heads the employee lobbying group that helped have the ban imposed. "We're against the exploitation of women. There were a lot of complaints from women at the UN. We objected to having nude pictures displayed at the entrance of the UN. We think it's pornographic and exploitative of women." Reported in: *Secretariat News*, January, 1990; *Magazine Week*, March 5.

Nashville, Tennessee

Kroger supermarkets in middle Tennessee took the April issue of *Cosmopolitan* off the shelves in response to customer complaints about an "offensive" fragrance advertisement. The ad — for Calvin Klein's Obsession fragrance line — was a photograph showing a frontal view of a nude woman from neck to mid-hips.

"We removed the *Cosmopolitan* magazine due to requests by customers," said Kroger representative Terri Cheek. "They commented that they found the ad offensive." The decision affected 68 stores in middle Tennessee, southern Kentucky, and northern Alabama, Cheek said. The stores said they would sell copies to customers by request only. Reported in: *Nashville Tennessean*, March 30; *Clarksville Leaf-Chronicle*, March 31.

publishing

New York, New York

Nobel Prize-winning novelist Saul Bellow objects to

biographers digging into his private life and has the legal and literary muscle to stop them — or so it would seem from a decision by a New York publisher to “recall” a Bellow biography after proof copies were already in the hands of reviewers. Bellow apparently threatened to sue St. Martin’s Press if the company went ahead with plans to publish Ruth Miller’s *Saul Bellow: A Biography of the Imagination*.

Miller, who describes herself as a friend, confidant and “intellectual companion” of Bellow’s since the late ’30s, was given access to the writer’s letters and other private papers. She used the material to speculate extensively about the effects of Bellow’s tempestuous domestic life, which includes five marriages and four divorces, on his novels and stories.

Diane Mancher, publicity director for St. Martin’s said the biography would be “completely rewritten” and a revised edition should reach bookstores within a year. “I don’t think Bellow objected strenuously, but there were some things he wanted changed around a bit,” she added. “I was told that St. Martin’s wasn’t happy with the way the book turned out and so the author was going back to scratch on it.”

But Miller, who teaches English at Hebrew University in Jerusalem, said she was making only minor revisions, clearing up “problems with footnotes, chapter titles, quotations, and this, that and the other.” Miller said she also was depersonalizing the book, changing the point of view from the first person to the third person.

St. Martin’s apparently acceded to Bellow’s objections to the manuscript because of a 1986 federal court decision in which reclusive author J.D. Salinger prevented Random House from publishing a biography of him by Ian Hamilton until Hamilton eliminated quotations from letters by Salinger.

As a result of the Salinger case and a similar case involving a biography of Scientology founder L. Ron Hubbard (see *Newsletter*, May 1990, p. 93), bills are pending in the U.S. Senate and House to amend the copyright law so that biographers can make “fair use” of unpublished writings. Reported in: *Chicago Tribune*, April 18.

New York, New York

An abrupt decision by the publisher Little, Brown & Co., a subsidiary of Time Warner, Inc., to cancel publication of a book that addresses subjects of sensitivity to Time, set off a bitter dispute in April about who killed the book and why. The book, *Connections: American Business and the Mob*, was written by two former senior journalists at Time, Inc., Roy Rowan and Sandy Smith. It explores the involvement of organized crime with businesses.

Several chapters examine events that led to Time’s decision in 1988 to settle a libel suit, paying \$500,000 to the Schiavone Construction Company of New Jersey. The suit stemmed from a *Time* magazine article, reported by Smith, about the purported ties between Schiavone and organized crime.

The authors and two former board members of Time, Inc., charged that the parent company, and not Little, Brown, made the decision to cancel the book. “Little, Brown, could not kill a book by two veteran *Time* men without getting word from Time, Inc.” said Rowan, who wrote Time, Inc.’s 1988 annual report. He and Smith said they were preparing to file a lawsuit against Time Warner for breach of contract, and will claim damages of more than \$1.5 million.

Jason McManus, editor-in-chief of Time Warner publications and a member of the Time Warner board, said that he learned of the book’s cancellation after it happened last June and that it was “very unlikely” that anybody at Time had overruled Little, Brown. “That is not the way we operate,” he said.

“To settle a major libel suit and back off a book, saying it is too risky is a new tack at Time” countered Robert Keeler, a member of the Time, Inc., board until 1985 and still a large shareholder in Time Warner. “The company always went to the mat for its journalists.” Keeler’s concerns were shared by another former Time board member, Arthur Temple.

Several curious incidents surrounded the book’s cancellation. It came after Little, Brown’s publisher, Roger Donald, expressed admiration for the manuscript and the book was listed in a Little, Brown catalogue for publication. A four-month legal review preceded the cancellation, but there was never any discussion between Little, Brown’s lawyer and the authors. No detailed explanation of the decision was given to the authors, who were informed in a letter from the publisher dated June 8, 1989, that the book could be libelous because “certain controversial sections of the work depend upon sources that are confidential or convicted criminals.” Protracted negotiations failed to produce a further explanation. Reported in: *New York Times*, April 16.

art and photography

Fullerton, California

Reversing an action that unleashed a storm of controversy, the trustees of the Muckenthaler Cultural Center in Fullerton voted unanimously April 26 to restore a photograph of the late rock star John Lennon to a current art exhibit.

Muckenthaler curator Norman Lloyd, who had opposed the original decision to remove the photo, resigned immediately after the new vote. Even though the board eventually supported his position, he felt the panel should not be making decisions on what should be displayed in the gallery. By voting to restore the work, he complained, the board had officially assumed the power to decide which works will be included in future shows. Lloyd said he should have quit when trustees first told him to take down the work.

The photograph was pulled from the exhibition at the city-run gallery before it opened April 22 because some trustees complained that the work did not fit what they planned as

a "positive show on heroism." The photo, which ran as the cover of *Rolling Stone* magazine in January, 1981, showed Lennon nude and curled in a fetal position, embracing his fully clothed wife, Yoko Ono.

Board Chair Beverly Gunter, who had taken responsibility for the decision to remove the photo, acknowledged that she and some fellow trustees had overstepped their bounds. She said she removed the picture not because of nudity but because it did not fit the exhibit's theme, "Heroes, Heroines, Idols and Icons." The board had never formally voted to remove the picture.

"It doesn't express 'hero,' it expresses 'anti-hero,'" Gunter said. But Lloyd said he wanted to include the Lennon photograph because it illustrated an argument by the late mythologist Joseph Campbell that the process of maturing is itself a heroic act. "It shows John Lennon in a very vulnerable position," Lloyd said. "It's basically that he hasn't grown up."

After the removal was publicly disclosed, the center received more than 100 telephone calls, most critical. Mark Story, a Los Angeles photographer who has eight portraits of homeless men in the show, said he would ask to have his works removed from the show.

"If the Lennon work stays, I still want my work taken down," Story said. "I don't like the general smell of pressure on art that isn't deemed acceptable being removed from a show." A Los Angeles collector and a Long Beach gallery had threatened to demand the return of their contributions if the Lennon portrait was not restored.

Photographer Annie Leibovitz, who took the portrait just hours before Lennon was murdered in December, 1980, called the work's removal "disgraceful." "It's a sign of something very bad that's happening in this country," she said. "The cultural atmosphere is becoming more and more conformist and cowardly." Reported in: *Los Angeles Times*, April 27, 28; *Washington Post*, April 25.

Denver, Colorado

The Colorado state arts council provoked cries of censorship when it refused to commission a controversial, sculpture chosen by a public art panel for the Auraria campus of Metropolitan State College, University of Colorado-Denver, and Community College of Denver. The primitive-style 10-foot-high head adorned with objects such as a stepladder, lookout tower, Slinky-type coils and a doughnut ring was recommended by a special committee.

The sculptor, Stephen Daly, a University of Texas art professor who calls the work "Athena," says it symbolizes learning. But the Colorado Council on the Arts and Humanities, which administers the state's Art in Public Places Program, refused the choice April 20 by a 5-3 vote.

"The more that people in the arts community hear about this thing, the more they're offended," said Gary Emrich, a Denver artist and art instructor at the Auraria campus. But

council members who opposed the sculpture said they were just doing their job.

Some acknowledged that the current national controversy over public spending for art influenced their decision. "In this time, that would be waving a red flag," said Ann Love, arts council member and wife of former governor John Love. "Viewed in the location where it would be, people might not understand it was art."

It was the first time since the program began in 1977 that the council had ever disregarded a public art committee's recommendation.

"It does not epitomize my kind of art — perhaps it has to do with my generation," said Love. "You have to learn to like these things and appreciate them, and I just didn't think there would be time [for that] where it would be located."

To George Hoover, a member of the selection committee, the controversy centered on the council's "subjective" judgment against the panel's "objective" appraisal of the sculpture's merits. Hundreds of artists submitted proposals from which the committee chose three finalists. While the decision was not unanimous, Hoover said Daly's piece best expressed the theme of common humanity.

Reportedly, the arts council member on the selection committee — Jane Prancan of US West Foundation — and the two legislators on the committee disliked the piece, though the final vote to support the sculpture was 7-2. Reported in: *Denver Post*, May 8.

Towson, Maryland

Issues of art and censorship arose in Towson when officials refused to allow the display of art works by two Montgomery County high school students in a Baltimore County office building. Members of a group sponsoring the exhibition by finalists in a scholarship contest were so angry that they pulled the show out of Towson.

"We want some exposure of the foolishness of this censorious attitude that harms the whole community," said Thomas J. Scott, a Baltimore artist and member of the Maryland Artist's Equity Foundation. Baltimore County officials denied they engaged in censorship and said they were justified in screening out offensive or politically inflammatory art in a public place.

"It has been our unwritten policy to keep it as vanilla as possible," said Lois Baldwin, executive director of the Baltimore County Commission on Arts and Sciences. "This is not a gallery or a museum where people come to see art." There are rotating displays of the work of local artists in the government center. Baldwin said she has "made it very clear our policy is [to encourage] non-controversial or family-oriented art."

County officials were most upset with a photocollage by Chryst Lyngas which used a turn-of-the-century photograph of the mutilated body of an infant, below which he scrawled

the words, "Where is he now?" County officials had a "serious problem" with the work because it was visually disturbing and "a fairly overt political statement about abortion," said a representative of the county executive.

Baldwin said she would probably relent on the other work she initially barred from the show, a nude painted in acrylics by Kristy Simmons. Simmons said she was upset by the county's decision. She said she did not intend viewers to react to the self-portrait, in which she faces the viewer with hand on hip, "as anything inviting or sexual." Reported in: *Washington Post*, May 17.

Meridian, Mississippi

New Orleans photographer Cecil Rimes' prize for winning last year's annual Mississippi-Alabama fine arts competition included a one-man showing of his work at the Meridian Art Museum. But when he arrived in late January, museum director Robert Dishmond told him that he and the museum board were turning down the majority of pictures in the exhibit. Fewer than half the nudes and seminudes would be displayed. Benjamin Box, Jr., a Meridian antique dealer and friend of Rimes, staged his own show of the rejected photographs.

"Meridian is not ready" for some of Rimes' photographs, said Sylvia Gilder, an outspoken member of the museum board. "Overall, the community would not appreciate some of the works that young man had presented. Some of us are ready for it and some of us aren't."

"There's nothing pornographic about it," countered Ed Wheeler, head of the photojournalism department at the University of Southern Mississippi. "I've got three of his prints hanging up in my home. One is a nude. He's very good."

Rimes described the work he brought to Meridian as "very mild." But what really puzzled him was how little the rejected images differed from ones the museum chose to show. Dishmond explained that a portrait of a young woman with wet hair wearing partially unzipped jeans was banned because "she was too beautiful, which made her too titillating." A nude self-portrait of the photographer, with Rimes' former wife reflected partially nude in a mirror in the background, was rejected because it had "sexual overtones." Several photographs of nudes with religious figures as props or backdrops were turned down for religious reasons. "Of course, this is the Bible Belt," Dishmond told Rimes. Reported in: *New Orleans Times-Picayune*, February 18.

Oklahoma City, Oklahoma

Censorship of photographs of pregnant and seminude women prompted several Oklahoma City artists to wear black armbands to a reception for "Eggshibition" at the Kirkpatrick Gallery for Oklahoma Artists March 16. The manager of the center decided to remove eight photographs

from "Eggshibition." Taken by Jenny Woodruff to accompany Christine Vertein's decorative eggs and paintings, the photographs depicted pregnant women with bare abdomens in several poses.

Mary Ann Haliburton, director of the Kirkpatrick Center Museum Complex, said the museum had a responsibility to make sure all exhibits were suitable and appropriate for the general public. "Because we have seven major attractions," she explained, "we are definitely a family-oriented museum."

Woodruff, however, said she considered the center's decision censorship since they waited until the last minute to pull her photographs and never told her of a policy against nudes.

"If they don't want to show nudes, then they should come out and say, 'We don't show nudes.' That's fine, that's clear, then we can make our own decisions," Woodruff said. "They have every right to decide what will or won't be shown in their galleries. But the way it stands, I think it's really exploiting a group of folks that aren't financially secure in the first place." Reported in: *Daily Oklahoman*, March 16.

birth control

Washington, D.C.

The Federal Drug Administration "directed" the publisher of *Physicians' Desk Reference* to excise references to abortion in the product information section of its 1989 edition, an article in the January 20 issue of *Lancet*, the British medical journal, reported. In its section on birth control techniques, previous editions of the reference — not a government publication — stated: "The lowest mortality is associated with the condom or diaphragm backed up (in case of failure) by early abortion." The article claimed this material was removed from the 1989 edition to conform to the policy of the Bush administration. Reported in: *Censorship News*, 1990, #1.

foreign

Cairo, Egypt

Alaa Hamed is a tax inspector who dreamed of being a poet. He published most of his books himself and sometimes would sell them from a sidewalk display. Late last year, someone in the Tax Ministry picked up his latest work and, alarmed, sent it to the public prosecutor.

"Until this day," Hamed had written in *A Distance in a Man's Mind*, "it has not been made clear to humanity that God answers man's prayers, or that He has sent food to the hungry, or that He has sent a million pounds of gold to a poor man. . . . Why has the sending of prophets and messengers stopped suddenly? . . . Why are there no more miracles?"

Suddenly, Hamed had become "Egypt's Salman

Rushdie," as a leading Cairo columnist dubbed him. According to the public prosecutor, "His book constitutes a serious threat to the fundamental beliefs of the society and, in particular, those connected with the person of God most Almighty and the heavenly religions, . . . representing . . . an incitement to atheism and apostasy."

Hamed was arrested, the first writer in nearly 60 years to face imprisonment in Egypt for blasphemy. The owner of one of Cairo's most famous bookshops was detained for four days and ordered to pay a fine of nearly \$2,000 for selling the book. The print shop that printed it was assessed a similar levy.

The arrest and fines underscored the expanding influence of the Islamic fundamentalist movement in a country that disbanded its official censorship board nearly 15 years ago. Now, intellectuals and human rights activists say Al-Azhar University, the renowned center of Islamic scholarship, has begun imposing a less apparent form of censorship than the outright government censorship common in the early years of the late President Anwar Sadat, and the result has been a rash of effective book bannings.

The law permits private citizens to file complaints about books offensive to Islam, the state religion. A committee of sheiks at Al-Azhar often makes the final determination, and writers, booksellers, and publishers face stiff fines or even jail terms for overstepping the Koranic line. In recent years, Al-Azhar has been banning books much milder than what was seen in Egypt in the '60s and '70s and moving, critics charge, further and further afield of books about Islam and the Koran, the university's officially mandated purview.

Still banned in Egypt under earlier regulations is the Nobel Prize-winning Egyptian author Naguib Mahfouz's *Children of Gebelawi*, an allegory about the search for faith and eternal truth in a poor sector of Cairo. An Al-Azhar professor faces the likely loss of his job for his recent translation of the Peruvian writer and conservative politician Mario Vargas Llosa's novel, *Who Killed Palomino Molero?* which reviewers complained contained several explicit sexual passages.

Other targets in recent years have included Sheik Ali Abdel Razak's *Islam and the Origins of Government*, in which the Islamic scholar attempts to show that the Koran does not contain a sufficient political basis for a state, and *An Introduction to the Science of Language*, which attempts to show that the origins of Arabic can be traced not to divine inspiration but to the Indo-European language family.

The Arab Women's Solidarity Committee has been trying for nearly a year to get a license to sell its monthly newsletter, which contains articles on feminist issues, on Cairo book stands. But the government has refused, allowing only direct mail distribution to committee members. The committee president, Nawal Sadawi, a prominent feminist writer whose work was banned in the 1970s, testified on behalf of Hamed in one attempt to have him released from jail.

"The prosecutor said the author is an atheist, and he said this is a book that encouraged atheism," she recalled. "I said, 'This is fiction and imagination, and you should not control imagination by jail. . . . Thought should be fought by thought, and not by fearing and by violence.'"

Privately, some Egyptian writers grumble that Hamed went so far beyond the bounds of what is normally acceptable that he made it difficult for serious writers who constantly test the boundaries in order to expand them. A prominent Egyptian novelist said his publisher, in the wake of the Hamed affair, halted publication of his forthcoming work and sent the manuscript to a member of the Al-Azhar committee.

Hamed's work, the writer complained, "for anyone in Egypt who is writing, is considered far beyond what is possible. You cannot attack religion, and you cannot attack prophets. . . . A lot of the intellectuals are saying it's too much, and it's dangerous because it can lead to more oppression of the written word." Reported in: *Los Angeles Times*, May 7.

Taipei, Taiwan

Authorities impounded some 450 copies of a new Chinese-language Taiwan edition of *Playboy* magazine, immediately after its publication on March 27, alleging that its pictures "offended public morality" and that it had not been properly registered. Reported in: *Journal of Commerce*, March 30.

Moscow, U.S.S.R.

Novyi Mir [New World], one of the Soviet Union's most prestigious literary journals, charged in late May that Soviet authorities were censoring its contents by denying the journal paper to publish. As of June, the last issue published came out in February. According to editor Sergei Zalygin, the March issue of the monthly might not appear until August.

Novyi Mir has been a symbol of courageous publishing since the early 1960s. It had been serializing *The Gulag Archipelago* and other works by exiled novelist Alexander Solzhenitsyn that were previously outlawed. Prose editor Vadim Borisov charged that the government's refusal to allocate paper was "partly a payback for publishing Solzhenitsyn. In this case, *perestroika* and *glasnost* have failed us," he said.

Zalygin, a delegate in the Congress of People's Deputies, said he had sent numerous letters of complaint to the legislature but had received no conclusive answer. He also said it was "ironic" that the government would cut back paper supplies for the journal when it earned 38 million rubles in orders for subscriptions, making considerable profit for the state.

Some editors said they suspected that the government was holding back the latest planned issues because of several articles strongly critical of the Communist Party, including Alexander Tsipko's article, scheduled for April, called "How

Good Are Our Principles?," and another attacking the leadership's handling of the current economic crisis. The magazine was also intending to publish a chapter from *Nomenklatura: The Soviet Ruling Class*, a study of the privileged Party elite by emigre scholar Mikhail Voslensky. Reported in: *Washington Post*, May 25. □

(most censored . . . from page 117)

business. A Senate subcommittee revealed that foreign policy interests sidetracked, disrupted, and undercut the "war on drugs."

5. *Guatemalan Blood on U.S. Hands*. The Bush administration strengthened ties with the oppressive Guatemalan military last year at the same time that human rights violations by the military rose sharply. One unpublicized violation occurred last year when a U.S. citizen, Sister Diana Ortiz, working as a teacher in Guatemala, was kidnapped, beaten, tortured, and sexually molested by three men, one of whom was a uniformed Guatemalan police officer. The U.S. Department of State didn't register a protest.

6. *Radioactive Waste In the Neighborhood Landfill*. Radioactive waste may be joining old tires, banana peels, and other regular garbage at the local landfill if the Nuclear Regulatory Commission, the Environmental Protection Agency and the nuclear industry implement their little-known plan to deregulate radioactive waste to "Below Regulatory Concern."

7. *Oliver North & Co. Banned from Costa Rica*. In 1989, Oliver North, former National Security Advisor John Poindexter, former U.S. Ambassador to Costa Rica Lewis Tambs, Major General Richard Secord, and former CIA station chief in Costa Rica Joseph Fernandez were barred by President Oscar Arias from ever setting foot in Costa Rica again. A Costa Rican congressional commission concluded that the contra re-supply network in Costa Rica, which North coordinated from the White House, doubled as a drug smuggling operation.

8. *Wall Street Journal Censors Story of CBS Bias*. The *Wall Street Journal* censored a major story by one of its top reporters, Mary Williams Walsh, which exposed how one of the nation's most respected TV news departments, *CBS News*, broadcast biased news coverage of the Afghanistan war to the American people.

9. *PCBs and Toxic Waste In Your Gasoline*. The U.S. General Accounting Office, the EPA, and the FBI are investigating sophisticated "waste laundering" schemes in which hazardous toxic wastes and solvents, including PCBs, are mixed with gasoline and diesel and industrial fuel and sold to customers.

10. *The Chicken Industry and the National Salmonella*

Epidemic. The chicken industry's drive for profits, aided by relaxed inspection practices by the U.S. Department of Agriculture, has led to a national epidemic of 2.5 million cases of salmonella poisoning a year, 500,000 hospitalizations, and 9,000 deaths.

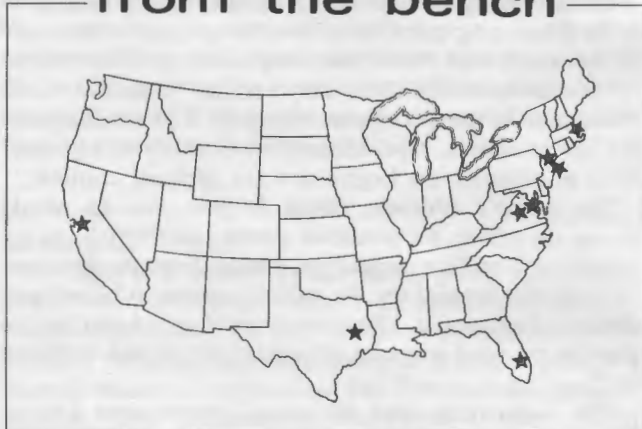
The other 15 under-reported stories of 1989 were: How the Federal Emergency Management Agency Failed the Nation; The Secret Pan Am 103 Report the Media Ignored; The U.S. is Poisoning the Rest of the World with Banned Pesticides; The U.S. Presence is Destroying the Environment in Central America; Media Reliance On Conservative Sources Debunk Myth of Liberal Bias; Faulty Computers Can Trigger World War III; RICO and SLAPP Lawsuits Endanger Free Speech Rights; NASA Lied To Get Plutonium Payload Into Space; U.S. Congress Ignored Soviet Plea for Nuclear Test Ban; The Oppression and Exploitation of Native Americans; How the U.S. and the Media Propagandized the War on Drugs; The Profitable Revolving Employment Door Between the Environmental Protection Agency and the Polluters; Sellafield: The Largest Source of Radioactive Contamination in the World; The National Parks are in Serious Trouble; The Plaintive Case for Animal Rights.

The panel of judges who selected the top ten stories were: Dr. Donna Allen, founding editor of *Media Report To Women*; Jonathan Alter, Senior Writer, *Newsweek*; Ben Bagdikian, professor, Graduate School of Journalism, University of California, Berkeley; Jim Cameron, founder and systems operator, CompuServe Journalism Forum; Noam Chomsky, professor, Linguistics and Philosophy, Massachusetts Institute of Technology; George Gerbner, professor, Annenberg School of Communications, University of Pennsylvania; Nicholas Johnson, professor, College of Law, University of Iowa; Rhoda H. Karpatkin, executive director, Consumer's Union; Charles L. Klotzer, editor and publisher, *St. Louis Journalism Review*; Judith Krug, director, Office for Intellectual Freedom, American Library Association; Frances Moore Lappe, executive director, *FOOD FIRST*; Bill Moyers, executive editor, *Public Affairs Television*; Jack L. Nelson, professor, Graduate School of Education, Rutgers University; Herbert I. Schiller, professor, Department of Communication, University of California, San Diego; Sheila Rabb Weidenfeld, president, D.C. Productions.

Jensen, who created *Project Censored* in 1976, said, "The impact of global media lords on the free flow of information is seen in the number of critical issues which are under-covered or "censored" by the mass media each year. The media's penchant for self-censorship and desire to avoid sensitive issues, coupled with the Bush administration which is even more secretive than the Reagan era, deprives the public of information about issues it should know about."

Anyone interested in nominating a 1990 story can send a copy of the story to Carl Jensen, *Project Censored*, Sonoma State University, Rohnert Park, CA 94928. Deadline for nominations is November 1. □

from the bench



U.S. Supreme Court

States may outlaw the possession or viewing of child pornography even in the privacy of one's own home, the Supreme Court ruled April 18. The 6-3 decision was the first time the court has allowed states to ban private possession of pornographic material. The court ruled in 1969 that the Constitution protects the possession of obscene material in the privacy of one's home, but the Justices made an exception for pornographic photographs of children. In earlier cases, the court upheld state laws barring sale and distribution of child pornography. But it had refused to let states stop citizens from viewing such material in the privacy of their own homes.

In an opinion by Justice Byron R. White, the court refused to extend those privacy protections to cover child pornography by upholding an Ohio law that makes it a crime to possess or view material that portrays a minor "in a state of nudity" where that constitutes "lewd exhibition" or "a graphic focus on the genitals." The law makes an exception for material possessed by the child's parents or used for a "bona fide" artistic, educational or scientific purpose.

White said the law was a legitimate state effort to "protect the victims of child pornography. Given the importance of the state's interest in protecting the victims of child pornography, we cannot fault Ohio for attempting to stamp out this vice at all levels in the distribution chain." In addition to Ohio, 18 states prohibit private possession of child pornography. They are: Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Illinois, Kansas, Minnesota, Missouri, Nebraska, Nevada, Oklahoma, South Dakota, Texas, Utah, Washington, and West Virginia.

The case, *Ohio v. Osborne*, involved Clyde Osborne, sentenced to six months in prison after police searched his house and found photographs of a nude 14-year-old boy alone in sexually explicit poses.

Justice White said the outcome of the case was not governed by the 1969 decision, which struck down a Georgia law against possessing obscene material. He said the justifications for the two laws were significantly different. White said that in the Georgia case, *Stanley v. Georgia*, the state "sought to proscribe the private possession of obscenity because it was concerned that obscenity would poison the minds of its viewers." The Court found that "paternalistic" motive impermissible. By contrast, according to White's opinion, the Ohio law was to "protect the victims of child pornography."

Justice White added that it was "reasonable for the state to conclude that it will decrease the production of child pornography if it penalizes those who possess and view the product, thereby decreasing demand."

Justice William J. Brennan, Jr., in a dissent joined by Justices John Paul Stevens and Thurgood Marshall, who wrote the opinion in the 1969 Georgia case, said the Ohio law was an unconstitutional infringement on freedom of speech because it was "plainly overbroad." Under the statute, Brennan warned, a family friend could be prosecuted for having photographs of the friend's children playing in the bathtub. Likewise, he said, "pictures of topless bathers at a Mediterranean beach," Michelangelo's nude statue of "David," or the "depictions of nude children on the friezes that adorn our courtroom" could be deemed "lewd exhibition" or a "graphic focus" on the genitals.

"What is an acceptable artistic purpose? Would erotic art along the lines of Robert Mapplethorpe's qualify?" Brennan asked, referring to the late photographer whose sexually explicit photographs have become the subject of widespread controversy.

"When speech is eloquent and the ideas expressed lofty, it is easy to find restrictions on them invalid," Brennan wrote. "But were the First Amendment limited to such discourse, our freedom would be sterile indeed. Mr. Osborne's pictures may be distasteful, but the Constitution guarantees both his right to possess them privately and his right to avoid punishment under an overbroad law."

Brennan said that "while the sexual exploitation of children is undoubtedly a serious problem, Ohio may employ other weapons to combat it," including laws against creating and distributing child pornography.

"At bottom the Court today is so disquieted by the possible exploitation of children in the production of the pornography that it is willing to tolerate the imposition of criminal penalties for simple possession. While I share the majority's concerns, I do not believe that it has struck the proper balance between the First Amendment and the state's interests."

But White said the law was a legitimate effort to combat

child pornography since the market in such material "has been driven underground," following the court's 1982 *Ferber* decision upholding bans on its distribution.

Although the majority upheld the Ohio law, it overturned Osborne's conviction and sent his case back for a new trial on the ground that his jury did not receive proper instructions from the trial judge. Reported in: *Washington Post*, April 19; *New York Times*, April 19.

A ban on school dances in a small Missouri town survived Supreme Court review April 16. Without comment, the Court refused to hear a challenge by a group of students and their parents in Purdy, Missouri, to the ban. They argued that the policy, reflecting the Christian fundamentalist view that social dancing is sinful, violated the constitutionally required separation of church and state.

Fundamentalist Christians make up a majority of Purdy's residents, and a group of ministers took the leading role in preserving the century-old ban when school officials considered modifying it in 1986. The students and parents filed a lawsuit against the school board that year. A school board official, asked at one community meeting whether he thought the ban might violate the separation of church and state, replied, "You better hope there's never a separation of God and school."

U.S. District Court Judge Russell G. Clark ruled in 1988 that the ban amounted to an unconstitutional "establishment" of religion. But a three judge panel of the U.S. Court of Appeals for the Eighth Circuit in St. Louis overturned the decision. The appeals court said that dancing was a "secular" activity and that a prohibition against school dances could be defended as an appropriately "neutral" policy, whatever the motivation behind it. The full Eighth Circuit voted 5-4 against rehearing the case. The dissenting judges declared that "this is a case about religious tyranny."

In their Supreme Court appeal, *Clayton v. Place*, the students argued that the appeals court had failed to give proper consideration to the religious motivation behind the ban. They said the decision indicated that "public school boards may endorse and promote the religious beliefs of a locally dominant religious sect as official school policy, so long as the school policy is 'facially neutral.'" Reported in: *New York Times*, April 17; *St. Louis Post-Dispatch*, April 17.

obscenity and pornography

Ft. Lauderdale, Florida

Affirming two previous decisions by state court judges, on June 6, U.S. District Court Judge Jose Gonzalez declared the hot-selling record album *As Nasty as They Wanna Be*, by the Miami-based rap group 2 Live Crew obscene. "It is an appeal to 'dirty' thoughts and the loins, not to the intellect and the mind," Gonzalez wrote in his opinion. The group

sued after deputies threatened shopkeepers with arrest if they continued selling the album. The decision was the latest twist in the developing controversy over the alleged "obscenity" of rap music (see *Newsletter*, May 1990, p. 75).

"Florida has declared obscenity a crime," Gonzalez wrote. "Violation of the law against obscenity is as much against the law as assault, rape, kidnapping, robbery or any other form of behavior the Legislature has declared criminal."

The group's attorney, Bruce Rogow, said he would appeal the ruling, but predicted album sales, which are approaching 2 million, would get a boost from the decision. "I think the demand for the record is going to be extraordinary," Rogow said. "People will crawl naked over broken glass to get what someone tells them they're not supposed to."

The controversy over the album began when Florida Governor Bob Martinez, seeking to bolster his sagging reelection campaign, assembled a press conference in Tallahassee, declared 2 Live Crew's songs to be "filthy" and "disgusting," and asked state prosecutor Peter Antonacci to prosecute the group under racketeering laws. Antonacci refused, and Martinez, who was embarrassed by state lawmakers last October when he convened a special legislative session to draft anti-abortion legislation that failed to muster a majority, was a laughingstock again.

Likening the rap group's leader, Luther Campbell, to organized crime was too much for editorial cartoonists to resist, and the musician, who rose out of Miami's tough Liberty City neighborhood, became a local hero. Marvin Jones, an 18-year-old student at Liberty City's Northwestern High School, offered one of the sharpest criticisms of the governor: "Scared because everybody's calling you soft? You lost the war on abortion. You're losing the war on drugs. So now you're going to take on rap? What about the homeless?"

When the state prosecutor declined to investigate, however, the Broward County Sheriff's Department petitioned Judge Mel Grossman to declare 2 Live Crew's lyrics obscene, clearing the way for police to charge music shop owners with a felony for selling the recording to a minor or a misdemeanor for selling it to adults. On March 14, a record store clerk was arrested for selling the album to an 11-year-old girl.

The lyrics on *As Nasty as They Wanna Be* graphically describe sexual acts and violence against women. It is marketed with a warning sticker saying it contains sexually explicit language and should not be purchased by minors. The group also released a version of the same songs called *As Clean as They Have to Be*, which is not graphic and has had some limited radio play. Sales have been about a third of the "Nasty" version.

Campbell, who also heads the Miami-based Luke Skywalker Productions, which produced and released the album and is the largest black-owned recording label in America, was angered by the attacks on the group. "I'm the only one with a sticker on my album," he said. "I'm the

only one that makes a clean version. This is adult music. I'm doing the same thing Richard Pryor and Eddie Murphy have been doing for years. Why don't they go after the other rap groups? Why start this now and leave other records with devil worshippers and racial slurs that make any music sound like angel music?" Reported in: *Washington Post*, March 16; *San Francisco Chronicle*, June 7.

Alexandria, Virginia

On April 9, a federal appeals panel, giving government prosecutors a major boost in their battle against pornography, unanimously upheld the 1987 racketeering conviction of a northern Virginia couple who distributed \$105.30 worth of obscene videos and magazines. The three-member panel of the U.S. Court of Appeals for the Fourth Circuit rejected the argument of Dennis and Barbara Pryba that hundreds of legitimate video and magazine titles were unfairly forfeited after their conviction, effectively driving them out of business.

"The defendants may not launder their money derived from racketeering activities by investing it in bookstores, videos, magazines and other publications," according to the opinion written by Judge Robert F. Chapman. "Carried to its logical end, this reasoning would allow the Colombian drug lords to protect their enormous profits by purchasing the *New York Times* or the Columbia Broadcasting System." Judges Donald S. Russell and Hiram E. Widener, Jr., joined the opinion.

The prosecution of the Prybas in late 1987 in U.S. District Court in Alexandria was the federal government's first use of racketeering laws to prosecute an obscenity case. The Prybas were found guilty of racketeering, conspiracy and trafficking in obscene materials. A jury, which determined that four videos and six magazines distributed by the Prybas were obscene, also ordered them to forfeit over \$1 million in assets that the jury decided were profits from the couple's racketeering.

According to the Justice Department, racketeering laws that were amended in 1984 to include obscenity have been used in only three obscenity cases since the Pryba trial. Two are still unresolved, while charges in the third were dismissed by a federal judge in Los Angeles.

Paul J. Cambria, Jr., an attorney for Dennis Pryba, argued that the Prybas' 12 stores were unfairly shut down when they were forced to turn over materials other than those that were ruled obscene, including hundreds of videos and publications he said were protected by the First Amendment.

"Under this theory, if the Waldenbooks chain sells \$200 of *Penthouse* magazines that are found to be obscene, they could forfeit their entire assets, and that's ridiculous," Cambria said. "This court has failed to come to grips with the fact that there is a difference between First Amendment protected materials and drugs." He promised an appeal to the Supreme Court. "The question is too far-reaching and

important to be decided by one far-flung circuit." Reported in: *Washington Post*, April 11.

begging

New York, New York

A federal appeals court in New York City declared May 9 that begging is not a constitutionally protected right and upheld the New York City subway system's power to bar panhandlers. The 2-1 decision by a panel of the U.S. Court of Appeals for the Second Circuit overturned a lower court's ruling that included begging under the right to free speech protected by the First Amendment (see *Newsletter*, May 1990, p. 97).

In language unusually strong for a Court of Appeals ruling, Judge Frank X. Altimari, writing the majority opinion, said that "whether intended as so, or not, begging in the subway often amounts to nothing less than assault, creating in the passengers the apprehension of imminent danger." He also chastised the lower court for deferring to the rights of the beggars while overlooking the concerns of the system's millions of riders.

Citing a study commissioned by the Metropolitan Transit Authority in 1988, Judge Altimari said a majority of riders perceive begging as "intimidating," "threatening," and "harassing." "They are the bulk of the subway's patronage," Judge Altimari wrote, "and the city has an obvious interest in providing them with a reasonably safe and benign means of public transportation."

The decision overturned a January 25 opinion by Judge Leonard B. Sand. Judge Sand ruled that the Transit Authority ban on begging — imposed as part of an effort to clear the subways of the homeless — was unconstitutional because begging qualified as a form of speech protected under the First Amendment. The decision also upheld a New York State law that makes it illegal to loiter for the purpose of begging. In his ruling, Judge Sand also struck down that law.

Judge Altimari, who was joined by Judge William H. Timbers, grounded the decision in *Transit Authority v. Young* on the case of *Village of Schaumburg v. Citizens for a Better Environment*. The Village of Schaumburg, a Chicago suburb, had tried to enforce an ordinance banning door-to-door solicitations, but in 1980 the Supreme Court ruled in the case that organized charities were protected by the First Amendment.

But the Supreme Court, Judge Altimari wrote, did not intend to give First Amendment protection to beggars. "It seems fair to say," he opined, "that most individuals who beg are not doing so to convey any social or political message. Rather, they beg to collect money."

Judge Thomas J. Meskill concurred with upholding the anti-loitering law, but dissented from the opinion that begging is not covered by the First Amendment.

Judge Altamari also noted that the plaintiffs had argued that a ban was a departure from the "Judeo-Christian tradition" of giving. "In the Western Tradition, there is also no doubt that that virtue is best served when it reflects an ordered charity."

The majority opinion seemed to give great weight to the 1988 Transit Authority survey. Quoting liberally from its findings, Judge Altamari wrote: "Begging is 'inherently aggressive' to the 'captive' passengers in the close confines of the subway atmosphere."

"Silencing poor people will not solve hunger or homelessness," commented Douglas Lasdon, executive director of the Legal Action Center for the Homeless, which had filed the class action suit. "In fact, if you shut them up, and maybe move them to some island, which most people like, and you don't hear from them, the quality of care for the homeless would be even worse. It's their very visibility that has gotten them any help at all."

Lasdon said that his organization would likely appeal the ruling to the U.S. Supreme Court, although no decision had yet been made. Reported in: *New York Times*, May 10.

freedom of information

Nassau County, New York

A New York State Supreme Court justice ruled in April that under the state's Freedom of Information law, the public has the right to inspect a film depicting sexual intercourse, and other visual aids, used in a controversial human sexuality class at Nassau Community College. "What is right can stand the light of access and prove itself in the open forum," Justice George Murphy wrote. "Self-indulgent secrecy is unbecoming, inappropriate and intolerable." But some state and local educators called the decision a major threat to academic freedom.

The opinion was the first time that the state Freedom of Information law, which went into effect in 1974, has been used to obtain access to material taught in a public college. The FOI request was filed by Citizens for a More Informed America, an ad hoc group opposed to use of the film.

The film is shown in a course, taken by about 1,100 students per semester, that covers such subjects as alternative sexual practices and masturbation. The college refused to show the film publicly, saying it could set a precedent of having the public overrule professional educators in determining curriculum.

In his decision, Murphy dismissed as "irrelevant" the college's claim that a public viewing of the film would have a "chilling effect" on academic freedom. "The issue of academic freedom cannot possibly have anything to do with the basic and essential right of the citizen to inquire about and have informative access to any entity of government. The college retains completely intact . . . its 'academic freedom' to determine as a matter of institutional policy what

and how it will present its various courses," Murphy wrote.

But college representative Robert Allen countered that "if this decision is left to stand, it will create within New York State two different levels of education: public and private, in that the same course at Hofstra [a private university] would not be subject to the same kind of interference. The decision is that whatever record we have is subject to the same kind of scrutiny as the minutes of a board of supervisors meeting, since we are a governmental entity." Reported in: *Newsday*, April 6.

Austin, Texas

The Texas Supreme Court in April took unprecedented action that makes it more difficult for Texas judges to seal court records from public view, particularly in lawsuits involving public health and safety. The move, opposed by industry groups and corporate attorneys, was hailed by supporters as the most dramatic step toward court openness to emerge from a growing national debate about secrecy in civil lawsuits, notably those involving allegedly defective products.

Legislation aimed at curbing secrecy has been passed in Virginia and is pending in Congress and a number of states, including Florida, Missouri, and Rhode Island. Similar legislation was defeated in Georgia. Texas, however, is the first state to take such far-reaching judicial action on the issue by adopting a new court rule and amending others.

Texas Supreme Court Justice Lloyd Doggett, who worked to fashion the 5-4 majority on the divided court, said the justices had been "bombarded with letters from major corporations and defense attorneys expressing concern." But Doggett said court secrecy, in the form of sealed records and "protective orders" that limit access to documents, "has been greatly abused" and that valuable information about products has been kept from the public.

Under the changes in court procedure passed by the court, no court order or opinion may be sealed, and other types of records may be sealed only if those seeking the closure can prove that the need for secrecy outweighs any "adverse effect . . . upon general public health and safety."

The new rule also requires public notice of any move to seal records and allows anyone, including news media representatives, to fight the sealing at an open hearing. That, according to proponents, is a significant tool because under previous procedures, the public seldom knew when records were about to be sealed.

Industry groups and their lawyers argued that the new rule would force disclosure of trade secrets to competitors, spur lengthy and expensive lawsuits and create a hostile business climate in the state. But Arthur H. Bryant, executive director of Trial Lawyers for Public Justice, a national public interest litigation group, said, "This makes it much, much harder for corporations to value profits over lives while keeping the public in the dark by settling cases in secret." Reported in: *Washington Post*, April 21.

shield law

San Francisco, California

The California Supreme Court held unanimously May 3 that news reporters may be required to testify in criminal cases when a defendant's right to a fair trial is at stake. The state's highest court, ruling in a widely watched test of the California news media "shield law," sought to strike a balance between competing constitutional rights. Both sides in the case claimed qualified victory.

The justices held for the first time that reporters may refuse to disclose not only their confidential notes and tapes but also their eyewitness observations and other non-confidential but unpublished information they obtain on the job. Some appellate courts had ruled previously that the law protected only confidential sources and information.

But, the high court added, the shield must yield when there is a "reasonable possibility" that reporters' testimony would "materially assist" a defendant in presenting his case. The court upheld a finding of contempt against a *Los Angeles Times* reporter and photographer who had refused requests by both the defense and prosecution to testify about an arrest they witnessed while accompanying Long Beach police on patrol.

The justices noted that, in the case, the journalists' testimony would not "even remotely" restrict their ability to gather news. "All that is being required of them is to accept the civic responsibility imposed on all persons who witness alleged criminal conduct," Justice David N. Eagleson wrote for the court. The court left open the question of whether prosecutors, like the defense, could assert a constitutional claim sufficient to overcome the protections of the shield law.

The shield law, placed in the state Constitution in 1980, provides that a journalist shall not be held in contempt "for refusing to disclose the source of any information" or "any unpublished information" obtained on the job.

The justices rejected contentions by the defense and prosecution that the shield law protected only unpublished information obtained by journalists in confidence. "Any" information means just that, Eagleson noted. But the state constitutional protections of the press may be overcome by a defendant's federal constitutional right to a fair trial, the justice continued.

The court rejected the contention that the information at issue must be at the "heart of the case" and not available from alternative sources. Instead, the justices adopted a less stringent balancing test, requiring defendants to show only a "reasonable possibility" the testimony would help their case. Defendants would not have to show that such information would exonerate them.

Judges making such a determination should consider a number of factors, the court said, including whether the information is "confidential or sensitive," the relative importance of the information, alternative sources of infor-

mation, and the journalists' interests in refusing to testify. Judges were to weigh such factors on a case-by-case basis. Reported in: *Los Angeles Times*, May 4.

broadcasting

Washington, D.C.

Acting only minutes before air time, a U.S. Court of Appeals panel in Washington gave emergency approval April 6 to the broadcast of a television documentary based on the international custody battle between Eric A. Foretich and Elizabeth Morgan for their daughter Hilary. The panel overturned an extraordinary order by U.S. District Court Judge Stanley Sporkin banning a cable television network from showing the documentary.

Minutes after the panel vacated the order, "Hilary in Hiding," a British Broadcasting Co. production, was shown by Washington area cable systems as scheduled on the Lifetime network.

Sporkin, in a decision that appeared to challenge long-established legal theory, had banned the airing of the documentary on grounds that scenes involving Hilary's description of alleged sexual abuse would cause her "irreparable harm." In a written ruling, Judges Abner Mikva, Douglas Ginsburg, and David Sentelle of the U.S. Court of Appeals for the District of Columbia Circuit cited constitutional grounds in dissolving Sporkin's order.

"Since a prior restraint has an immediate and irreversible impact," the panel wrote, it bears a "heavy presumption against its constitutional validity." They said, "Any rights that Eric Foretich or Hilary Foretich may have must therefore be redressed in legal actions that do not require a prior restraint in derogation of the First Amendment."

The decision was the latest development in a long legal battle which saw Morgan spend more than two years in jail rather than reveal the girl's whereabouts to prevent Foretich from visiting her. Hilary was discovered this spring in New Zealand with Morgan's parents, and custody proceedings are underway there. The documentary focused on whether Hilary was sexually abused by Foretich, as Morgan alleged. Reported in: *Washington Post*, April 7.

etc.

Boston, Massachusetts

In a major victory for women and health care providers, the U.S. Court of Appeals for the First Circuit, sitting en banc, held in March that family planning clinics receiving federal funds under Title X of the Public Health Service Act cannot be prohibited from providing abortion information and counseling. The court found that requiring Title X physicians "to provide incomplete and skewed information and to withhold requested, possibly even medically advisable,

information," impermissibly infringes on women's rights to privacy and free speech.

The court also found that the Secretary of the Department of Health and Human Services had exceeded his authority when requiring clinics to financially and physically separate their Title X program from any program that performs or encourages abortion. Recognizing that compliance with the regulation would decimate many clinics, the court held that the regulation was "completely contrary to the express Congressional intention to expand family planning services."

The decision conflicts with that of the Second Circuit, which previously upheld the validity of the regulations. The split between the circuits increases the likelihood that the Supreme Court will grant pending petitions from the ACLU and the New York Attorney General to review the Second Circuit ruling. Reported in: *ACLU Reproductive Rights Update*, March 30. □

(IF Bibliography . . . from page 148)

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After the indictment, three of Cincinnati's nine city council members voiced opposition to prosecution of the case. "I've always been a major proponent of First Amendment rights," said Reggie Williams, a former Cincinnati Bengals linebacker and council member. "Even when things are personally distasteful, I feel that issues of censorship are more abhorrent."

Legal experts said that the prosecution was not likely to succeed. But if the case ends up vindicating the museum and the First Amendment, many in the art world believe the indictment could still have a deleterious effect.

"I thought as long as it appeared in a museum it was safe," commented Tex Lazar, a Dallas lawyer who served on the Attorney General's Commission on Pornography in the Reagan administration. His view was shared by another Meese Commission member, Professor Frederick Schauer of the University of Michigan Law School.

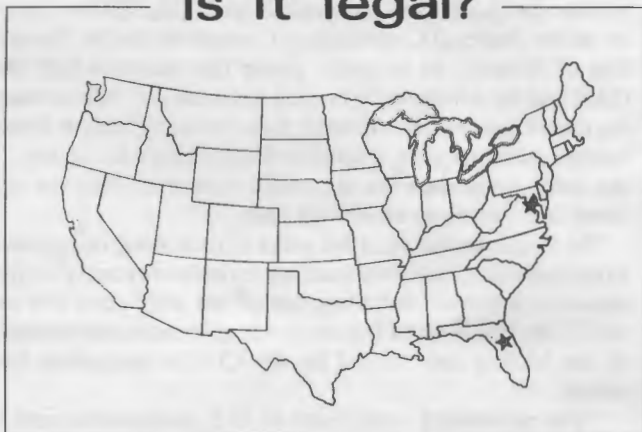
Asked whether the museum could be successfully prosecuted under the Supreme Court's *Miller* test for obscenity, Schauer replied, "Absolutely not. It's not even close. Let's take the worst case, or the best from their point of view. Take one Mapplethorpe photograph, and it shows gay men engaging in sadomasochistic acts. The very fact that it's by Mapplethorpe and it's in a museum would still lead me to say it's not even close."

"It's a sad commentary on the American constitutional system, but it's not unique," Schauer added. "We rely on the Supreme Court to do all our constitutional enforcement, and we do not penalize officials for ignoring constitutional values. We shouldn't be surprised when they do ignore them."

"Even if the Cincinnati authorities are as wrong as I think they are, in a way it doesn't matter because throwing their weight around will have had its effect," said Stephen E. Weil, the deputy director of the Hirshhorn Museum and Sculpture Garden in Washington. "Smart cops know that. What you're seeing here is a kind of bullying, and bullying more often than not is effective. There's just a tremendously chilling effect. In the longer term, I think that's the bigger problem. The question is, what are you going to flinch from next, and are you even going to know you're flinching?"

"Even if the charges are dismissed or if we win a jury trial," commented director Barrie, "we will have gone through the anguish and financial strain of fighting something that should not have been brought in the first place." Barrie said that even before trial, the museum's legal costs were already in "the tens of thousands." Reported in: *Cincinnati Enquirer*, April 3, 7, 8, 9; *Cincinnati Post*, March 28, April 7, 14; *New York Times*, April 8, 9, 15, 25; *Los Angeles Times*, April 23, 25, June 14; *Washington Post*, April 14, 21; *New York City Tribune*, April 23.

is it legal?



obscenity and pornography

Washington, D.C.

Adam & Eve, a North Carolina-based company that has distributed Constitutionally protected books, birth control devices, and videotapes since 1970, filed suit on March 26 in U.S. District Court of the District of Columbia against the U.S. Department of Justice. According to the suit, the department, since 1986, has sought to stop the distributor from doing business, even though it has never been convicted of obscenity violations, is a member in good standing of the local chamber of commerce, and "takes extraordinary steps to ensure that none of the materials it distributes could reasonably be considered obscene."

The suit also charges that the Justice Department has threatened to file multiple suits against Adam & Eve that would force the distributor out of business, even if they were acquitted in every trial. The suit singles out the department's National Obscenity Enforcement Unit, which was formed as a result of former Attorney General Edwin Meese's commission on pornography (see page 122).

According to attorneys from Jenner & Block, the Washington, D.C., law firm representing Adam & Eve, the company subjects all sexually oriented materials to external review "by independent experts in the psychiatry, clinical psychology or sex therapy fields" and if the material fails to pass the *Miller* test established by the U.S. Supreme Court, then it is rejected and not offered for sale.

The Department of Justice, the suit alleges, has raided the distributor's offices, where 120 people work, posting armed guards at all doors. A federal judge later characterized this

as "harassment." The company's owner, Philip Harvey, said he had been threatened with federal prosecution in Kentucky and Utah unless he cuts his inventory to only R-rated movies. Reported in: *Chicago Tribune*, April 6; *ABA Newswire*, April 9.

DeLand, Florida

The American flag hangs upside down — a symbol of distress and a call for emergency aid — in Eric Loveland's video store. "We think it's appropriate. We're in distress. This is a dire emergency," said Loveland, owner of Movie World of DeLand.

The upside-down flag hangs in front of empty shelves that once held 870 X-rated videotapes. Loveland removed the tapes April 17 — the day after a Volusia County grand jury recommended banning X-rated videotapes and audio recordings of songs with sexually explicit lyrics. State Attorney John Tanner sought that recommendation from the Volusia County grand jurors and from grand juries in each of the other three counties — Flagler, Putnam, and St. Johns — in his judicial circuit. Tanner's goal is to rid the circuit of tapes and recordings that he believes breed sex crimes.

Tanner's drive has concentrated on neighborhood video stores that stock *Bambi*, as well as *Debbie Does Dallas*. There are few other outlets for adult entertainment, such as adult book stores and topless bars, in his circuit.

There are such bookstores and bars, however, in Seminole County, which borders Tanner's circuit on the south. Yet statistics from the Florida Department of Law Enforcement show that last year there were more than twice as many sex offenses involving force in Volusia County than in Seminole. That ratio has been fairly consistent for eight years. "What that tells me is that Volusians are going to Seminole County, getting all fired up and coming back to rape our women and children," Tanner said.

Tanner got grand juries in each of the circuit's four counties to recommend banning a total of twenty videotapes and six audio recordings. He said he used the grand juries as warnings to video store owners to clear their shelves of X-rated tapes. He said the juries' recommendations established probable cause for arresting store owners on obscenity charges.

Tanner's office also brought misdemeanor obscenity charges against video store owners Danny Milstead of South Daytona and Glenn Rose of Daytona Beach. Both had complained about Tanner's investigators renting tapes, showing them to the grand jury, and then not returning them.

On May 5, about 1,500 video store owners, civil libertarians, and other protesters demonstrated in DeLand against Tanner's crackdown, charging that the prosecutor has made a mockery of the First Amendment. During a rally at the Volusia County Courthouse, protesters carried a black coffin mourning the death of free speech, while others dressed as Nazis carried banners proclaiming themselves "Tanner's Troopers."

"I think we've proven today that we're not just a group of video store owners," said Barry Freilich, an Ormond Beach video dealer and president of Friends of the First Amendment, one of the organizing groups. "There's enough people here to change an election," he told the crowd. "Censorship in any shape or form is wrong."

John Yetter, a Florida State University law professor, said that grand juries have broad powers in Florida and that, although unusual, Tanner's tactics are not illegal.

In a related development, Seminole County Judge Fredric Hitt told Sheriff John Polk in April that a grand jury should be used to set standards for the community. Polk and Seminole-Brevard County State Attorney Norman Wolfinger had asked Hitt whether audio recordings of rap group 2 Live Crew are obscene. The works of 2 Live Crew are among the audio recordings that Tanner is trying to ban. The group's latest album was also declared obscene by three south Florida judges (see page 138). Reported in: *Orlando Sentinel*, May 6; *St. Augustine Record*, April 27; *Daytona Beach News-Journal*, April 30.

government secrecy

Washington, D.C.

An organization of specialists in American history has asked Secretary of State James A. Baker, III, to lift what it says is an excessive secrecy — even over events that occurred nearly forty years ago — that is undermining the credibility of the official history of U.S. foreign policy. In a sharply worded resolution adopted at its April convention, the Organization of American Historians declared that the integrity of the venerable series *Foreign Relations of the United States* has been undermined by "an appalling increase in the amount of incomplete and deleted documents."

The series, which began in 1861, claims in the preface to each volume to include, "subject to necessary security considerations, all documents needed to give a comprehensive record of the major foreign policy decisions of the United States." But recent volumes, according to the resolution, have "significant increases in deletions and omissions [that] create an incompleteness that in itself is a distortion."

Passage of the resolution by the OAH came in the wake of the February 15 protest resignation of the chair of a State Department advisory committee of outside scholars, which is supposed to verify the integrity of the official history by reviewing excised materials. Warren L. Cohen of Michigan State University wrote Secretary Baker that the committee's inability to review all deleted documents meant he could not "protect the integrity of the series."

"The entire process by which the committee attempts to serve the department by ensuring the integrity of the historical record has been brought into question," Cohen said, because the department was no longer allowing all committee members — all of whom have security clearances — to review the omitted documents.

"We as the American public need access to an objective and accurate account of our past," argued Page Miller, director of the National Coordinating Committee for the Promotion of History, an umbrella group that includes both the OAH and the American Historical Association. "When many documents are totally withheld, then the classification issues become such that what is being withheld distorts the history," she said, "and then we are really concerned that we are deceiving ourselves about our past."

The OAH resolution, after years of increasing complaints from historians, followed scathing reviews of recent *Foreign Relations* volumes, including one on the 1953 coup that installed the late Shah of Iran in power that makes no mention of the leading role played by the CIA in instigating that action.

"The misleading impression of U.S. noninvolvement," said Duke University historian Bruce R. Kuniholm, "constitutes a gross misrepresentation of the historical record, sufficient to deserve the label of a fraud."

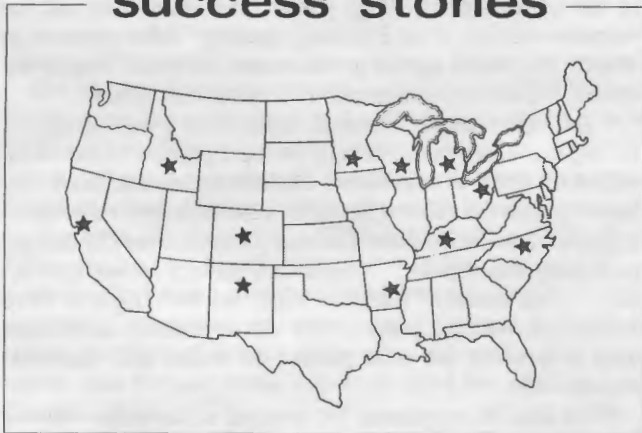
Another historian, Roger Dingman of the University of Southern California, reviewing another *Foreign Relations* volume on Southeast Asia for the same period in the *Pacific Historical Review*, said that book provides unmistakable evidence of dramatic and devastating changes in the editorial policies and processes which govern the publication of documents on American foreign policy. The more recent volume has less than 60 percent of the amount of material that appeared in the volume covering the 1949-51 period, he said.

"Secondly, in the earlier three-year period, almost without exception, documents were printed in their entirety," Dingman said. In contrast, "60 percent of the documents concerning Thailand in 1952 have excisions . . . [and] more than 30 percent of those on relations with the Philippines for 1953 have cuts."

Dingman and others argue that part of the reason for the growing percentage of documents withheld or published with excisions is that control of the process has slipped from the State Department historian's office to other offices in the department and in the intelligence agencies. For most of its history, historians could assume a full account of foreign relations could be gleaned from State Department or presidential documents. But after World War II, with the rise of the CIA and other agencies involved in foreign policy formulation, the State Department's influence has declined, becoming, in effect, a kind of broker for various agencies.

In addition, historians say, executive orders under Presidents Richard Nixon and Jimmy Carter assured that most documents more than thirty years old would be subject to a declassification process. President Ronald Reagan's 1982 executive order, however, had no timetable for declassification, and overly restrictive rules governing declassification. These, the historians assert, should be changed, either by the administration or by Congress. Reported in: *Washington Post*, April 16. □

success stories



libraries

Pullman, Idaho

The Pullman School Board April 17 denied a parent's request to remove a controversial book from the middle school library. A committee of teachers had previously decided in favor of removing *My Sweet Audrina*, by V.C. Andrews, from Lincoln Middle School because it deals with themes related to sexual violence. The decision was appealed by the school librarian.

Discussion at the board meeting ran decidedly against removal. Students and some teachers complained that removing the book would amount to censorship. "When you take a book off the shelf or from the library, it doesn't really solve the problem," one student said. "Students can distinguish for themselves what's good and what isn't, at that age."

Only two of seven board members voted to remove the book. Reported in: *Lewiston Tribune*, April 18.

Frankfort, Kentucky

A folklore book about devils and demons should remain in the Elkhorn Middle School library, a committee of parents and teachers decided in late April. The parent who originally protested the book said she would not appeal the decision.

"It won't do me any good," said Karen Underwood, who took *Demons, Devils and Djinn*, by Olga Hoyt, away from her seventh-grade daughter in February because it describes devil worship (see *Newsletter*, May 1990, p. 84). "They're going to do what they want, but I as a parent will raise my child to know better," she said.

Elkhorn Middle School principal David Simpson said a committee that included him, two teachers and two parents agreed unanimously that the book should remain in the library. Simpson said *Demons, Devils and Djinn* offers a historical perspective on the supernatural and does not pro-

mote devil worship or discuss any specific religion. He stressed that it was not required reading in any class. "You have to be careful which book is censored," Simpson said. Reported in: *Frankfort State Journal*, May 2.

Spring Lake, Michigan

Spring Lake officials decided in April not to ban a library book that one parent charged was a "brazen attempt to interest young minds in the occult." The Spring Lake Board of Education accepted a committee recommendation April 9 that the book, *Zork: The Malifestro Quest*, by Eric Meretzky, stay in the library at Jeffers Elementary School.

Peter Fries, a parent with three children in the Spring Lake schools, filed a complaint against the book in February (see *Newsletter*, May 1990, p. 84). He claimed the book dealt with the occult, had no literary value, and was "disgraceful to the Lord."

"It is felt that since the library is a place for ideas, many and various viewpoints must be honored. If parents object to this particular book, they must be responsible for supervising their children's reading in light of their own moral viewpoint," a review committee of school board members wrote. Reported in: *Grand Rapids Press*, April 11.

Woodbury, Minnesota

A book about the life and sexual encounters of a teenage soccer player will stay on library shelves in Woodbury, the Washington County Library Board decided. Woodbury area residents had collected 500 signatures on a petition to remove the book *Juggling*, by Robert Lehrman. The board voted 6-1 May 7 to keep the book. The board also voted to reaffirm its freedom to read policy. Reported in: *Minneapolis Star-Tribune*, May 10.

Watauga County, North Carolina

The Watauga County Board of Education voted unanimously May 25 not to remove a 1901 edition of Rudyard Kipling's *Just So Stories* from the Hardin Park Elementary School library. The book had come under attack because the word "nigger" appears in the story "How the Leopard Got His Spots." Librarians Audrey Hartley and Myrna Heaton had appealed to the board to overturn a five-member committee's decision to remove the book.

The committee had decided to support a challenge by Dr. William Hutchins, a philosophy professor and father of a kindergarten student at the school, who objected to the "gratuitous use of the word" in a "lavishly illustrated kiddy" book.

Opposing the decision to remove the book, board chair Bob Bingham said leaders in public education must encourage resistance to even the appearance of restricting freedom of speech. "Freedom of speech is the vehicle through which can come the defense against those who would use words to harm other human beings," he said. "Freedom to speak,

inquire, read and express oneself leads to enlightenment. Enlightenment leads to less intolerance."

Hutchins told the school board: "There are two things I want very much for my daughter not to become. I don't want her to be a drug addict, and I don't want her to be a racist." He said that undiluted, unexplained racism is inappropriate for young children's literature.

But librarian Hartley argued that exposure to such words is part of education. "In the end, the only way we learn there are such issues as racism is by discussing them with our children. We ask that you vote to leave this book on the shelf."

Board member Pat Morgan said he recognized the responsibility public officials have in seeing that people have access to information. "I recognize that some material might not be appropriate for certain age groups and that good taste is important in determining which books are to be selected," he said.

The board also unanimously approved Morgan's motion to "develop appropriate policy and program, if necessary, to reflect our belief that words and acts meant to be harmful to others are as inappropriate in our society as hitting one's neighbor." Reported in: *Watauga Democrat*, May 23, 28; *Winston-Salem Journal*, May 26.

Steubenville, Ohio

The controversy surrounding the movie *The Last Temptation of Christ* was resurrected in Jefferson County in March as an effort began to get the videocassette version of the movie removed from the Public Library of Steubenville and Jefferson County. Some area ministers and lay people met March 9 at the Wintersville Baptist Temple to form an interfaith committee to block the library from circulating the video. But the library board held to a February decision to keep the video in the library collection without restrictions on its circulation.

"We find *The Last Temptation of Christ* to be obscene and a blatant example of Christian bashing. If they made a movie about Ann Frank having sexual fantasies with SS officers, the anti-defamation [league] of the American Jewish Congress would protest," explained Wintersville resident Jack Giles.

"This is a movie against Christians and portrays Christ as a weakling and as a liar," Giles said. "Jesus was not capable of committing a sin; he faced all temptations and passed all them. It's not a Christian movie and it's not based on the Bible. Christians are supposed to turn the other cheek, but I'm running out of cheeks."

Library Director Alan Hall said approximately 180 formal requests to have the video removed were filed after the film, added to the library's main collection in August, 1989, went to its Schiappa branch in January. A collections review committee studied the complaints and prepared a report recommending the library retain the video because the novel

by Nikos Kazantzakis, on which the film was based, has been in the collection for thirty years. The board adopted the recommendation at its February meeting. After protests in March, the board agreed to reconsider the issue, ultimately voting 5-0 at its April session to retain the video.

"The video has circulated 85 times since it was purchased in August," Hall said. "It is in the top 5 percent of our video collection as far as circulation. The circulation was even very heavy before the request for reconsideration was received."

Stocking the video generated many letters, overwhelmingly protesting the movie. "I think they have a strong conviction," Hall stated. "I respect them for their right to have an opinion, but I think the library like in so many other areas tries to present the total picture on social and historical events."

Giles said his movement for removal of the video was not censorship, because if a patron wants the video the library can obtain it through inter-library loan.

"It offends me that the library has spent my tax money on this video," Giles said. He said he viewed the movie in order to know what he was talking about. "They didn't even have the decency to put a loincloth on Christ when they were crucifying him," he complained. Reported in: *Wheeling Intelligencer*, March 8; *Steubenville Herald-Star*, April 18.

Racine, Wisconsin

Parents John and Jennifer Kalashian, who had previously objected to Racine Unified School District's health textbook and library materials, lost a bid February 28 to have a magazine aimed at pre-teen and teenage girls removed from the school libraries.

In November, the Kalashians filed a formal complaint about *Sassy* magazine, saying it was "without question, the most sexually provocative teen magazine ever published. Our public tax dollars shouldn't be spent on highly controversial and risqué materials." However, the district's library review committee voted to keep *Sassy* on library shelves.

Case High School librarian Sue Griego, a committee member, said she tried to evaluate the magazine with her ten-year-old niece in mind. "There were articles in here that would make her mother's job and my job as her aunt easier," she said, citing articles on everything from fashion and environmental issues to what to expect during the first visit to a gynecologist.

Magazine opponents said *Sassy* did not support the district's curriculum and had lost advertiser and distributor support because it was controversial. As a basis for removal, the Kalashians cited a district policy that calls for students to be referred to the public library or a newsstand when dealing with controversial materials.

John Kalashian said he thought the vote was "unfair" because three committee members were absent. He said he planned to appeal to Superintendent Don Woods and the Racine school board. Reported in: *Racine Journal-Times*, March 1.

schools

Mena, Arkansas

The Mena School Board voted April 10 not to remove two books from the curriculum that a parent of a fourth-grade pupil said contained "violence, voodoo and cannibalism." The board voted unanimously to uphold a decision by a committee of school administrators and parents to keep the books — *Basilissa The Beautiful*, a Russian folk tale, and *The Imp in the Basket*, by Natalie Babbitt — in the curriculum.

Vicky Titsworth, a local real estate agent whose son is a member of a voluntary advanced reading group at Holly Harshman Elementary School, objected to the books. The committee was formed when Titsworth filed her challenge in October 1989.

"We feel we should have academic freedom and should exercise our right by keeping the books," said Superintendent Lonnie Barron. "We're trying to develop thinking skills. This book series is one that is used throughout the state. This is not something that is off-the-wall material. We got as much information as possible about these books to determine if they met our goals and objectives for the class," he continued.

"Part of the complaint stated that the books were unfit for fourth-graders," Barron added. "But you have to remember, these are exceptional fourth graders. We're trying to teach thinking skills. These books made the students think." Reported in: *Arkansas Democrat*, April 11, 12.

Littleton, Colorado

The Littleton Board of Education voted unanimously in February to keep a sex education video in the schools' science curriculum, overruling two Euclid Middle School mothers who said the film is too graphic for eighth graders. The two women said they object to the *Living Body: Shares in the Future* because of a nude scene in the opening minutes which shows a boy and girl who appear to be about 18 facing each other while the camera pans around them (see *Newsletter*, May 1990, p. 86).

Another mother told the board she also objected to using the film in coed science classes, and that she resented the fact that parents were not given the option of preventing their children from seeing the film. The two mothers said they were "disappointed" with the board's rejection of their protest. The review process in Littleton specifies that new approved materials or those where a protest has been overruled will not be reconsidered for a period of three years. Reported in: *Littleton Times Weekly*, February 22.

Albuquerque, New Mexico

La Cueva High School teacher Joyce Briscoe and librarian Pauline Jones were reinstated February 2 after they had been suspended with pay for showing the R-rated movie *Catch-22* to about 45 students without going through new district pro-

cedures (see *Newsletter*, May 1990, p. 87). Albuquerque Public Schools Superintendent Jack Bobroff reinstated the two after discovering that a copy of the same film at another high school was labeled PG and had been shown "for a number of years."

Briscoe previously unleashed a storm of controversy when she showed *The Last Temptation of Christ* in a history class. That uproar prompted administrators to revise their policy guiding how classroom materials are selected and used. The new policy requires a school committee to screen R-rated films before a teacher can show them.

After Briscoe and Jones were suspended, the school, the teachers' union and various administrators received dozens of phone calls, most from people who thought administrators overreacted to the incident. At least 40 La Cueva students showed up to defend the two at a meeting sponsored by community groups opposing a new school tax because of the *Temptation* controversy. The tax was passed.

"Both Pauline and I are pleased to be returning to La Cueva," Briscoe said in a statement prepared by the two. "We especially want to express our appreciation for the many, many supporting calls, letters and flowers from our colleagues and from so many people we don't even know in Albuquerque who are interested in the education of students." Reported in: *Albuquerque Journal*, February 3.

university

Hayward, California

In an effort to avoid charges of censorship on campus, California State University, Hayward, president Ellis McCune on April 25 lifted all limitations placed on the inclusion of nudes in a planned art exhibit at the University Union. McCune's decision voided an agreement between artist Audrey Yuen and Union directors to show only works in which subjects were nude from the waist up and left the artist free to exhibit any of her works in the exhibit scheduled to run from May 1-20 on the Union's third floor wall.

"We had come to a fair and amicable decision," said Yuen, a CSUH graduate. "I was invited [to exhibit at the Union], and it was like being invited to someone's house — if they take off their shoes, you take off yours."

But others, including President McCune, felt that the fuss made by the Union officials over the paintings smacked of censorship. "We don't want any sort of censorship hanging over the campus," said John Cain, the university's public relations director. "The university is first of all a place of ideas, a place of learning, and a place of truth, and censorship has no place in a place of learning."

McCune, who is retiring as president of the Hayward campus, was named acting chancellor of the California State University, in May, after the sudden resignation of the former chancellor, a target of legislative and faculty criticism. Reported in: *Cal State Pioneer*, April 26. □

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