

newsletter on intellectual freedom



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**oh, what a
censored
war!**

“When [President] Bush said a couple of weeks ago, ‘This is not going to be another Vietnam,’ everybody assumed he meant: ‘We’ll get it over with quickly.’ It also is starting to seem he meant: ‘This is not going to be a war that is going to be covered by a free and independent press.’”

These words were spoken by Pulitzer Prize-winning author and media critic Ron Powers, but they expressed a sentiment widely held among reporters and correspondents who covered “Operation Desert Storm,” the U.S.-led war in Iraq and Kuwait. Indeed, among the uncelebrated victories for President Bush in the gulf war was the administration’s successful management of war news. As columnist Tom Wicker of the *New York Times* concluded: “The real, and dangerous, point is that the Bush administration and the military were so successful in controlling information about the war that they were able to tell the public just about what they wanted the public to know. Perhaps worse, press and public largely acquiesced in this disclosure of only selected information.”

Since the fighting ended, the military has released information that reveals some of the extent to which the public — and the media — were misled. For instance, despite all the television coverage of precision-guided “smart” bombs going down the chimneys of Iraqi targets, according to information released by the Air Force after the war ended only 7 percent of all the U.S. explosives dropped on Iraq and Kuwait were “smart” bombs. “Smart” bombs were about 90 percent effective, but the nation was not told that 81,980 tons of unguided bombs had an accuracy rating of only 25 percent. In fact, 70 percent of the 88,500 tons of bombs dropped in 43 days of combat *missed* their targets, the Air Force now acknowledges.

There is, of course, nothing new about exaggerated claims of success in wartime, nor is there anything novel about the military trying to control information. In the gulf war, however, the military went further than ever to control the news. Not only did stories have to be cleared before publication or airing, reporters and cameras also were limited in their movements and inadequate “pool” coverage was the rule. Even troop interviews were monitored and sometimes forbidden. For the first time, journalists seeking press credentials were initially required to pass a fitness test, which included sit-ups, push-ups and a 1.5 mile run, but this requirement was dropped after protests. After the initial rules governing press coverage were announced before the fighting began, representatives of

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gulf war prologue named top censored story of 1990

The limited media coverage given to the events which led up to the Gulf War was cited as the top under-reported issue of 1990 according to a national panel of media experts. Carl Jensen, professor of communication studies at Sonoma State University (SSU), California, and director of Project Censored, said that the failure of the press to objectively report the events of the Middle East have left Americans confused as to why the United States had nearly half a million troops suddenly fighting a deadly desert war against Iraq.

The second most under-reported story of the year focused on the botched and expensive solution to the savings and loan crisis while the third ranked story explored the role of the Central Intelligence Agency (CIA) in the S&L scandal. Now in its 15th year, Project Censored, a national media research effort conducted annually at SSU, locates stories about significant issues that are not widely publicized by the national news media.

The "ten best censored news stories of 1990" was the subject of an hour-long documentary hosted by award-winning journalist Bill Moyers. The special, titled *Moyers/Project Censored*, aired on February 27.

Following are the top ten under-reported stories of 1990:

1. *Flawed coverage of the gulf crisis.* Traditional press skepticism was the first casualty in the days immediately following Iraq's invasion of Kuwait. The media, concerned about appearing to be unpatriotic, fell into the unseemly role of Pentagon cheerleaders for the administration. Even the Defense Department spokesman, Pete Williams, admitted that "the reporting has been largely a recitation of what the administration people have said (see p. 69)."

2. *S&L solution is worse than the crime.* The 500 billion dollars, estimated to be needed to bail out the savings and loan industry, is more than the entire cost of World War II, in current dollars and including service-connected veterans' benefits. The Resolution Trust Corporation, the federal agency entrusted with solving the problem, is now accused of producing a massive giveaway that will make Teapot Dome look like a demitasse.

3. *The CIA role in the S&L crisis.* The question of what happened to the billions of missing S&L funds is partially answered by an investigative journalist who found links between S&L's, organized crime figures, and CIA operatives, including some involved in gun running, drug smuggling, money laundering, and covert aid to Nicaraguan contras.

4. *NASA shuttles destroy the ozone shield.* Dr. Helen Caldicott, world renowned physician and environmentalist, warns that every time the space shuttle is launched, 250 tons of hydrochloric acid is released into the air contributing to the destruction of the ozone layer.

5. *Media blackout of drug war fraud.* A top-ranked undercover agent, recently retired from the Drug Enforcement Administration, reports that the administration's widely touted "drug war" is really a "psychological war, aimed at convincing America through the press that our government is seriously trying to deal with the drug problem when they're not."

6. *What really happened in Panama?* New reports from non-mainstream but authoritative sources reveal that the legal foundations for the Panama invasion, the Bush-Noriega relationship, the actual American and Panamanian casualty figures, and the post-invasion conditions in Panama have been misrepresented to the American people.

7. *The Pentagon's secret billion-dollar black budget.* An investigation by a Pulitzer Prize-winning investigative journalist exposed the Pentagon's secret "Black Budget," which was once used to fund America's eleven intelligence agencies, but is now being used by the administration and the military to conceal the costs of many of their most expensive and controversial military weapons.

8. *The Bill of Rights had a close call.* The mass media failed to tell the public about the potential repressive impact of the Gramm-Gingrich anti-crime bill introduced in both the U.S. Senate and the House in 1990. The bill called for "A Declaration of National Drug and Crime Emergency," which critics say would have essentially nullified the Bill of Rights had it passed through Congress.

9. *Where was George?* Despite repeated assertions by President George Bush that he was "out of the loop," new material from Oliver North's diaries, obtained through a Freedom of Information lawsuit, provided additional information that President Bush played a major role in the Iran-contra scandal from the beginning.

10. *America's banking crisis.* Top economists report that the same economic conditions that led to the demise of the savings and loan industry are now eating away at our commercial banks and that the same kinds of accounting gimmicks that hid the S&L crisis are being used to cover up the commercial banking crisis.

The other 15 under-reported stories of 1990 were: Conflict of Interest in Oliver North's Acquittal; The Chemical Industry and Its Cocaine Connection; The Big Banks' Role in Laundering Drug Money; The U.S. Military's Toxic Legacy to America; Media's VDT Radiation Stories That Still Don't Make the News; Bush-Mosbacher-Baker and Their Lucrative Leaking Oil Barge Business; The American Library Association's Fight Against Government Secrecy; The National Media Ignore CIA Misdeeds; There Was No Massacre in Tiananmen Square; Does the Medical Establishment Suppress Alternative Cancer Treatments?; The United States and Our Global Dumping Grounds; Malathion: Death From the Skies; The CIA, the La Penca Bombing, and a Murder Indictment; The Return of Electroshock: The "New, Improved" Psychiatric Therapy; The Congressional

Intelligence Authorization Act That Would Subvert the Constitution.

The panel of judges who selected the top ten under-reported news stories included Dr. Donna Allen, founding editor of *Media Report to Women*; Ben Bagdikian, Professor Emeritus, Graduate School of Journalism, University of California at Berkeley; Richard Barnet, Fellow, Institute for Policy Studies; Noam Chomsky, professor, Linguistics and Philosophy, Massachusetts Institute of Technology; Dr. George Gerbner, professor, Annenberg School of Communications, University of Pennsylvania; Nicholas Johnson, professor, College of Law, University of Iowa; Rhoda H. Karparkin, 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, founder and co-director, Institute for the Arts of Democracy; John McLaughlin, executive producer, Oliver Productions Inc.; Bill Moyers, executive editor, Public Affairs Television, Inc.; Jack L. Nelson, professor, Graduate School of Education, Rutgers University; Herbert I. Schiller, Professor Emeritus of Communication, University of California, San Diego; and Sheila Rabb Weidenfeld, president, D.C. Productions.

Jensen, who created Project Censored in 1976, said, "This media research project has been called 'an early warning system' for the nation. The number of military and financial and economic issues that were under-reported in 1990 surely provided an ominous warning of what the United States could expect in 1991." Anyone interested in nominating a "censored" story of 1991, 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, 1991. □

NEA fight continues

The battle over federal funding of art was renewed March 18 when a group of artists challenged the constitutionality of new legislation requiring the National Endowment for the Arts to consider "general standards of decency" in awarding grants. The suit represented a split within the arts community over whether the best tactic is to declare open warfare or to maintain a low profile, relying on NEA Chair John Frohnmayer's assurances that he will not be a "decency czar." Those assurances seemed stronger when, less than two weeks later, Frohnmayer took a strong stand in support of a controversial NEA-funded film attacked in a letter-writing campaign by the Rev. Donald Wildmon for its allegedly "explicit porno scenes of homosexuals involved in anal sex."

The NEA has stated that it will presume that general standards of decency are applied automatically when review

panels and the NEA advisory council assess applications (see *Newsletter*, March 1991, p. 36). A statement from the NEA in response to the suit reiterated this position: "The NEA has analyzed and implemented Congress's legislative mandate in such a way that it has ensured that artistic excellence and merit are the criteria by which applications are judged, taking into consideration the diverse beliefs and values of the American public."

But attorneys representing the artists said the decency standard is unconstitutionally vague and discriminates on the basis of political viewpoint. "What is one person's indecency is another person's art," said Nan Hunter of the ACLU. "It's impossible for any artist in America to know what decency means or to know how the NEA is going to apply this test."

Attorney David Cole of the Center for Constitutional Rights said the decency standard is "a code word for a particular point of view [that] particularly excludes the voices of lesbian and gay feminist" artists.

The decency provision was included in legislation that funded the NEA fiscal year 1991 and reauthorized the agency for three years. Some in the arts community regarded it as an improvement over anti-obscenity language applied in 1990 that targeted depictions of sadomasochism and homoeroticism. But attorney Cole said a decency standard "is generally understood to be far broader" than a restriction on obscenity.

Previously, a federal court in California ruled that the NEA had violated the First Amendment by requiring artists to sign a pledge that they would not violate the obscenity provisions in the 1990 law.

The legal challenge to the decency language was added to an existing suit brought by four solo performance artists — Karen Finley, Holly Hughes, Tim Miller and John Fleck — after Frohnmayer rejected their grant applications last June. Their proposals had been approved by peer review panels and the NEA's advisory council.

The suit, filed in federal court in California, challenges NEA procedures and charges that Frohnmayer vetoed the grants because of the "controversial political content" of the artists' work. All four artists address issues of sexuality in their performances.

The revised suit also charges the NEA with violating the artists' privacy by disclosing their applications to the media and to interest groups. Finley's application, for example, was discussed in a May, 1990, column by Rowland Evans and Robert Novak. Other materials appeared in the *Washington Times*.

Joining the artists as a plaintiff in the suit was the National Association of Artists Organizations. Executive Director Charlotte Murphy acknowledged that some arts advocates oppose the suit. "Nobody in the arts community supports the decency language — nobody," she said. "But when it comes to taking action, we are somewhat alone."

Murphy said artists cannot rely on Frohnmayer's assurance

that the decency provision will not be applied formally. "How long does the gentlemen's agreement work when things become hot again?" she asked.

Indeed, even before the decency language was challenged NEA critics had not been silent. The Christian Life Commission, the Washington-based public policy wing of the Southern Baptist Convention, and the American Family Association, founded and led by the Rev. Donald E. Wildmon, criticized a \$15,000 NEA grant for a work on which Hughes will collaborate.

In a March 5 letter to members of Congress, Wildmon charged that the work would be "a sexually explicit performance which will include two 12-year-old girls." He urged a federal investigation "for possible violation of federal law pertaining to minors."

Then, in a series of letters faxed and mailed to members of Congress on March 15 and 18, Wildmon launched an assault on the film *Poison*, an award-winning work by New York filmmaker Todd Haynes.

Poison is the first film to be implicated in the NEA flap. Haynes received a \$25,000 NEA grant for its completion, which represented roughly 10 percent of the film's total budget. According to Haynes, the grant was given, without a hitch, after he submitted a complete script and trailer for the film to NEA's media arts panel. A Grand Prize-winner at the 1990 Sundance Film Festival, *Poison* depicts three separate but interrelated stories, called "Hero," "Horror," and "Homo." "Homo," the subject of the Wildmon tirade, takes place in a prison. "A mood of seething, violent homoeroticism permeates the proceedings," one critic wrote. "It could easily set Jesse Helms back on the rampage."

Haynes, who is gay, argued that out-of-context descriptions do his film an injustice. "There are no shots of rear-entry intercourse," he said. "There is a rape at the end of the film, which is basically covered by a medium two-shot of two inmates, focusing on their heads. There are two cutaways to their pants, but all you see is one-half of the guy's thigh, and mostly a lot of clothing hanging off. It's very 'tasteful.'"

Wildmon's attack coincided with White House pressure on Frohnmayer, who according to a report in the *Los Angeles Times*, was threatened with losing his job unless he can "steer clear of exciting controversy among conservatives." Nevertheless, in an abrupt shift of tactics, Frohnmayer called a news conference to personally defend *Poison* as the "work of a serious artist dealing with the serious issue" of family violence that is "neither prurient nor obscene."

"I don't suppose most Americans would object to their tax dollars being used for a film [about how] violence is destructive to the family," he said. Frohnmayer noted that the panel of jurors at Sundance included such noted film makers as Catherine Wyler, co-producer of *Memphis Belle*, and Gus Van Zant, director of *Drugstore Cowboy*.

Frohnmayer has defended NEA-subsidized works only in-

frequently and usually indirectly. By taking the unusual step of calling a press conference to endorse a work, he earned quick praise from artist groups and predictions from conservatives that he might be only compounding his problems.

"[NEA officials have] given up their usual bunker mentality and now they're coming out swinging," said Kerry Knott, an aide to Rep. Dick Armey (R-TX), who wants to abolish the agency. But Knott predicted that the added publicity "will probably just increase the pressure on the White House to do something."

Roman Popadiuk, deputy White House press secretary, said in response to a question about Frohnmayer that President Bush "still supports him." Frohnmayer also insisted that if his job is in jeopardy, "it's news to me. The president has been supportive of me in public and private statements, in every instance."

Yet, it was also clear that some White House aides were willing to have Frohnmayer ousted to quiet the clamor of conservative groups. "*Poison* shows that the problems of the NEA are pervasive," said Jim Smith, lobbyist for the Southern Baptist Christian Life Commission. He said that his group will speak out during deliberations on the NEA appropriations bill, and that the group would call for Congress to oust Frohnmayer and impose specific restrictions on the content of NEA-funded works. Reported in: *Washington Post*, March 19; *San Francisco Chronicle*, March 29, 30. □

media under siege of subpoenas

The U.S. news media are "under siege" from subpoenas, both those that are merely a nuisance and those that threaten reporters' privilege. That is the conclusion of a survey by the Reporters Committee for Freedom of the Press, which revealed that at least 4,408 subpoenas were served on 1,042 U.S. news outlets in 1989.

"Agents of Discovery," a project of the Reporters Committee, looked at subpoenas served on television stations and newspapers in 1989. Those responding to the questionnaire included 703 newspapers and 339 television stations. A common thread revealed by the responses was that news organizations are increasingly used as agents of discovery for lawyers and investigators, despite protections that include a U.S. Supreme Court declaration that journalists enjoy at least a qualified privilege.

The report found that some 4,408 subpoenas had been served on the 1,042 media outlets in 49 states and the District of Columbia, with 46.7 percent of the media surveyed saying they had been subpoenaed in 1989. Seven media outlets in California, Florida, Georgia, New Jersey and Texas each said they received more than 100 subpoenas in 1989. The average number of subpoenas received in 1989 by survey respondents was 9.1.

Among the residents, 17 complained that lawyers collecting evidence often resorted to the news media first. The report quoted one mid-size Florida newspaper as saying, "Subpoenas are often simply a means that lawyers use to get newspapers to do their legwork for them." Nine news outlets complained not only about lawyers on "fishing expeditions," but also of how inept they are at dealing with the media.

None of the respondents were subjected to newsroom searches in 1989, but one small Oklahoma daily said FBI agents came to its newsroom questioning a bureau reporter in connection with a story about a flag burning during a local college's protest of the Panama invasion. The publisher of the paper agreed to give the agents, without a subpoena, a color slide of the photo the newspaper had published.

Most of the subpoenas, 54.1 percent, involved criminal cases; 45.6 percent, criminal judicial proceedings; 1.2 percent, grand jury investigations; and 7.3 percent, other criminal investigations. The next largest category was for subpoenas issued in civil cases, which made up 34.4 percent, 29.6 percent for civil trials and 7.4 percent for reporters to testify and civil depositions.

Although in civil cases plaintiffs and defendants subpoenaed news organizations at a similar rate, in criminal cases the defense issued 52.6 percent of the subpoenas reported, while 27.3 percent came from the prosecution. The sources of the remainder were unknown.

Within the 4,408 subpoenas issued to survey respondents were some 7,341 separate requests for information. The most frequently requested categories were: material aired by television stations, 33.3 percent; unedited tape, 15.6 percent; outtakes, 10.6 percent; published stories, 10.2 percent; notes, 9.8 percent; reporter testimony, 5.2 percent; written drafts, 3.7 percent; published photographs, 2.5 percent; internal memoranda, 2.5 percent; deposition testimony, 2.4 percent; and photographic negatives, 1.2 percent.

Of the subpoenas issued, survey respondents complied with 56.5 percent, while issuers withdrew 17.7 percent without court fights. Only 7.9 percent of the subpoenas received by the news media were challenged, although among those, 76.5 percent were quashed by judges. Among the 23.5 percent, or 82, subpoenas that were not quashed, the media appealed 23 and succeeded in blocking 18 of these.

Ninety-seven, or 25.6 percent, of challenged subpoenas were quashed by judges because the information was available elsewhere; 17.4 percent were quashed because they were overbroad; 16.1 percent were blocked by state shield laws; courts found the information was not needed in 14 percent of the cases; and, in 12.9 percent of the reported instances, judges quashed subpoenas because they deemed the material irrelevant. In only 12.9 percent of the reported cases, the judges found that the information was constitutionally protected.

The survey was the first of three scheduled for a five-year period as part of an effort to document a growing perception that such subpoenas are on the rise. "I don't think it's getting any better. It's probably getting worse," said Jane Kirtley, executive director of the Reporters Committee. Reported in: *Editor and Publisher*, February 9. □

ALA publishes world censorship report

From tacit agreements between governments and editors to executions for "insulting" a president, media control in 77 nations is chronicled in *Information Freedom and Censorship: World Report 1991*, published in April by the American Library Association (ALA). Compiled by the Article 19 International Centre on Censorship, *World Report* is the only human rights survey focusing on freedom of opinion and expression, with concise accounts of media activity and censorship abuses against individuals.

"Censorship not only imprisons, it also kills," said William Shawcross, Article 19 chair, in his introduction to the report. Shawcross describes how press censorship in The Sudan permits inaction against famine and thousands of needless deaths. Frances D'Souza, Article 19 director and *World Report* editor, said, "In 27 countries in this report, people, including journalists, continue to be tortured, killed, or otherwise maltreated on account of their opinions."

The 471-page guide details both progress and setbacks in freedom of expression. Current up to November, 1990, the guide encompasses the invasion of Kuwait, sweeping changes in Eastern Europe, and the aftermath of the 1989 Democracy Movement in China. The United States entry discusses the development of Pentagon-supervised "press pools" limiting firsthand reporting of critical events, and numerous other recent issues.

Several renowned journalists, authors, and human rights leaders have commented on *World Report*. Tom Wicker said, "The *World Report* shows that censorship is the general rule, rather than the exception. That's a good reason why here in America we should be eternally vigilant against an encroachment on our freedom of thought, speech, and press — including the laundered Pentagon reports from the Persian Gulf." Nadine Gordimer said the guide represents "the sole defense: awareness and knowledge of how censorship invades human freedom. Everybody needs to read it." Arthur Miller called it an "invaluable factual picture of where we stand in the balance of freedom and censorship around the world."

Information Freedom and Censorship: World Report 1991 (0-8389 2156-6, April 1991), may be ordered at \$39 from the ALA Order Department, 50 E. Huron St., Chicago, IL 60611. □

censorship dateline



libraries

Central Islip, New York

Objections by patrons led a local photographer to remove three of eight photographs placed on display at the Central Islip Library in January. Librarian Elizabeth Gordon said that callers complained that the exhibit of work by photographer James Fischetti was pornographic and satanic. "I stated that I was not about to censor displays," she responded. However, when Gordon called Fischetti to let him know of the objections, the photographer decided to remove the photographs.

"I told him there are a lot of complaints, and he is a very agreeable young man and he toned them down," Gordon said. "If he had not removed them, I would not have asked."

Gordon acknowledged that the photographs are "a little weird." They depict men, with animal skulls for heads, in a union of the human and animal spirits, according to the artist. One particularly vivid photograph shows a man with two heads clad in African masks looking in different directions, each of his four hands holding a dagger, a gnarled piece of driftwood, a feather and a bouquet of flowers. "All these are based on the books I have been reading from the library — ancient myths and ancient religions," Fischetti said.

But some viewers evidently did not so interpret the works. An anonymous caller to a local newspaper described the pictures as those of "a man and nude children with their genitals covered." The animal skulls, another caller said, were "satanic." Reported in: *Newsday*, January 8.

Lisbon, New York

Lisbon Central High School students can no longer read *Rolling Stone* magazine in their school library. Citing what it considered questionable material in the periodical, the school administration pulled all copies from the library's shelves. Principal Phillip Snyder said the magazine was removed from the library after several people, including parents, expressed concern about its content. *Rolling Stone* features articles and interviews on actors and rock musicians, as well as some political commentary. The magazine was to remain off the shelves until the school board decided whether it should be accessible to students.

The principal reportedly took action against the magazine after an assistant librarian told him she saw a student reading from a page containing a picture of a pregnant girl. But Snyder denied that the incident spurred his decision. "Several people have expressed concern about the magazine," he said. "It's not just me. There were some questionable articles and some language we're uncomfortable with." Reported in: *Watertown Daily Times*, March 8.

Black River Falls, Wisconsin

When Mary Kernan's 11-year-old son pulled a book off the shelf at his middle school library in December the book exited the library for good. *Boys and Sex* and a companion volume, *Girls and Sex*, both by renowned sex education specialist Wardell C. Pomeroy, were pulled from the Black River Falls Middle School library after Kernan complained to school officials about their content.

Kernan said the book dealt with bestiality, masturbation and homosexuality, and endorsed preadolescent and premarital sex.

Following Kernan's complaint, the books were read by the library director David Cooley, who decided they were not appropriate for middle school students. "I don't weed them automatically when a parent complains, not by any means. I followed our policy. We have a very clear-cut procedure for dealing with this," Cooley said. Reported in: *Melrose Chronicle*, December 19.

schools

Troy, Illinois

Some parents in the Triad school district objected to a proposed reading pilot program because it contains allegedly profane material and makes reference to demons. Luke Harris, the father of a first-grade student, said he found some stories in the Junior Great Books Reading Program inappropriate for children. Along with fifteen other protesting parents, Harris attended a school board meeting February 18 to voice objections to the program.

The program was tried on an experimental basis for gifted second-grade students at a Troy elementary school. The

school principal in January told the board that the program was successful and recommended its extension to students through twelfth grade.

But Harris said his group found the story for second-graders, "How the Camel Got His Hump," makes references to Moslem demons. The story talks about the "Djinn of all deserts." Harris said a Djinn is one of a class of spirits that inhabit the Earth, assuming various human and animal forms. "With things going on in the Middle East, I don't think this is appropriate now or any time," he said.

Harris also objected to profanity and negative values in reading material for eighth- through twelfth-graders, such as the John Knowles novel *A Separate Peace*. Harris said there were 45 profane references in the book, with statements like "God damn it! Shut up! I swear to God."

Triad Superintendent William Hyten said the board would take the group's complaint under advisement. He said the district had not examined the reading program beyond the second grade level. "If and when we get the funding, then the district would form a committee of parents, teachers and our gifted coordinator to make recommendations for the board to consider," Hyten said.

The Junior Great Books program is an extension of the well-known Great Books program for adults. That program was established in 1947 to "provide a lifelong program of liberal education through the reading and discussion of great works of literature." Adults voluntarily participate in Great Books classes in their communities. The Junior Great Books program was established in 1962 primarily as a voluntary, extracurricular program to be conducted by parents who wanted to encourage their children to read and discuss the Great Books.

As more schools began to mandate special reading programs, especially for gifted and talented children, however, the Great Books Foundation began training large numbers of teachers to use the Junior Great Books program in classrooms. Today, the program includes 700,000 young people in all fifty states.

Central to the program is a method of discussion called "shared inquiry." According to promotional literature for the program, "shared inquiry begins when group leaders, who are trained to develop and present issues of interpretation, pose a question about a problem of the meaning of the text. The leaders are not sure of the answer to the question they pose. Students offer their own ideas and opinions in a joint effort to resolve the problem of meaning." Reported in: *Edwardsville Intelligencer*, February 19; *Education Reporter*, August 1987.

Warsaw, Indiana

In Warsaw, where in the 1970s a nationally publicized school censorship controversy included a book burning, a group of activists has expanded its campaign to keep what

it considers anti-family values out of local schools. Members of the United Family Network said they want to know more about a film strip featuring "Captain Condom" and other materials their children see in sex and AIDS education classes in Warsaw schools.

The network was formed after the Prosecutor's Task Force on Unwed Pregnancy proposed a poster campaign aimed at teenagers. The slogan of the proposed campaign is "It's OK to Wait." Parents in the group said the slogan implied it's also OK to engage in sex and that the theme of the campaign should be "It's Right to Wait."

Debbie Geiger, a member of the group, said she started wondering what's being taught in school programs after her son came home and told her about some of the materials he saw in an AIDS education class. She contacted school officials and asked whether she and her husband could come in and view the two films.

Members of the group are worried sex and AIDS education classes show students how to have sex, instead of how to abstain from sex, group member Rich Wroughten said. Promoting the use of condoms isn't promoting abstinence, he said. "We're really irritated with the idea of 'safe sex' because it's not safe sex." Reported in: *Fort Wayne Journal-Gazette*, January 16.

Lakewood, New York

The controversy over witchcraft in the reading series *Impressions* spread to the shores of Lake Cautauqua in western New York when a group of fourteen parents filed a complaint against use of the materials in a pilot program in the Southwestern Central School District. The parents charge that several stories in the series promote witchcraft and the occult. About 140 opponents of the books attended a February 11 school board meeting. The group had gathered 525 signatures on petitions.

"You can consider it all benign or fanciful, but it's all part of the apparent overriding theme of the whole curriculum," said Robert Edington, a leader of the group. "We found many entries about witchcraft and the occult and zeroing in on kids' fears."

For example, he said, in the third-grade story, "Witch Goes Shopping," the teachers' resource book suggests that the students discuss spells before reading the story, then create a chant based on additional items to the witch's shopping list.

"We believe there is a desensitizing effect here," Edington said. "Pretty soon, casting and chanting spells will seem so commonplace to kids that, when they're confronted with the advances of satanic groups on a darker level, it will seem more acceptable. There's no shock value that would deter them."

School Superintendent Edmund J. Harvey said he found nothing objectionable in the books. "I don't see the series teaching anything about witchcraft or the occult," he said.

"I just don't see that. I consider it a good literature-based children's reading series."

Following the public criticism of the books, however, Harvey appointed a committee of seven to review the material. The committee recommended keeping the series for another year. After the opponents appealed that decision to the school board, the board agreed to keep the material on a trial basis.

Other parents have rallied to support the books. "They make it sound like the whole series has an overriding theme dealing with chants and spells, but they can't substantiate that," said Jeffrey Flanders, who noted that just four or five stories have that theme. "To me, it's totally harmless."

"Having a kid use his imagination to conjure up a spell three or four times in a school year, how is that going to make him susceptible to Satanism, especially if he's had a Christian upbringing?" Flanders added.

Flanders said the stories "use fantasy and fairy tales to give the children a chance to confront the fears they have in a non-threatening way, in a controlled atmosphere with teachers."

"I think if they get this [series] cut, it sets a precedent," he added. "It starts to give those people a control over the curriculum. That's not their place. They're not professional educators. Then they could go down to the library to get some books out."

Harvey said he had no idea what the ultimate fate of *Impressions* would be. "I think there are people in this community who would say this is a censorship issue," he concluded. Reported in: *Buffalo News*, March 10.

student press

Montpelier, Vermont

The first edition of an underground student newspaper was banned at Montpelier High School. Principal Peter Clarke prohibited distribution of *A Needed Change* because the publication contained profanity, which he interpreted as a violation of school policy against the use of "obscene language" in students' works. But the publication's student editor, Craig Martin, argued that if considered in context the "bad words" do not meet the U.S. Supreme Court's standard for obscenity.

Martin appealed Clarke's ruling to a special student-faculty committee, a decision applauded by Clarke. "It allows the school community to have a discussion of what constitutes free speech, what kind of speech is protected, and what kind of speech is appropriate for 13-year-olds," the principal said.

The premier nine-page edition of *A Needed Change* was produced off campus with no school or faculty supervision. It includes essays, short stories and poetry written by Montpelier High School students. School policy gives the principal authority to review publications for approval before they are distributed at the school.

Clarke said he decided to ban the publication primarily because of the use of profanity in an essay about freedom of speech. Profanity was also used in other pieces in the publication but Clarke indicated he did not find it as objectionable as the free speech article.

After discussing the reasons why yelling fire in a crowded theater is not protected speech, the writer wrote the word "fuck" four times on a single line, and then argued that it was within the boundaries of acceptable self-expression to do so because the words did not "interfere with anyone else's privacy or personal space."

Martin said he decided to publish the newspaper because he wanted to provide students with "uncensored opinions on various subjects." In a message from the editor, Martin promised his readers that he would accept any form of submission from anybody pledged not to censor anything. "I fully believe in the First Amendment. I feel everyone has thoughts that need to be let out and this paper can be your personal podium, if you have the balls to express yourself," he wrote.

The Montpelier School Board's policy on student self-expression prohibits publications that are commercial; contain libelous or obscene language; are not in the best interest of the school or the student body; advocate illegal acts; contain false statements that would maliciously hurt someone; or advocate disruption of the educational process. Reported in: *Montpelier Times-Argus*, December 19.

periodicals

San Francisco, California

An often stormy relationship between the *San Francisco Examiner* and columnist Warren Hinckle hit a low point when the newspaper refused to run an anti-war column submitted by Hinckle on January 17. The paper not only held the column but suggested that Hinckle take a three-month unpaid leave.

Public figures, including state Sen. Quentin Kopp (Ind.-S.F.) and Residential Builders Association President Joe O'Donoghue, voiced strong suspicions that the paper's refusal to print the column amounted to censorship of its antiwar viewpoint.

"Even though I disagree profoundly with Hinckle's views on the war, I abhor the suppression of his column denouncing the war. Our First Amendment rights to hear Mr. Hinckle have been violated," said the generally conservative Kopp.

Hinckle, however, said that he "remained convinced that this is not a case of censorship. They have told me that the decision was made for administrative reasons, not content." Hinckle said that he and publisher William Randolph Hearst, III, spoke about the column the night he turned it in and that Hearst had given him "the indication that he might not run it." Hinckle referred to the paper's "hawkish" stand on the

war, commenting, "I just think I have a right to state my opinion, too." He said he was concerned that the *Examiner's* proposal that he take a three-month leave amounted to "a solution that keeps me from writing about the war."

Examiner Promotions Director Cindy Meyers commented that "Warren and senior management are in negotiations about Warren's work for the paper." She also said that the flap over the January 17 column was "not an issue of censorship at all." Meyers said further questions on the subject could not be answered because "this is a personnel matter."

Another conflict reportedly brewing behind the scenes had been Hinckle's incessant barrage of criticism for San Francisco Mayor Art Agnos. A recent column on an alleged tiff involving Agnos and the city's Greek community provoked an angry letter from the mayor.

Kopp, a longtime Agnos foe, said "It is common knowledge that Mayor Agnos is constantly begging [Hearst] to fire Warren Hinckle." Agnos and Hearst had reportedly been meeting regularly and are on friendly terms.

The conflict between Hinckle and the *Examiner* goes back decades. In the 1960s, Hinckle was editor of *Ramparts*, the San Francisco-based national magazine that was highly prominent in mobilizing early opposition to the war in Vietnam. During that time, the *Examiner*, published by Hearst's father, supported the war.

Then, in 1985, the younger Hearst hired Hinckle as part of a well-publicized "Next Generation" campaign, designed to convince readers that the newspaper had shed much of its traditional conservative editorial policy. Since then the once staunchly conservative afternoon *Examiner* has been consistently more liberal than its morning rival, the *San Francisco Chronicle*, whose editorial positions are frequently Republican in this most Democratic of American cities. Reported in: *Bay Guardian*, January 30.

Detroit, Michigan

Chrysler Corporation decided in February to stop running ads in *Playboy* magazine after the automaker received complaints, including one from a minister who was featured in a Chrysler TV commercial, about its sponsorship of the magazine. Chrysler explained February 21 that it took action after receiving complaints from consumers, employees and auto dealers. The company had run two ads in *Playboy* since December and was set to have an eight-page supplement in the April issue. Its chairman, Lee Iacocca, was also the subject of a lengthy interview in *Playboy's* January issue.

Chrysler's decision to pull out of *Playboy* was hailed as a victory by the Rev. Donald Wildmon, the Tupelo, Mississippi, minister whose American Family Association has organized other boycotts against corporations that sponsor television programs of which Wildmon disapproves. Wildmon claimed that Chrysler had received between 50,000 and 60,000 letters about the *Playboy* ads after his group began a consumer boycott in January.

However, Chrysler representative Steve Harris said

the company had received only a few hundred letters and he was not aware of any boycott. "The [car] market is so depressed right now I don't think we'd notice it if there was" a boycott, he said. Harris said the company acted because "we don't advertise to upset a large segment of the population. Obviously, advertising in *Playboy* did. Some people don't think *Playboy* stands for the things they like it to."

Cindy Rakowitz of *Playboy* called Chrysler's decision "unfortunate. In this soft economy, I didn't think a marketer would allow a small, vocal minority group to dictate its marketing agenda," she said. Reported in: *Washington Post*, February 22.

Bellingham, Washington

Penthouse, *Playboy* and *Playgirl* returned to the shelves of the Associated Students Cooperative Bookstore at Western Washington University in March but with plastic wrapping and warning stickers. The magazines had been removed from the bookstore in May, 1990, but a referendum last December revealed that nearly 75 percent of the students wanted the magazines back.

Because nearly half of those calling for the return of the magazines also favored their sale with "point of sales information," the Associated Students Board of Directors decided to apply warning stickers to the periodicals. The plastic wrap is designed to protect the magazines from the stickers.

The sticker on *Playboy* and *Penthouse* reads: "Research has shown magazines that objectify women may lead to demeaning, harmful and violent treatment of women, and a societal acceptance of this treatment." The sticker on *Playgirl* reads: "*Playgirl* is a part of the spectrum of objectification in our society that research has shown may lead to the harm of individuals."

Burton Joseph, special counsel to Playboy Enterprises, said that as far as he knew, Western Washington was the only campus in the country to place this sort of sticker on *Playboy*. "Prejudicial labeling is a very serious problem. It interferes with consumer's choice of decision," Joseph said. "In our society, each person makes that choice for themselves. Moral fascism is the height of elitism."

Associated Students President Mark Asserud disagreed. "I think it will make people realize that there could be some consequences. It would make people think. It would have an effect. I'm not sure if it's quite the stamping moralistic label that some people are perceiving it to be." Reported in: *Western Front*, March 11.

theater

Wichita, Kansas

The first act of *Hair* ended with no police — and no clothes on stage — at Wichita's Century II theater January 29, despite warnings of legal actions by city officials and protests by dancers from local nightclubs. But it was a short reprieve. Minutes later, a plainclothes police officer pulled stage manager Doug Kane aside and informed him that two citations for violations of the city's nude dancing ordinance would be written at the end of the show.

Lead actor Mark Wilson was cited because he "moonied" the audience early in the first act. Only one other citation was issued because, according to the officer, "they only saw the blonde." The blonde, actress Shannon Conley, had painted her body with the words "Freedom of Expression — God Bless America" for the performance.

The citations were the result of a challenge brought by local bar owners, who protested that the ordinance prohibiting nude dancing in local clubs was not being enforced to block the performance of *Hair*, which includes a nude scene at the end of the first act.

About fifteen dancers and employees of local clubs picketed outside the theater before the performance, occasionally exchanging words with theatergoers. "If they can do it, we can too," said Kat, a dancer at Revolution East. "That's why I'm here. It's freedom of expression."

"Look at that," she said, pointing to a family entering the theater. "They're letting children in here. When we dance, you have to be 21 to get in the door."

Attorney Charles O'Hara, whose clients advocate nude dancing, agreed. "They ought to arrest the cast," he told a press conference before the performance. "If they don't, they're saying that if you buy a \$20 ticket it's art but if you pay \$2 at the door it's not art, and that's not right."

When the citations were announced, they drew cheers from the cast. Some were even disappointed that they had not been cited. "That's not fair. I want a citation," said Karen Neumann, one of the five nude women on stage. "I can't wait to tell my parents about this," said Conley, who was already dressed for the second act when she was told about the citation. Commented Wilson: "This is silly. Guys my age are dying in the Middle East, and my butt makes the paper. It's ludicrous, but for me, personally, it's thrilling." Reported in: *Wichita Eagle-Beacon*, January 30.

broadcasting

Austin, Texas

Austin Community Television pulled its late night show, Dull-A-Vision, in mid-programming February 9 while an "obscene" music video aired, but the show's producer

charged that his First Amendment rights were violated. A music video combining nude scenes from a movie, photographs of aborted fetuses, and a man shooting himself in the head prompted ACTV executive director Lynn Cooksey to have the show immediately stopped because it violated community standards.

"It's nothing more than an example of pure pornography," Cooksey said. "It is not a violation of First Amendment rights because it is pornography and pornography is not covered by the First Amendment." Cooksey said the show was at least temporarily canceled and its producer and host, Scott Spurlock, suspended from using ACTV facilities.

Cooksey said she was watching television and turned to one of the three Austin access stations she oversees; she was upset with the video that Spurlock was airing. She called an ACTV technician and immediately ordered the show off the air.

Spurlock said stopping the program was "blatant censorship" because no action was taken when he aired the suicide and aborted fetus scene previously. "They cut it off with no warning," he said. "I always thought dead babies and a guy blowing his brains out was more obscene than sex."

Spurlock, who made the video himself, said he warned viewers about its content before he aired it. "I asked people on the show if they wanted to see it," he said. "Thirty or forty people called in and said run it and one person said don't. The viewers wanted to see it and I warned them ahead of time."

"I don't think she has any grounds to stand on," Spurlock said of Cooksey's decision. "It is a question of what is obscene. She is supposed to be content-neutral and Mrs. Cooksey has said she does not believe in censorship."

Dull-A-Vision, which airs Fridays from 11 p.m. to 4 a.m., is not new to trouble. Last year, Austin Mayor Lee Cooke called for a review of broadcast standards after two topless dancers performed a striptease act and exposed their breasts on the show.

Spurlock said he would appeal Cooksey's decision to the ACTV board, but he was not confident they would allow him to continue producing the show. Reported in: *Austin American-Statesman*, February 10.

art

Hartford Connecticut

In an incident that added racial overtones to the issue of free expression in the arts, the head of Hartford's Old State House in January pulled a painting from an art exhibition. Wilson Faude, executive director of the Old State House, said the work is racist. Faude is white; the artist, James Montford, is black.

"I have never done anything like this before," said Faude. "But give me something that's racist, as this is, and I'll do it every time. We don't tolerate this kind of thing, and I happen to think it's wrong."

Montford, who is the chair of the arts department at a private secondary school in Massachusetts, said Faude's action was itself racist. "It's the white man determining what is right for me," he said.

At the center of the controversy was a small map of Hartford in which names of various streets, buildings and other landmarks had been changed to vulgar racial epithets. Among the altered place names were Darkie Drive, Jigaboo Street, Spearchucker Circle, and Tar Baby Plaza. The work is titled "A Myth and A Metaphor." The map was one of more than 100 works in an exhibit, "Visions of Hartford." It was the only work in the show by Montford.

The exhibit opened December 31, but it was not until a week later that Faude said two security guards asked him if he examined the piece closely. "So I took a good look at it and pulled it then and there," Faude said.

Michael Kerski, executive director of the Greater Hartford Architecture Conservancy, which sponsored the show, said his organization would raise no objections to the decision. "Basically the bottom line is that they're giving us the space, and it's their building. I don't think the work would have necessarily been that controversial had it stayed up. But we're going to acquiesce because Bill feels strongly about it."

Montford said he was only informed about the removal about two weeks later, when a friend called him about it. "I'm disappointed, in the first place, by their lack of professionalism in failing to tell me what had happened," he said. "It was a piece that I hoped would arouse some dialogue among those who viewed the exhibition — that people who saw it would question what those words represent. If you attach meaning to those words, why do you? If you have a negative association with those words, then you need to examine that association. If you're black and you're upset, then you've bought into the white man's system." He added that the piece was not meant to suggest that Hartford was an unusually racist city.

"I feel my civil rights have been violated," Montford said. "I feel that my professional and artistic directions have been called into question. I'm gravely concerned. I can acknowledge [Faude's] sincerity, but what right does he have to censor my work?" Reported in: *Hartford Courant*, January 23.

LaGrange, Illinois

A hospital's decree that anger and healing do not mix left a Lisle resident charging censorship after her paintings were removed March 1 from the walls of LaGrange Memorial Hospital. "I'm in shock," said Christine Cooper, whose 18 paintings were removed from the hallway off the hospital's main lobby, only hours after they were first hung, because

of complaints about their emotional content.

The hospital, Cooper charged, infringed her right of expression and violated its contract with her by acting as a censor. For that, Cooper said, she might take legal action.

But hospital representative Barbara Fallon said the vividly colored abstract paintings, two of them titled "Woman in Pain" and "Children in Pain," were not therapeutic for patients. The collection also included a painting of a nude man and woman and another depicted the theme of jealousy. Fallon said that six of the paintings, mostly landscapes, were returned to display.

"The abstract paintings depicting pain and anger — that's not in keeping with a health and healing theme," Fallon explained.

"They're not going to be therapeutic? That's ridiculous," retorted Cooper, who has worked at the hospital as a nurse. "Since when is demonstrating emotion not therapeutic?" Reported in: *Arlington Heights Daily Herald*, March 2.

Arnold, Maryland

A painting of several world leaders shown nude was pulled from an Anne Arundel Community College faculty exhibit after complaints from the public. The artist, a part-time faculty member, replaced the life-size painting with a landscape the day before the show opened in January.

The 8-by-8-foot oil painting, "Capitalism is Dead," was meant as a political commentary, said artist Josef Schuetzenhoefer. Former British prime minister Margaret Thatcher, Polish President Lech Walesa, Polish Cardinal Jozef Glemp, German Chancellor Helmut Kohl and the late American millionaire Malcolm Forbes were depicted. They were shown standing nude on a medieval cart with the rear wheels missing.

College administrators inspected the painting after complaints were made when it was hung in the Pascal Center Art Gallery in Arnold on January 19. Within hours, the administrators asked that the painting be covered with plastic to avoid offending members of a church group scheduled to use the center that weekend. It was later removed.

"I'm disappointed about the decision. In the interest of higher learning, I think there's room for dissent," the artist said. Reported in: *Washington Post*, February 9.

Allentown, Pennsylvania

A portrait of President Bush flanked by U.S. and Iraqi flags dripping blood stirred controversy in a school district where authorities ordered its removal. The acrylic painting by art teacher Milan Melicharek depicts an ashen skull peering over Bush's left shoulder, blood dripping from his collar, a Star of David on the President's tie and a demon's horn sprouting from his head.

"It's breaking my heart what is happening in Iraq," Melicharek said. Northwestern Lehigh High School Prin-

cipal Dennis Nemes ordered the portrait's removal after it was hung in the school February 8 and he learned of its content from another teacher, a school board member. After a story appeared in the local newspaper, the school district received about thirty calls from people "expressing their disdain for the picture and their opposition to children being exposed to a picture without any choice," Superintendent David Fallinger said.

"A school should not be a place where individuals should propagate their own political messages," Fallinger continued. "The concern we have is we have mandatory attendance for education and the kids are a captive audience."

Melicharek, a Vietnam veteran, described himself as a conservative and former regular donor to the Republican National Committee. "I think Saddam's wrong," he said. "There's no reason why he should come in and take over a country. But there's no reason we should come in and bomb a country. I made a statement. I'm questioning our government. That's enough to get the kids starting to think that maybe we are wrong." Reported in: *Philadelphia Inquirer*, February 22.

foreign

Managua, Nicaragua

During the Nicaraguan Civil War, *La Prensa* publisher and current Nicaraguan President Violetta Chamorro was hailed in the U.S. media as a champion of press freedom. Sandinista government closings of *La Prensa* were often front-page news in the U.S., used to illustrate the Sandinistas' allegedly "totalitarian" rule. Yet President Chamorro's decision to shut down an opposition television news show within three months of taking office did not even rate a mention by major U.S. media.

The Chamorro government temporarily closed "Extravision," a half-hour nightly news show with a Sandinista perspective, from July 9 to July 24, 1990. Chamorro's press secretary, Danilo Lacayo, explained that "Extravision's" airing of interviews with supporters and opponents of an anti-government strike was an attempt "to disturb the public order."

The closure had no basis in Nicaraguan law. Even under the restrictive media law in effect at the end of the Sandinista administration, which was repealed by the new legislature, no media outlet could be closed for more than three days.

The shutdown of "Extravision" was but one of many threats to press freedom in the "newly democratic" Nicaragua. The director of a public library in Leon, Nicaragua, held a book burning for works published during the Sandinista administration. Pro-Sandinista radio stations have been ransacked, and one, the popular "La Primerisima," was forced off the air when its transmitter was bombed September 30. Reported in: *Extra!*, January-February 1991. □

SUPPORT

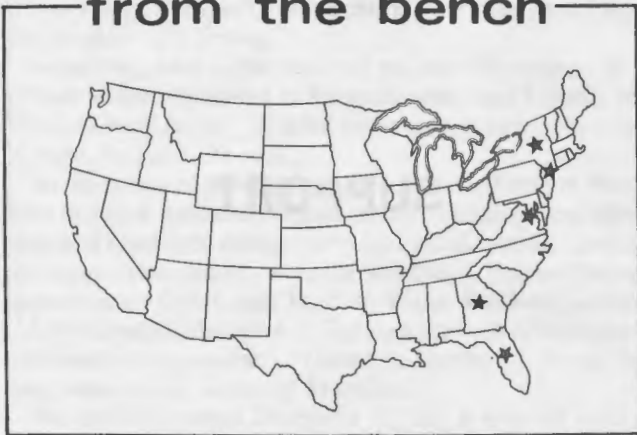
THE

FREEDOM

TO

READ

—from the bench—



U.S. Supreme Court

The Supreme Court agreed February 19 to decide the constitutionality of laws designed to prevent criminals from profiting by their misdeeds by making them turn over any payment they get for their stories to a special fund for victims. The court agreed to hear a challenge to New York's 1977 law, popularly known as the "Son of Sam" law because it was enacted in the wake of disclosures that serial murderer David Berkowitz was being offered large sums of money for the rights to his story.

The case, *Simon & Schuster, Inc. v. New York State Crime Victims Board*, arose from Simon & Schuster's publication of the best-selling 1985 book *Wiseguy*, by Nicholas Pileggi. *Wiseguy* sought to portray the reality of the underworld by telling the story of Henry Hill, a former organized crime foot soldier turned cooperating government witness. The book was then turned into the Martin Scorsese film *Goodfellas*.

Under the New York law, publishers, moviemakers and others who strike deals with accused or convicted criminals, or those who confess their crimes in their writings, must turn over the money to a special state fund for five years. During that time, the victims of the crime can seek compensation for their injuries. After that, any remaining money goes to the criminal. About thirty states and the federal government have similar statutes.

In the case of *Wiseguy*, Hill demanded money in return for his cooperation with Pileggi, which entailed hundreds of hours of interviews. Simon & Schuster — which said such agreements were "standard industry practice" — paid him \$96,250 and has another \$27,958 due him in royalties. The New York Crime Victims Compensation Board found,

however, that the publisher had violated the law by paying the money to Hill, saying he was subject to the law because he "admitted his involvement" in crimes. It ordered Simon & Schuster to turn over the royalties due Hill, who had been granted immunity from prosecution, and a penalty equal to the \$96,250 Hill had already been paid.

Simon & Schuster challenged the law on the ground that it violated the First Amendment right of free speech, deterring publication of newsworthy material. The U.S. Court of Appeals for the Second Circuit disagreed, declaring in a 2-1 opinion written by Judge Roger J. Miner that although the law imposes a burden on free expression, it is justified by the state's interest in "denying criminals any gain from the stories of their crimes until the victims of those crimes are fully compensated for all losses arising out of their victimization."

In a dissenting opinion, Judge Jon O. Newman cited the evidence presented by Simon & Schuster that publishers were shying away from material that could fall within the scope of the law. "Such governmentally induced suppression of speech is anathema to the First Amendment," Judge Newman said.

In asking the high court to hear the case, the publisher noted that the Second Circuit covers the majority of the nation's book publishers and said "review is urgently warranted" in order to avoid "repeated . . . decisions by the authors not to create, and by publishers not to commission and publish works of substantial social value." It said the law could have been stretched to cover such publications as *Where Do We Go From Here*, by Martin Luther King, Jr., *The Autobiography of Malcolm X*, *Witness*, by Whitaker Chambers, Abbie Hoffman's memoirs, and even Henry David Thoreau's *On Civil Disobedience*.

In an *amicus curiae* brief urging the justices to hear the case, the Association of American Publishers told the court that "crime has always been a subject of public interest and fascination, and writings about crime are a staple of our literary heritage." It is said the law threatened to "contract that debate, to society's detriment, by limiting the creation of works dealing with crime."

In another brief, the Motion Picture Association of America pointed to the case of a politically important criminal. "In the wake of the most recent presidential election," the MPAA brief said, "if a filmmaker decides to film the Willie Horton story and the filmmaker determines that Willie Horton is a crucial source and Horton demands payment before he will cooperate, should the government be allowed to erect an impediment to filmmakers' decision to use Horton?"

The Supreme Court will hear the case during its 1991 term, which begins in October. Reported in: *Washington Post*, February 20; *New York Times*, February 20.

The U.S. Supreme Court on January 7 let stand without comment a Wisconsin law that bars actual sex acts on film

but permits simulated acts of the same sort — even if viewers can't distinguish the difference. The case involved a 1988 law challenged by adult book and video store owners who claimed it was unconstitutionally vague. A lower court agreed with the store owners, but that decision was reversed by the U.S. Court of Appeals for the Seventh Circuit.

The store owners argued that the law would provide the basis for confiscation of books, magazines, films and videos that depict the actual sex act, but are in fact simulations. "If the consumer cannot distinguish legal materials which portray simulated sex from illegal materials portraying actual sex, neither can a law enforcement officer, a prosecutor, a judge or a jury," the owners claimed.

The Seventh Circuit agreed that the law was confusing, but said new laws "frequently contain ambiguities. If that alone made them unconstitutionally vague, it would be difficult to enact new statutes." Reported in: *Variety*, January 14.

access to information

Albany, New York

Expanding the public's access to information about environmental and consumer hazards, the New York State judiciary adopted rules February 4 that prohibit court records from being sealed in most cases. The new rules signaled a clear policy shift by the state's court system, which previously had allowed records to be closed routinely.

"These are public courts, paid for by the public, and the public has a right to know what transpires there," the state's Chief Judge, Sol Wachtler, said. The rules stipulate that court records can be sealed only when "good cause" for secrecy has been shown. They did not spell out what constitutes a "good cause;" this will be decided by judges on a case-by-case basis. Judge Wachtler said records may still be sealed in cases involving proprietary information.

A panel made up of Judge Wachtler and the presiding justices of the state's four judicial departments unanimously ratified the rules after months of debate over how to weigh the public's right to know against litigants' right to privacy. Supporters of the rules, which were first advocated by Wachtler last summer, argued that the public interest was often being overlooked in cases where both parties agreed to close the records.

"Typically, if both parties wanted to seal, the judge said 'Who cares?'" said George Carpinello, chair of the judiciary's Advisory Committee on Civil Practice, which drew up the new rules. "What these rules are saying is you should care. You have to represent the interests of people who aren't there — that is, the public." Advocates of the new rules argued that the practice of sealed settlement is so widespread that information on product defects and environmental hazards that should be in the public domain is

frequently suppressed. They said that large corporations often make sealing the records a condition of settlement.

Opponents argued that the practice is used with discretion, and only when important public health information is not involved. "We found that there was no evidence presented as to the necessity of this rule," said Richard O'Keefe, chair of the Trial Lawyers Section of the New York Bar Association, which argued against the change. Opponents also said the rules would discourage settlements by companies anxious to protect trade secrets.

Several states besides New York recently adopted rules aimed at opening court records for public scrutiny. Texas and Florida adopted rules that are more sweeping than New York's, covering records of pre-trial proceedings as well as trial documents. But New York's rules are considered particularly influential because of the high volume of litigation in the state.

"It's very significant that New York is doing something," said Arthur L. Bryant, executive director of Trial Lawyers for Public Justice, a group based in Washington that has successfully challenged secrecy agreements in cases involving the Exxon Valdez oil spill and all-terrain vehicle accidents. "This is an important step in the movement toward eliminating unnecessary secrecy in the courts." Reported in: *New York Times*, February 5.

sexual harassment

Jacksonville, Florida

A female shipyard welder who accused her employer of sexual harassment won a ground-breaking ruling January 18 that posting pictures of nude and partly nude women is a form of sexual harassment. While rulings in other cases have found that pornographic pictures may contribute to an atmosphere of sexual harassment, the new decision is thought to be the first finding that such pictures are, in and of themselves, harassment.

U.S. District Court Judge Howell Melton found that Jacksonville Shipyards, Inc., and two of its employees were directly liable for the harassment. He rejected what he called the company's "ostrich defense" that it was unaware of many of the complaints made by the plaintiff, Lois Robinson.

Judge Melton said the shipyard maintained a boys' club atmosphere with an unrelenting "visual assault on the sensibilities of female workers," including pinup calendars and close-ups of women's genitals posted on the walls. He said the sexualized atmosphere of the workplace had worked to keep women out of the shipyard.

"A preexisting atmosphere that deters women from entering or continuing in a profession or job is no less destructive to and offensive to workplace equality than a sign declaring 'men only,'" the opinion said.

Ms. Robinson repeatedly complained to her supervisors about the pictures. At one meeting where she made a formal complaint, the opinion said, a supervisor told her that the company had no policy against the pictures, and that the men had "constitutional rights" to post the pictures, so he would not order their removal.

Although a lawyer for the shipyard declined comment on the decision and on the possibility of an appeal, Robyn Blumner, head of the ACLU in Florida, said the ruling might conflict with First Amendment rights of self-expression and added that the ACLU might join any appeal. Reported in: *New York Times*, January 23; *Chicago Tribune*, January 24.

government employees

Washington, D.C.

A federal appeals court March 15 refused to halt enforcement of the ban on honoraria for federal employees, which bars them from accepting outside income from speaking or writing. The ruling by the U.S. Court of Appeals for the District of Columbia Circuit was not a final decision on the merits of the law, which went into effect January 1, but left intact U.S. District Court Judge Thomas Penfield Jackson's decision last December to deny a request for an injunction from two federal employees unions and the ACLU.

The ruling, written by Judge Clarence Thomas, said it was possible the law's long-term effects might be to "reduce or even eliminate the willingness of government employees to pursue certain remunerative First Amendment activities." But he said that alone did not give courts the authority to suspend the law before a final ruling on its merits. The opinion also suggested that employees put speaking and writing fees into escrow accounts while the case is being litigated, which a representative of one of the unions said was "encouraging."

The ACLU and the unions challenged the law on First Amendment grounds, saying that it limited the employees' free speech rights and hindered them from pursuing secondary careers in areas unrelated to their work. Attorneys for the Justice Department argued that the law does not bar any speech by employees, only payment for that speech.

At issue is the 1989 Ethics Reform Act, which gave members of Congress a 33 percent pay raise in exchange for giving up all outside income from public appearances, speaking engagements or writing. The honoraria ban, which applies to all federal employees except senators, does not prohibit reimbursement for expenses. The ethics law brought strong protest from lower-level workers who said they supplement their salaries with writing or consulting fees, often on subjects that have nothing to do with their work.

The case is now likely to go back to Judge Jackson, who will rule on the law's constitutionality. Earlier, Jackson expressed some sympathy for the workers, saying that the case

presented "substantial legal issues." Proposals to amend the law are pending in Congress. Reported in: *Washington Post*, March 16.

commercial speech

New York, New York

A newspaper that publishes real estate advertisements that suggest to the ordinary reader a racial preference with respect to the sale or rental of a dwelling may be held liable under the 1968 Fair Housing Act, the U.S. Court of Appeals for the Second Circuit ruled January 23 in the case of *Ragin v. New York Times*. In the case, the plaintiffs alleged that for twenty years the New York Times had published real estate ads with virtually no black models, except in connection with homes available in mostly black neighborhoods. They alleged violation of the Act, which bars publishing any ad "with respect to the sale or rental of a dwelling that indicates any preference . . . based on race . . ."

The court said the word "indicate" in the statute refers to ads suggesting a racial preference to the ordinary reader. Also, the word "preference" should be construed broadly to include subtle suggestions of bias, as through the use of models. The key, the court, said is the message conveyed, rather than the advertiser's intent. The newspaper argued that this reading would result in "racial quotas" for ads. But the court said the inclusion of a black model to avoid a racial message in an ad "is a far cry" from the controversial use of quotas in employment and college admissions.

The court also rejected arguments that this reading violates the First Amendment. It said the government may ban commercial speech related to illegal activity. Nor did it sympathize with the newspaper's concern that it will be made an "enforcer," saying "it strains credulity beyond the breaking point to assert that monitoring ads for racial messages imposes an unconstitutional burden." Reported in: *United States Law Week*, February 12.

Ku Klux Klan

Atlanta, Georgia

A 1951 Georgia law, making it a misdemeanor for any person to wear a mask, hood, or other identity-concealing device in public, is constitutional, the Georgia Supreme Court declared December 5. In *Georgia v. Miller*, a Ku Klux Klan member arrested for wearing a Klan outfit in public argued unsuccessfully that wearing a mask is symbolic speech protected by the First Amendment.

The court subjected the statute to the test of *U.S. v. O'Brien*, under which the government may regulate conduct that has both speech and non-speech elements if the regulation furthers a substantial governmental interest unrelated to the suppression of expression and restricts speech no greater

newsletter on intellectual freedom

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The American Library Association (ALA) and the American Bar Association's Commission on Public Understanding About the Law (ABA) have jointly produced a Resource Kit to assist schools, libraries, community organizations and others in presenting programs and events to celebrate the 1991 Bicentennial of the Bill of Rights.

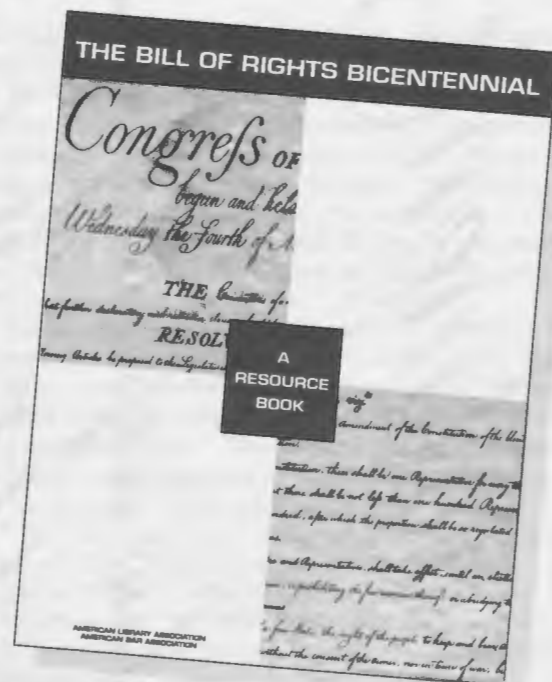
The Kit includes four 11" x 28" posters (reproductions of public announcements celebrating freedoms guaranteed by the Bill of Rights which have been placed on public transit systems by the ABA in many cities), plus a 60 page resource book containing:

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The First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

than necessary to further that interest. "Safeguarding the right of the people to exercise their civil rights and to be free from violence and intimidation is not only a compelling interest, it is the legislature's affirmative constitutional duty," the opinion said. Those interests are in no way related to the suppression of constitutionally protected expression, and thus the statute is "content-neutral," the court said. The court added that the statute restricts only unprotected expression — the communication of a threat — and regulates only the non-communicative function of the mask.

The Klan member also argued that his First Amendment associational rights were infringed by the ban because if he was not allowed to proclaim his message anonymously, fear of persecution would deter him from asserting his beliefs at all. But the court said the statute's effect on the Klan's ability to advocate or proselytize anonymously is negligible. Reported in: *United States Law Week*, January 1.

foreign

Ottawa, Canada

Canadian federal legislation that outlaws hate propaganda infringes freedom of speech but is justified by the wider goal of defending democracy and racial tolerance, according to the Supreme Court of Canada. By a 4-3 margin, the court voted December 13 to uphold the law that had been challenged by Jim Keegstra, a onetime Alberta teacher convicted five years ago of using his high school classes to spread hatred against Jews. In related cases, the judges upheld the convictions of three white supremacists from Toronto, all of whom published propaganda against non-whites and Jews.

All seven judges agreed the anti-hate provisions of the Canadian Criminal Code infringe the freedom of speech guaranteed by the country's Charter of Rights. But a majority, led by former chief justice Brian Dickson, said the infringement is a legitimate limit on individual rights for the sake of a wider social goal. "Few concerns can be as central to the concept of a free and democratic society as the

dissipation of racism," wrote Dickson, who sat on the case before his retirement last June.

Writing for the majority, Dickson noted that free speech is constitutionally protected because of its importance to the democratic process and the search for truth. "There is very little chance that statements intended to promote hatred against identifiable groups are true, or that their vision of society will lead to a better world. To portray such statements as crucial to truth and the betterment of the political and social milieu is therefore misguided," he wrote.

Justice Beverley McLachlin, writing the main dissent agreed that Keegstra's views were offensive and that controlling racial hatred is a valid legislative goal. But she said the law was drafted too broadly and the concept of hate was too vaguely defined. "The danger is . . . that the legislation may have a chilling effect on legitimate activities important to our society," wrote McLachlin.

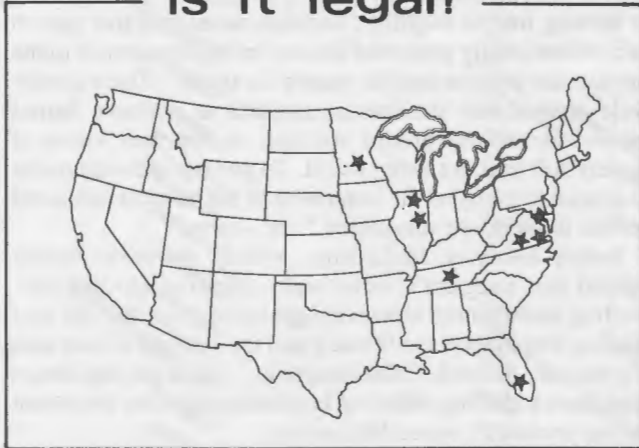
"Novelists may steer clear of controversial characterizations of ethnic characteristics, such as Shakespeare's portrayal of Shylock in the *Merchant of Venice*," she wrote. "Scientists may well think twice before researching and publishing results of research suggesting differences between ethnic or racial groups."

Dealing with a separate constitutional issue, the court ruled by the same 4-3 split that a section of the hate law that puts the burden on defendants to prove the truth of their opinions is justifiable. The court also upheld a section of the federal Human Rights Act that likewise outlaws the spreading of hate propaganda but imposes no criminal sanctions.

Keegstra was convicted in 1985 after a jury heard evidence that he taught his students Jews are revolutionaries, imposters, communists, misers and usurers who control the media and the courts. He said his words were taken out of context.

The Supreme Court ordered that the case be returned to the Alberta Court of Appeal for further deliberation on non-constitutional issues raised by the trial but not yet reviewed. Reported in: *Victoria Times-Colonist*, December 14. □

is it legal?



libraries

Calumet Park, Illinois

A policy designed to restore peace and quiet to the Calumet Park Public Library has fueled debate among library patrons and officials. Library officials and most of the parents interviewed defended the policy, which prohibits students from entering the library between 2:30 and 5:30 p.m. unless they have a pass signed by a parent or teacher confirming that they have work to do at the library. Students criticized the policy, saying it discourages them from coming to the library.

"Never did I think that it would result in this. But it was to the point where something had to be done," librarian Melody Coleman told the library board. Coleman said that rowdy youngsters were using the library as an after school recreation facility and baby sitting service, bothering patrons who had legitimate business to conduct.

"There was so much roughhousing. The kids would come and wreck the place. The staff here was constantly being abused verbally," Coleman said.

"It's probably not the best solution, but at least the people who want to use the library can do so," said library board president Shirley Dukes. "We are open to suggestions from teachers and parents."

Students, however, suggested that the policy was counter-productive. "It's stupid. I'll just go to the one [public library] in Blue Island," said Shonda Rodriguez.

"I don't think you should have to have a pass because if you're at home and you have to go to the library and get a book, by the time your parents come home the library is closed," Karl Ferrell said. He said a student might forget to have a teacher sign the pass before school lets out.

Veronica Cruz said the policy could hinder a student's ability to complete homework assignments. "I don't think it's right because what if they give you an assignment that day and you can't get a pass from the teacher and your parents aren't home? Then you'll just get a detention for that assignment," she said. Reported in: *Southtown Economist*, February 17.

DeKalb, Illinois

Posters supporting U.S. troops in the Persian Gulf caused controversy when they were placed on the front and rear glass entrance doors to the DeKalb Public Library on January 30. Library staff and the Board of Trustees received complaints from individuals who charged that the posters made a political statement and did not belong in a public institution. The red, white, and blue posters said: "We support our men and women of Desert Storm."

Residents objecting to the posters said they contained a political message supporting the war. "Since it is absurd to suppose that any American citizen does not support our men and women, the sign is obviously a political statement supporting George Bush and his policies in the Persian Gulf," said Jere Tulk in a letter to a local newspaper.

DeKalb Public Library Director Joann O'Malley said there was no policy guidelines regarding display of such posters. However, O'Malley said library staff did not place partisan posters in the building. Several similar posters were hung in DeKalb's Municipal Building. But these posters were placed on doors to offices or in individual work spaces instead of on the front door.

Library trustees said they would gather more community input before making a policy recommendation about whether library staff should remove the posters. Reported in: *DeKalb Daily Chronicle*, February 14.

"harmful to minors"

Miramar, Florida

Fifty-two-year-old grandmother Elaine Ott, a clerk at a Mr. Grocer store in Miramar, was arrested February 1 and strip-searched for selling *Playboy* magazine to two 16-year-old boys. An undercover police officer staking out Mr. Grocer for robbery stopped two boys leaving the store with a brown bag and asked what was inside. The boys said it was candy, but when the officer found the *Playboy*, she called her superiors and was told that the clerk was guilty of a third degree felony for selling harmful matter to minors.

Ott was then arrested and handcuffed and taken to the Broward County Sheriff's Department, where she was subjected to a strip search. She was released thirteen hours later when her husband posted a \$1,000 bail. A week later, the assistant state prosecutor said no charges would be filed because evidence did not constitute the violation of a Florida statute.

"They made me get all the way undressed and bend over and hold myself open," Ott later tearfully recounted. "The police officers there thought it was a big joke that I was arrested for selling a *Playboy*. I was scared. There was a woman in there that had stabbed somebody and a woman that had shot somebody." Ott found it ironic that the jail officers used what she described as obscene language while booking her on the obscenity charge.

Ott said her customers were "big boys like my 18-year-old," and she did not know how old they were. She also said she sees nothing wrong with *Playboy*, which her husband and four sons enjoy. Ott said she did not examine the magazine she sold until later, and that she thought the woman pictured in the centerfold was "very beautiful. Where is this harmful? The body is supposed to be beautiful," she said.

Shortly after posting his wife's bail, Ott's husband, who also works at the convenience store, went to work and was robbed at gunpoint. Five patrol cars responded when Ott was charged with selling harmful material to minors; only two cars were dispatched for the robbery, and they arrived too late to stop the perpetrator, who fled with forty dollars. The undercover officer was nowhere to be seen.

"Broward County, Florida, has once again become the laughing stock of the country by being the scene of an attempt to suppress material protected by the Constitution," said *Playboy* attorney Burton Joseph, who noted that it was in Broward that a production of the play *Norman, Is That You?* was halted because of its treatment of a homosexual character, and where a record store owner was arrested for selling an album by 2 Live Crew.

"This is the first such incident involving *Playboy* that has ever occurred," said Joseph. "*Playboy* has never been adjudicated to be obscene. The Supreme Court has made clear that nudity in itself is not harmful to minors, and minors cannot be considered as a class. You must take into consideration their age, maturity, and the circumstances of their lives."

Joseph said Ott was considering a civil action for damages. Reported in: *ABA Newswire*, February 18.

St. Paul, Minnesota

St. Paul Mayor Jim Scheibel vetoed an ordinance January 31 that sought to keep sexually "harmful" materials away from minors in stores. Scheibel said the proposal, passed by the City Council on a 5-1 vote, was too vague and raised constitutional and censorship questions.

"This ordinance raises a number of serious policy issues involving free speech and expression, the limits and burdens placed on booksellers, and the chilling effect of legislative restrictions that are uncertain until a jury makes a determination," Scheibel said.

Scheibel said he met with booksellers and was told the ordinance would create "a serious and unnecessary burden on the conduct of their businesses." The mayor said existing local ordinances and state law requiring opaque coverings

on sexually explicit material were sufficient.

Council member Dave Thune, sponsor of the measure, said he would redraft the proposal in an attempt to address the mayor's concerns. But Thune said he could not understand opposition to the ordinance. "There was obviously a vacuum in leadership going back to the last administration in protecting in general people who want to raise families who live in a decent city. I think there's still a vacuum," Thune said.

Thune's ordinance required merchants to create separate sections or access to "harmful" materials, defined as depictions which taken as a whole, predominantly appeal to the prurient interest in sex of minors; are patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; taken as a whole, lack serious standards with respect to what is suitable material for a legitimate minority of older, normal minors.

"Everyone will have trouble trying to decide what that language means, and unable to state with any assurance how it would be applied to a particular book," Scheibel said. "This would have a chilling effect on the availability of legitimate materials." Reported in: *Saint Paul Pioneer Press*, February 1.

Nashville, Tennessee

A Tennessee law aimed at keeping adult books from minors restricts the sale of a wide range of popular authors including Shakespeare, a group of booksellers argued in Tennessee Chancery Court February 26. But since no business had been prosecuted under the state anti-pornography law passed last year, Chancellor Irvin Kilcrease denied a request to temporarily suspend provisions of the law covering sales to minors.

The statute regulates the sale of publications and videos, which contain sexual conduct of excessive violence deemed "harmful to minors," and requires that certain materials be kept out of the reach of those under 18 and in special protective wrapping. It is being challenged by several local booksellers and other organizations, including the Freedom to Read Foundation, which became a plaintiff in the suit last summer (see *Newsletter*, March 1991, p. 38).

"If the statute is upheld, it would prevent booksellers in Nashville and throughout the state from putting on their shelves so they are readily available bestsellers, classics and, generally, books that are of general interest," said Michael Bamberger, an attorney for the plaintiffs.

The booksellers attempted to show the difficulties in policing hundreds of thousands of books for sex and violence by calling four witnesses involved in the publishing industry. Thelma Kidd, co-owner of the Davis-Kidd bookstore chain, a plaintiff in the case, with outlets in Nashville and Memphis, argued that stringent enforcement of the law would pose tremendous hardships for her store, both economically and logistically.

I don't know how we would do it; I don't think we could do it," she said. "We don't have enough staff to monitor the activities of every child, of every person in the store."

Tennessee Deputy Attorney General Jerry Smith argued that a temporary injunction suspending the law would eliminate all obscenity laws in Tennessee and allow sale anywhere of pornography. Reported in: *Nashville Tennessean*, February 27.

broadcasting

Washington, D.C.

A Federal Communications Commission (FCC) attempt to impose a round-the-clock ban on "indecent" programming on television and radio came under fire from a three-judge panel in the U.S. Court of Appeals for the District of Columbia in late January. FCC general counsel Robert Pettit fended off tough questions about the blanket ban before Judges Abner Mikva, Harry Edwards, and Clarence Thomas.

Pettit claimed there are "compelling governmental interests" in protecting children from seeing or hearing racy material. "Parents are not always in the position to supervise children," he said.

But Mikva and Edwards — two of the more liberal members of the D.C. Circuit — repeatedly chided the FCC for failing to back up its claim that children do watch or listen to programs considered objectionable. They also dismissed Pettit's argument that viewers seeking objectionable material could find such fare on cable and satellite television.

"The existence of alternative sources of indecent stuff is irrelevant," said Edwards. "The Supreme Court has said that." Thomas, a conservative, also criticized the FCC for defining children as "minors 17 and under."

The FCC voted unanimously in favor of the 24-hour ban last July. Commission action came after Congress passed a law in 1988, sponsored by Sen. Jesse Helms (R-NC), in support of the full ban. Prior to enacting the blanket prohibition, the FCC's long-standing "indecent" policy had been to "channel" such programming to the "safe harbor" late evening and early morning hours, when children are more likely to be asleep.

The ban was challenged as unconstitutional by a number of media groups, including the National Association of Broadcasters and the Motion Picture Association of America.

Pettit conceded before the panel that the FCC was influenced to act after Congress passed the Helms law, but he denied under questioning from Edwards that the FCC was "put in a straitjacket" by Congress. Pettit also admitted that the new regulation will place an "undue burden" on parents who advocate exposing children to risqué subject matter. A court decision was expected later in the spring. Reported in: *Variety*, February 4.

university

College Park, Maryland

Officials at the University of Maryland backed away February 5 from a decision to discourage students from flying political banners and U.S. flags from dormitory windows, saying the school administration "supports strongly such displays as expressions of free speech."

"We are not asking people to take flags down. People can fly flags anywhere they want if they want to," said William L. Taylor Jr., vice president for student affairs. "On the banners issue, we are trying to get people to be thoughtful about what they say so as not to offend anyone, but we have no restriction on those either."

Taylor's statements followed a campus uproar that began when officials with the university's Office of Resident Life asked students to remove flags and banners that had been hung on the outside walls of some dorms since the start of the Persian Gulf war. A representative of the office said the request was made out of concern for student safety and because administrators were afraid that a proliferation of signs would put them in the awkward position of having to mediate disputes about which war-related displays were appropriate and which were offensive.

Although students were not ordered to remove the materials because the school does not have a written sign policy, many interpreted the requests that way and concluded that their free speech rights were being violated. Reported in: *Washington Post*, February 6.

flag burning

Richmond, Virginia

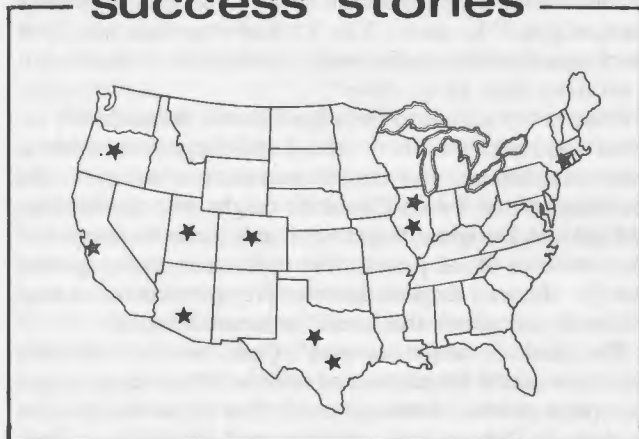
The Virginia Senate February 21 capped an impassioned debate by narrowly defeating a resolution that would have urged Congress to pass a constitutional amendment banning desecration of the American flag. On a 20-18 vote, senators who argued that protecting free speech is more important than protecting a symbol prevailed over those who said flag-burning and other attacks are so repugnant that an exception to the First Amendment is needed.

"Burning a flag is offensive to us all," said Sen. Moody E. "Sonny" Stallings, Jr. (D-Virginia Beach). "But it is much more offensive to this Vietnam veteran to abridge the freedom of expression."

The action was mostly symbolic because the resolution affected no law and amounted simply to a suggestion that Congress take action. But the measure inspired some of the most emotional floor debate of the session.

"I know this is detrimental to my election, because my friends are going to be mad at me," said Sen. William E. Fears (D-Accomac), who voted for the resolution in committee but changed his mind on the floor. Reported in: *Washington Post*, February 22. □

success stories



libraries

San Jose, California

After emotional arguments pitting civil libertarians against parents desiring to shield children from films with sex and violence, Santa Clara County supervisors on February 5 rejected a proposal to restrict minors' ability to check out R-rated videos from county libraries. By a 3-2 vote, the board scuttled a plan that would have set up a system similar to that used by some video rental stores. Parents would have been allowed to decide what kinds of videos their children can check out from the library.

Supervisors Rod Diridon, Michael Honda and Dianne McKenna, who voted against the plan, said that parents, not government, ought to control children's access to library materials and that the restrictions would open the door to censorship of controversial publications or videos. "I could see us doing R-rated videos today and people coming to us next month, asking us to restrict certain magazines and books," McKenna said. Supervisor Ron Gonzales, who proposed the restrictions, and Supervisor Zoe Lofgren said that while they did not support censorship, the proposal would have given parents a tool to control what kinds of videos their children could check out of the library.

Milpitas resident Steve Dawson, who first requested the restrictions last September, argued that R-rated videos shouldn't be distributed to minors without controls. "We're talking about children and we're talking about videos," he said. "This would send a message to librarians that they have carte blanche to provide any improper materials to children. Worst of all, you'll send a message to children that violence and sex is OK, because they're in the library."

The decision followed a marathon hearing before an audience of about 75, the vast majority of them librarians and other open access supporters. The vote, which upheld the recommendations of the county Library Commission and chief librarian Susan Fuller, thrilled the audience, but left Dawson "disappointed."

Under the county's library policy, patrons of any age can check out the video of their choice, no questions asked. Under the rejected proposal, a parent or guardian would have been able to submit an approval slip to the library that tells librarians of any checkout restrictions they wish to impose. In a second vote following the rejection of the restriction plan, supervisors voted unanimously to reaffirm their support of the existing open access policy. The county library system has about 10,500 videos, of which roughly 450 are R-rated. Reported in: *San Jose Mercury-News*, February 6.

Castle Rock, Colorado

The Douglas County School Board rode out protests from three mothers February 5 as it upheld Superintendent Rick O'Connell's decision to keep the book *No Place for Me*, by Barthes De Clements, in district libraries. Board President Pieter Kallemeyn said removing the book would be censorship.

Dorothy Pettigrew, the parent who lodged the original complaint against the book in December, said it should not be in schools because it introduces children to witchcraft. The 136-page novel focuses on the life of an unruly 12-year-old, whose mother is in an alcohol rehabilitation center. After an unsuccessful attempt to fit in with her mother's sister, the girl is sent to live with her father's sister, who is also a practicing "white" witch.

On January 9, a committee of four parents, a principal, librarian, teacher, and high school student heard Pettigrew's complaint and unanimously recommended that the book be retained. Reported in: *Castle Rock Daily News*, February 6; *Highlands Ranch Herald*, January 16.

Dakota, Illinois

Freedom to read triumphed over censorship February 5 when the Dakota School Board voted 5-1 to keep the book *Lu Lu and the Witch Baby*, by Jane O'Connor, on the shelves at the Dakota Primary School, despite pressure from some citizens to remove it. About fifty people — divided roughly equally between opponents and supporters of the book — filled the Dakota High School library to let the board know their feelings.

Jodi Miller, who filed the original objection to the book, was disappointed, but resigned to the decision. "Maybe we didn't win this battle, but the Lord will be victorious in the end," she said. Miller said some good was done if the controversy opened the eyes of other people.

Miller and her husband, Randy, first objected to the book

about sibling rivalry because, they charged, it promoted lying and witchcraft. After their request to remove the book from district libraries was unanimously rejected by a review committee, the two appealed to the school board.

"Democracy prevailed," said Dakota librarian Deb Samuelson of the board vote. "If everyone were allowed to insert their own personal opinions, there wouldn't be any books in any library." Reported in: *Freeport Journal-Standard*, February 2, 6, 9.

schools

Mesa, Arizona

Mesa school children still can read about the high jinks of the orphaned Huckleberry Finn, despite pleas from one mother to remove the Mark Twain novel from classrooms. "I can't imagine any child growing up saying I want to be like Nigger Jim," Charlie Minnifield told the Mesa Unified School District board February 26. "There's no pride in being a nigger. No one wants to be a nigger."

Minnifield asked last December that *The Adventures of Huckleberry Finn* be removed from the district's recommended reading list for high school students after her son, a junior at Dobson High School, brought the book home. She said she was shocked by the book's repeated use of the word "nigger" and called the book damaging to the self-esteem of black youth. "I think the book would do best on library shelves, not in the classroom," she said.

But Mesa school board members voted unanimously to keep the book, after which Minnifield, chair of the Chandler-Mesa chapter of the NAACP, said she would go to court to have the book banned from classrooms. "I plan to take it as far as necessary," she said. "I will take it to the Supreme Court if I have to."

Minnifield's objections to the novel were rebutted before the board by Sandra Bowen-Motz, who teaches African-American literature and freshman composition at Arizona State University. "That one word is what we blacks were called during that one period," she said. "You don't call names, but in the context it is reflective of the times." Bowen-Motz held up *Our Nig* and *The Conjure Woman* as examples of classic literature by black authors who used the term. "If we ban *The Adventures of Huckleberry Finn*, what are we going to do with *The Conjure Woman*? What are we going to do with *Our Nig*?" she asked.

Bowen-Motz said Twain's book was one of the first books showing the humanity of slaves. "Jim is one of the most positive figures to come out of the post-Reconstruction period," she said. "He risked everything for freedom. He was courageous."

Godfrey Williams, a senior at Dobson and president of the African-American Studies Club, asked that the book be

banned and that more emphasis be placed on studying black history. "I think people should have an opportunity to study their origins," he said. "The African-American history is more than the history of slavery. As an African-American, I am more than an ex-slave."

Prior to her appeal to the school board, Minnifield's request was rejected by both school and district reconsiderations committees. The district committee, however, did recommend that Twain's book be taught with the writings of Frederick Douglass, Sojourner Truth, Arna Bontemps and black authors of the period. The committee also suggested that the district's English teachers prepare students to read the book and others that could be misunderstood.

The book is taught as part of an elective American Literature course for juniors and seniors. While teachers have the option of which books to teach, four of the five English teachers at Dobson have students read *Huckleberry Finn*. Reported in: *Arizona Republic/Phoenix Gazette*, March 1; *Mesa Tribune*, February 27.

Burlington, Connecticut

Insisting that adolescents should confront controversy, the Region 10 curriculum committee voted unanimously February 5 to keep four novels and one short story on the Har-Bur Middle School reading list. The novels are *Pigman*, by Paul Zindel; *A Day No Pigs Would Die*, by Robert Newton; *Summer of My German Soldier*, by Bette Green; and *The Chocolate War*, by Robert Cormier. The short story, "In the Heat," was also written by Cormier.

Donna and Charles Beach of Harwinton had complained to the school board last November that the works are full of profanity and obscenity; that they are negative and depressing, featuring teen suicide and violent, abusive adults; and that they undermine the teachings of traditional religion and the authority of teachers and parents. The Beaches did not ask that the books be removed from school libraries. Instead, they called for their excision from mandatory reading lists (see *Newsletter*, March 1991, p. 44).

But parents and teachers argued that the novels were relevant to the students' lives. They also said students are intelligent enough to recognize that some characters' actions aren't admirable, or that coarse language isn't to be imitated.

"I commend the Beaches for their courage and concern in trying to protect their children," said Region 10 school board member Ken Hom, who sits on the 11-member curriculum committee. "Both the opponents and proponents of these books have spoken well."

But the committee concluded that the four novels, by presenting difficult and contrary characters and situations that aren't simple or uplifting, speak to adolescents in a way other books might not. "These five books are highly acclaimed across the nation and have received high distinction for their literary merit," said committee chair Warren Baird.

The committee also agreed that teachers had thought about

the books carefully and not assigned them frivolously. "The teachers really look closely at the groups and whether the books are appropriate for their kids in a group at a given time," said Anne Malley, a representative from the teachers' organization.

"Students who have struggled with painful experiences will gain a clearer perspective of themselves in the bigger picture," said committee member Ann Bailey. "They need a compelling view of the world. These books do that."

Several committee members cautioned parents against allowing their personal preferences to dictate classroom instructional material. "Parents should not have the right to dictate the curriculum for the entire school or a particular grade level," said Emily Perretta, a middle school teacher. Added district curriculum director Karen Richards, "One set of parents does not have a right to determine what other children will read."

Committee member Nick Salvatore did ask, however, that *The Chocolate War* be reviewed by faculty to determine if it was well-suited for eighth grade students. The novel was cited by the objecting parents as the book they most found fault with. The committee voted 6-5 to reject this proposal. Reported in: *Waterbury Republican*, February 6; *Torrington Register-Citizen*, February 6.

Barrington, Illinois

Although a group of local parents said they would keep fighting to get the controversial *Impressions* reading series out of Illinois School District 15, the district went ahead with plans to continue using the books. The parents charged that the books, the target of a nation-wide removal campaign, are frightening and promote witchcraft. An ad hoc committee of teachers, administrators, and parents, however, after several months of study decided in mid-February to retain the books.

"*Impressions* is a quality literature program," said Barbara Karll, director of curriculum planning for District 15. Karll, who was a member of the committee, dismissed the accusation that the books contain too many scary stories. "The scariness depends on the perception of the reader," she said. "To exclude this genre would create an imcomprehensible void."

But the parents opposed to the books, who call themselves Excellence in Children's Education Literature, or EXCEL 15, saw the issue differently. "What kind of quality education is this?" asked Kirk Rustman. "The books are tremendously filled with negative things."

"I feel this series is a breeding ground for the occult," added Lorrie Godawa, a former town alderman, who spoke against the books at a February 13 school board meeting. "This mirrors the Wicca religion, which is witchcraft. Why should children be taught the religion of witchcraft?"

The ad hoc committee agreed unanimously that the books do not intend to teach witchcraft, Karll responded. And the

consensus of committee members was that the books don't subtly promote witchcraft either.

The District 15 School Board accepted the committee's recommendation but took no action. School Board President Terry Francel said no action was necessary, and that the district planned to continue use of the *Impressions* books.

A vice president for Harcourt Brace Jovanovich, *Impressions*' publisher, said he wasn't surprised District 15 decided to retain the series. "That's consistent with the action of most of the school districts where these books are challenged," said Anson Franklin. "There have been some groups that for some reason have tried to impose their feelings on school districts around the country," Franklin said. However, he continued, "children are very much able to handle the type of stories you find in the *Impressions* series."

The committee found 12 stories or teacher activities to cause a "level of concern." The district will inform teachers about those stories and activities, but leave it up to teachers' judgment whether to use them in class, said Henry Gmitro, assistant superintendent for instruction and special services.

Parents can ask for hearings with their children's teachers and principals to discuss the *Impressions* books if they still have specific objections to the stories, Gmitro added. Reported in: *Barrington Courier Review*, February 21.

Newport, Oregon

For the second time in eight days, the Lincoln County School District Controversial Issues Committee voted to recommend that the *Impressions* language arts series be retained in county schools. The recommendation denied a request by parents that the series be removed from the schools.

Meeting on February 22, the 12-member committee heard complaints from three parents who charged that stories in the series are unnecessarily violent and promote witchcraft as a religion. A week earlier another committee voted to recommend to Superintendent Cindi Seidel that she deny parent Pamela Powers' request that the series be removed.

The committee heard separate challenges from Steve and Kim True and Julia Bickel. The Trues focused on the violence and fear they believed permeate the readings. They also argued that *Impressions* stories had been revised to increase the content of fear and violence, and sacrificed grammar and American culture to achieve these effects.

"If you are using this kind of stuff to pique the kids' interest, then we think there's something wrong," said Steve True, adding "why the big emphasis on getting scared for the first, second, and third grades, and when it gets to the fourth and fifth grades, it's violence."

Bickel opened her presentation by stating, "My complaint is simple; we are teaching religion in the *Impressions* series." Bickel also criticized the series for failing to do its basic job of teaching children to read critically. She said that the philosophy and symbols of neo-paganism are evident

throughout the texts, charging that out of 61 selections, 15 deal with key facets of neo-paganism: animism, pantheism, and polytheism.

The complainants voted against the committee's recommendation to retain the books. All other committee members voted in favor. Reported in: *Newport News-Times*, February 27.

Plano, Texas

When the school board rejected an effort, spearheaded by a Plano City Council member, to remove Mark Twain's *The Adventures of Tom Sawyer* and *The Adventures of Huckleberry Finn* from classrooms, 16-year-old Treshel Washington vowed not to read either book. Even though she could have chosen a different novel, she scanned the pages of *Huckleberry Finn* during her eleventh-grade English class. Treshel, an African-American, said she sometimes flinched at the novel's repeated use of the word "nigger." But she continued to read.

"At first I was totally against it," she said. "But I've been told that Mark Twain was an abolitionist and he was against slavery and all that. So I thought I'd see what it was all about."

In resolving the controversy over the novel, the school district adopted policies making it easier for students to choose an alternative assignment. But out of the district's estimated 2,000 juniors assigned to read *Huckleberry Finn*, fewer than 20 chose the other option, *The Red Badge of Courage*. About half those students decided against reading Twain because they had already read it, teachers said.

Last October, City Council member David Perry called for a classroom ban on the Twain books. His complaint triggered a series of hearings, ending in a five-hour school board meeting in December attended by more than 500 people (see *Newsletter*, March 1991, p. 45; January 1991, p. 18). The school board rejected Perry's request, but did instruct English teachers to develop guidelines that would facilitate the choice of alternative reading.

Under the guidelines, students are alerted beforehand that they can opt for a different assignment. Students who do receive separate instruction. "As much as had been placed on it, as much community awareness we have been led to believe there was over the language of *Huckleberry Finn*, I thought there would be more students" choosing the alternative, said Charlotte Huddleston, head of the English department of Plano East High School.

Despite the new guidelines, some black students said they felt uncomfortable with the prospect of being the lone person in class to read something different. With the suburban school district's black enrollment just under five percent, few of Plano's English classes have more than one or two black students.

Some teachers said *Huckleberry Finn* remained popular because they are careful to teach the novel in a racially sen-

sitive way. "At the very beginning I say, 'A very derogatory word is used for a very derogatory institution. I will never read the word,'" said Diann Gibbs. And they explain the history behind the story, spending an hour discussing slavery and racism, said Betty Tindall, head of Plano High's English department.

"You need to be sensitive," Tindall said. "I definitely am more conscious of it because of last fall's controversy, and I know everyone is. You know that people are watching you. You want to do the right thing." Reported in: *Dallas News*, February 11.

Farmington, Utah

Davis School District officials announced February 19 that *Grendel*, by John Gardner, would remain in the curriculum at Viewmont High School. Ten members of an 11-member district committee voted to keep the book, a decision backed by District Superintendent Rich Kendell. "I think the committees have made a responsible decision," Kendell said.

But parent Marie Burk, who spearheaded the fight against *Grendel*, said she was "very disappointed" by the decision. "I'm sure the parents will try to file an appeal," she said. "We don't know how yet, but we'll find out."

Grendel, published in 1971, came under fire in December after Burke, whose daughter was asked to read graphic passages in her English class, complained that the book was obscene and should not be required reading. Burke later circulated a flier containing excerpts from the book, which is a retelling of the medieval epic *Beowulf*.

The book was reviewed first by the school English faculty and then, upon appeal, by Burke and her supporters, by the district committee of six teachers and five parents. All of the teachers voted to keep the book, while four of the five parents voted to keep it.

Although Kendell chose to keep *Grendel* in the curriculum, he asked teachers to use the book only with twelfth graders and in connection with *Beowulf*, and ensure that students and parents know that there is an alternative to the book if a student chooses not to read it. Reported in: *Deseret News*, February 20.

2 Live Crew

San Antonio, Texas

Obscenity charges filed against a Texas record store owner for selling a copy of 2 Live Crew's *As Nasty As They Wanna Be* were dismissed December 10. Bexar County assistant district attorneys, saying they could not prosecute the case, asked presiding judge Tony Jimenez to drop the charge of promoting obscene material filed against David Ward Risher, owner of Hogwild Records and Tapes in San Antonio (see *Newsletter*, September 1990, p. 156; November 1990, p. 203).

Jimenez reprimanded the officials for their handling of the case. "It's beyond me that it would take six months to determine that this is not a prosecutable case," he told them. Risher had been charged with violating the state's obscenity law, a Class A misdemeanor that could have netted him a \$2,000 fine and a year in jail.

In June, vice officers in San Antonio had warned retail chains and individual record store owners that they could face obscenity charges if they did not pull the *Nasty* album from their shelves. Risher was one of a handful of record store owners who did not stop selling the album after receiving that warning.

Risher was charged June 28 after selling *Nasty* to the adult son of a local anti-pornography activist. But on December 10, the state's complaining witness, Jamie Patrick Weaver, son of Theresa Weaver, president of Citizens Against Pornography, signed an affidavit refusing to testify against Risher because "after further consideration and reviewing the tape *As Nasty*, I find that it is not obscene."

Risher said he was glad "saner heads prevailed," but was not surprised by the turn of events, and he noted that his attorneys had prepared a thorough defense. "It was still sort of a shame to be taken for a six-month legal joyride so the district attorney could say, 'Oops, you know we really didn't have a case in this after all,'" he said.

Risher said he was resentful of the Weavers and of the authorities: "The authorities basically instituted a police state type of action of legal harassment using taxpayers' money to not really prove anything," he said. Reported in: *Billboard*, December 22; *Hollywood Reporter*, December 11. □

(censored war . . . from page 69)

major news organizations complained, but aside from dropping the fitness test, the Pentagon did not substantially alter its guidelines (see *Newsletter*, March 1991, p. 33).

More than 1,500 journalists were accredited to cover the war, but only 126 were allowed to participate in Pentagon pools. But even that figure was misleadingly high, because it included photographers, camera operators and technicians as well as reporters for *Stars and Stripes*, the official military newspaper. Moreover, many pools did little but sit around hotels, while others visited only airbases far behind the lines or ships in the Persian Gulf. On February 10, Nicholas M. Horrock of the *Chicago Tribune*, coordinator of the print pool, complained to military authorities that the system had virtually ceased to function and asked for its complete overhaul.

Before the final ground offensive, only 25 to 30 pool slots existed for all media correspondents in the six U.S. Army and two Marine divisions positioned near the Kuwaiti and Iraqi borders with Saudia Arabia, totaling more than 100,000

men and women. No reporter from the six-member bureau of the *New York Times*, widely regarded as the nation's "newspaper of record," spent even a single day as an authorized correspondent with American ground forces until February 10.

The imposition of the rigid press pool system in the war led to the detention of correspondents and angry protests by reporters. Before the ground war even began, more than two dozen reporters and photographers had been held for up to eight hours by the U.S. or Saudi military for trying to cover the war on their own, without military escorts. Dozens of others managed to cut across the desert or otherwise to avoid detection by military police.

Among correspondents apprehended by the military were Eric Schmitt, John Kifner and Chris Hedges of the *New York Times*; Guy Gugliotta of the *Washington Post*; John King and Fred Bayles of the Associated Press; Joseph Albright of Cox Newspapers; a six-member team from the British Broadcasting Corporation; and several French freelance photographers. Wesley Boxce, a New York photographer on assignment for *Time* magazine, charged that MPs from the Alabama National Guard blindfolded him and searched him spread-eagled.

Without access to American troop units, correspondents were unable to verify the accuracy of statements made at press briefings. They could not fully describe the ground fighting. They were also unable to convey the emotions, thoughts and morale of the front-line soldiers and their officers.

"Covering a war by pools must be something like phone sex, judging by the middle-of-the-night television ads," commented Cragg Hines, Washington bureau chief of the *Houston Chronicle*. "It sounds safe and easy, and with enough imagination could get the job done. But you instinctively know there is a better way."

Testifying February 20 before the Senate Governmental Affairs Committee, Assistant Secretary of Defense for Public Affairs Pete Williams said that it was "not proper" for military commanders to deny reporters access to U.S. forces after writing critical stories, but conceded that "it happens nonetheless." Williams told Senators that military escorts in the gulf were not meant "to be a hovering presence," although "I can't deny there's some of that going on. I keep hearing horror stories, so there obviously are exceptions."

Williams said 820 pool reports had been approved and only five appealed, with four decided in the media's favor and one in which the news organization was persuaded not to publish details of intelligence gathering. "I know reporters are frustrated that they can't all get out to see the troops," Williams said, but "we can't say 'y'all come to the battlefield.' It's not practical."

Importantly, the argument is not principally over censorship itself, but access. "Ordinary censorship in a military setting is not obnoxious in any way," said former Pulitzer

Prize-winning *New York Times* correspondent and author Harrison Salisbury. But instead of restricting its censorship to military information that may aid the enemy, the military was simply preventing much of the story from being reported, he said.

Former CBS anchorman Walter Cronkite told the Senators that the press "should be free to go where it wants when it wants" and complained that military briefings in the gulf are "ridiculously inadequate." Cronkite said he would support a return to more rigid military censorship as practiced during World War II. "It doesn't really matter in a wartime situation if we learn something this minute or the next day."

But Malcolm W. Browne of the *New York Times* testified that two *Wall Street Journal* articles were delayed for 60 hours, long enough to destroy their news value, although officials ended up inserting only the word "perhaps." Browne said restrictions on media pools in Saudi Arabia were so great that "we were essentially unpaid employees of the Department of Defense." Fred S. Hoffman, a former Pentagon press spokesperson, told the hearing there was "no justification" for "limiting coverage to officially sponsored pools of newsmen and women."

In this century, the American press has always had freedom of access in covering wars, even when the military imposed formal censorship for security purposes. During World War II — the last time censorship was formally imposed — correspondents flew on bombing missions, rode in destroyers, went on patrols, and accompanied assault troops in the first waves of several invasions. Even in Korea, where Gen. MacArthur attempted to impose battlefield censorship, the press was present at the front lines.

In Vietnam, reporters traveled freely. The military even paid for correspondents to fly to Vietnam "to get a first hand acquaintance with the facts." Reporters were allowed to cover the deployment of American troops in Lebanon and few restrictions were imposed on coverage of American military advisers in El Salvador.

The practice changed with the invasion of Grenada, when the Pentagon did not permit reporters to accompany the first wave and announced the next day they would not be permitted on the island until conditions were safe. Fewer than seven U.S. journalists made their way to Grenada.

In October, 1984, the Pentagon announced plans to form a press pool in which a small number of reporters selected by the military from established media companies would be chaperoned on the battlefield. They would share whatever they saw and heard with the others. But on December 20, 1989, when the U.S. invaded Panama, the pool was not activated. When it finally arrived — a good six hours after the attack began — it was denied access until the second day of operations. Five hundred reporters traveled to Panama to cover the fighting, but they were sealed in a military base and barred from engaging in on-the-scene coverage.

In response to this government effort to shape the news from the Persian Gulf, the Center for Constitutional Rights filed suit on January 24, on behalf of eleven smaller publications and a number of writers seeking to overturn the pool system. The plaintiffs in the case include *The Nation*, *Harper's*, *In These Times*, Pacific News Service, *The Guardian*, *The Progressive*, *Mother Jones*, *The L.A. Weekly*, the *Texas Observer*, Pacifica Radio News, the *Village Voice*, and writers Sydney Schanberg, E.L. Doctorow, Michael Klare, and William Styron. On March 7, in New York, U.S. District Court Judge Leonard B. Sand heard arguments in the case.

Larger media institutions also complained about the restrictions on coverage, but shied away from a legal assault. "The media is very conservative, as their failure to join this lawsuit shows," said John R. MacArthur, publisher of *Harper's*. "You're talking about enormous bureaucracies who view news as a product. They're in bed with government every day. They depend on the government for their daily briefings."

"It is always difficult to persuade the courts to strike down rules put into effect at the very beginning of combat," said Floyd Abrams, an attorney who frequently represents the *New York Times* and advised that paper not to take legal action. "So one reason for not filing might be prudential, in the sense that it would be difficult to win — and if lost, would be no service to the First Amendment."

But another attorney, who requested anonymity, said that the "establishment media" might calculate that they are better off accepting the restrictions. "One of the dynamics is that some of the larger media organizations represented in the pools are reluctant to rock the boat on this for fear of losing what they have," the attorney explained. "It is obviously a question of some access is better than none, and people are reluctant to lose what they have by becoming rabble rousers."

As for the argument that the lawsuit could end up making matters worse, by giving legal sanction to the rules, Schanberg called it "a complete cop-out. We've already lost. There is only something to gain."

"Instead of battling for access for all in the name of press freedom, they [the major media] eagerly traded their journalistic principles for a few crumbs for themselves and starvation for many of their colleagues," commented Frank A. Aukofer of the *Milwaukee Journal* in testimony before the February 20 Senate committee hearing.

The *Times'* Wicker concluded that the media "to their discredit, [did not] protest as effectively as they should have, or always make it as clear as they could have that much of what they conveyed . . . was not only controlled by the military but prettified for home consumption."

The result of all this was limited coverage and a decidedly one-sided tilt to most reporting of the war. "I think we should know, accurately, what's going on in the war. We don't know," said former President Jimmy Carter at a

February 12 press conference at Purdue University. Carter called the degree of media censorship in the gulf unprecedented, and expressed concern that Americans were not getting information to which they were entitled about the war. The former president charged that many facts widely known throughout the gulf region and by the Iraqis were not being disclosed by the military to the American people. In particular, Carter noted that while televised war reports included repeated images of explosions, no dead bodies had been shown.

The liberal media watchdog group Fairness and Accuracy in Reporting (FAIR) monitored gulf crisis coverage on network television from August 8, 1990, to January 3, 1991. Of 2,855 minutes of network air time devoted to the developing crisis, only 29 minutes "dealt with popular opposition to the U.S. military build-up in the gulf." Another FAIR survey found that in the first two weeks of the war, almost half of all official sources used on nightly network news represented either the U.S. or allied governments. The U.S. military alone provided almost three of every ten sources used, while only one percent represented the government of Iraq. Only one source in all the broadcasts monitored was from a national peace group. In contrast, seven Super Bowl players were asked to comment on the war and the supposed terrorist threat to the game. Civilian sources from Israel accounted for five percent of all unofficial sources while less than two percent represented Iraqi and Kuwaiti residents and refugees.

Not surprisingly, then, most Americans apparently accepted the legitimacy of military restrictions on media. According to a poll by the Times Mirror Center for the People and the Press, 57 percent of respondents thought the military should exert *more* control over how news groups reported the conflict. Thirty-four percent said decisions about how to report the war should be left to news organizations. Asked whether they believed the military was hiding bad news, 78 percent said they did not.

The following chronology, which appeared in the *Village Voice*, recounts incidents of media censorship or denial of access during the gulf war:

January 7: The Pentagon expanded its rules for the behavior of journalists from one page to six. Guidelines for photographers prohibited taking or transmitting pictures of wounded or dead soldiers who might be recognized back home, making it nearly impossible to show allied casualties.

January 11: The *Texas Observer* reported on the Pentagon's special program, which invited at least 450 local journalists at military expense to spend time with troops from their hometowns, noting that what these "hometowners" write is often extremely favorable to the military.

January 16: Carol Morello of the *Philadelphia Inquirer* was aboard a U.S. aircraft carrier in the gulf when loudspeakers announced the air war had begun. As pilots started cheering and giving each other high fives, she and

other reporters were hustled into a small room by their military escort. They were not allowed to leave until an hour later, when the initial euphoria had died down.

The Pentagon banned public and media access to Dover Air Force Base in Delaware, where the bodies of U.S. soldiers were scheduled to be brought from the war.

January 17: A senior U.S. Air Force officer opened a briefing in Saudi Arabia with, "Let me say up front that I don't like the press, your presence here can't possibly do me any good, and it can hurt me and my people."

January 15-21: Permission to report allied attacks on Iraqi nuclear laboratories was denied, supposedly for security reasons, and reporters complied. The attacks were later reported in detail by American military officers during a briefing. One of the chief complaints about the military censors is that they would restrain journalists so they could report the same information themselves, presenting it with their own slant.

January 31: Guy Gugliotta of the *Washington Post*, Joseph Albright of Cox Newspapers, Deborah Amos of National Public Radio, Juan Tamayo of the *Miami Herald*, Lucien Perkins of the *Washington Post*, and Ann Reasenber of the *Dallas Morning News* were warned off the attack on Khafji. According to Gugliotta, a marine public affairs officer said the reporters were "too far north." The soldier took their names and said he was going to tell the Saudis the reporters were up there. "The implication being," said Gugliotta, "that our accreditations could be taken away." The Saudi government was at that time holding a list, supplied by the U.S. military, of all reporters caught attempting to report outside of the pool system. The Saudis threatened to take away the visas of those reporters.

A French television crew who filmed the fighting in Khafji were forced at gunpoint to give up their videotape to U.S. Marines, even though they breached no security guidelines. The tape was confiscated only because they were not members of the pool.

February 1: Correspondents on the carrier *Saratoga* filed reports quoting pilots who had just returned from bombing runs; shipboard officers deleted all swear words and changed some of the quotations before sending the reports out after a 12-hour delay.

On the USS *Kennedy*, Associated Press reporters wrote about how fighter pilots watched porn videos to relax before flying their missions. Censors deleted this from the reports, saying, "It would be too embarrassing."

February 2: A reporter from the London *Sunday Times* found the Staffordshire Regiment in a desert. He was confronted by an angry British major accompanying the British pool, who shouted that if he did not leave, the *Times* man would "ruin it" for the reporters in the pool.

February 3: Wesley Boxce, New York photographer for *Time*, said that military police from the Alabama National Guard blindfolded him, searched him spread-eagled

on the desert floor, and held him for thirty hours, accusing him of being an Iraqi spy. Boxce is Peruvian, and since he had been working in El Salvador before going to the gulf, he had a tan. The MPs didn't believe he was from New York, although he showed them his credentials. So they asked him who the mayor and the governor of New York were, and he answered correctly. Then, according to a representative of Boxce's agency, he told them to fuck themselves, and they finally believed he was a New Yorker.

February 5: Fred Bayles of the Associated Press and Laurent Rebourg, a photographer, were detained for six hours by the First Cavalry. They were told they were being detained for working outside of the pool system.

Robert Fisk, a reporter for *The Independent* of London, said that as he approached a marine unit outside Khafji, NBC reporter Brad Willis "started shouting abuse," screaming that if Fisk didn't go back to Dhahran, he would "spoil it for the pool."

Frank Bruni, a *Detroit Free Press* reporter working within the pool system, said that his description of returning pilots was changed from "giddy" to "proud" by a military censor.

February 7: Senator Alan K. Simpson (R-WY) called CNN's Peter Arnett, one of the few journalists reporting from Baghdad, a "sympathizer."

The *New York Times* reported that CBS had assured advertisers that there would be enough patriotic coverage so that commercials could be inserted after segments "that were specially produced with upbeat images or messages about the war, like patriotic images from the homefront."

February 8: Christopher Walker of the *London Times* reported that a wire service photographer working outside of the pools was held for six hours by U.S. Marines who threatened to shoot him if he left his car. "We have orders from above to make this pool system work," an officer told him.

February 10: Eric Schmitt of the *New York Times* was seized when he asked to speak with a public relations officer at an American military hospital in Saudi Arabia. He was detained for five hours and his credentials were temporarily revoked (he was not in a pool at the time).

Chris Hedges of the *New York Times* was detained for five hours and his credentials were taken.

February 12: Chris Hedges went to the press center in Saudi Arabia to retrieve his credentials, as he had been instructed to do. Information Bureau officials refused to let him into the office for a half hour, and an army major told him, "You have an attitude problem."

February 17: James LeMoyné of the *New York Times* wrote that three Pentagon press officials told him that, before the war started, they spent a great deal of time analyzing reporters' stories to make recommendations on how to sway coverage in favor of the military. Later, when one of his articles quoted enlisted personnel who were critical of President Bush, press officials canceled LeMoyné's scheduled in-

terview with General Schwarzkopf.

February 18: *Newsweek* reported that Douglas Jehl of the *Los Angeles Times* was ordered to leave the press pool after he wrote a story saying fifty U.S. military vehicles could not be found by logistics officers, even though the story had been cleared by censors.

February 19: Foreign news teams claimed that British and American journalists were given preferential treatment in the pool selections. *Financial Times* reported that three hundred European and Asian journalists, who had only three combat reporting spaces in the pool, threatened to move en masse to the front if they were not given more access. Agence France-Presse threatened to sue the Department of Defense over their exclusion from the photo pool.

February 21: The *Washington Post* reported that the Public Broadcasting Service yanked a rerun of a *Frontline* program on the Iran-contra affair. The show depicted Bush in meetings where arms and hostages were being discussed, suggesting that he had lied repeatedly during the scandal.

February 23: As the ground war began, Defense Secretary Dick Cheney announced that the regular briefing schedule at the Pentagon and in Riyadh was suspended, claiming that "such information would put military operations at risk, and even the most innocent sounding information could be used against the men and women... carrying out these operations." This blackout was immediately abandoned when allied field commanders began bringing in glowing reports about the early success of the war. It was less than twelve hours later that Cheney gave permission for Gen. Norman Schwarzkopf's upbeat briefing announcing that the escape routes for the Iraqi army had been cut off.

Pentagon officials also warned that "filing delays" could detain news reports from the front for up to 48 hours. However, after Schwarzkopf's briefing, news flowed freely. Some reporters claimed that information was sped through when the dimensions of the victory became clear.

February 28: In a briefing, Gen. Schwarzkopf suggested that the press was used in a tactical move against the Iraqis. He said that press coverage of Operation Imminent Thunder, which was supposed to have been an exercise for an amphibious attack, fooled the Iraqis into keeping troops on the Kuwaiti coast. When asked in what other ways the press had been used to help win the war, Schwarzkopf smiled and said, "I'd rather not get into the remainder of the question."

March 11: The *Washington Post* revealed what it called "a public relations campaign managed by the U.S. Central Command," in which U.S. military officials scrambled to characterize the rout of the Iraqi army as a "fighting retreat" as opposed to a voluntary withdrawal. The sometimes inaccurate picture drawn by briefers was an attempt to justify the merciless bombing on February 26, of a six-lane traffic jam of tanks, ambulances, cars, and trailers, many stuffed with loot, that were trying to get out of Kuwait.

Time magazine revealed that a report early in the war that sixty Iraqi tanks had defected had been falsely planted by the CIA to encourage more defectors.

March 15: Tom Bettag, the former executive producer for the CBS Evening News, said that Bob McKeown, who had shirked the pools and therefore was able to transmit first from Kuwait City, barely avoided being stopped by the U.S. military. McKeown was traveling in a convoy of European correspondents; according to Bettag, troops stopped the first cars in the convoy asking, "Are you from CBS? We have orders to stop CBS."

Steve Friedman, executive producer of NBC's *Nightly News*, concluded simply: "We want to cover everything. They want us to cover nothing." So far, he acknowledged, the government had won most of the battles. Reported in: *Baltimore Sun*, February 7; *Burlington Free Press*, January 25; *Fort Wayne Journal-Gazette*, February 13; *Legal Times*, February 4; *New York Times*, February 12, March 20; *Torington Register-Citizen*, February 14; *Twin Cities Reader*, January 23-29, January 30-February 5; *Village Voice*, March 26; *Washington Post*, February 21; *Washington Times*, January 31, February 21. □

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