

newsletter
on

intellectual freedom



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Rushdie surfaces

Suddenly and without advance notice, beleaguered author Salman Rushdie emerged from his life in hiding December 11 and implored an audience at Columbia University in New York not to forget that he remains hostage to an Iranian sentence of death. "Free speech is the whole thing, the whole ball game," Rushdie told a stunned audience that had come to salute the First Amendment and former U.S. Supreme Court Justice William J. Brennan, Jr.

It was Rushdie's first trip abroad and his first public appearance outside Great Britain since the Ayatollah Ruhollah Khomeini condemned his book *The Satanic Verses* and called for his death and the death of others involved in the book's publication, offering a multimillion dollar reward to anyone who would carry out his "execution."

"I felt a need to talk to Americans as well as British people," said Rushdie, who had previously made several unannounced appearances in England. "It seems to me that what's happened around me in the last thousand odd days is a kind of parable about liberty. It's about the importance of it and the danger of it. And so to be asked to speak at an event which commemorates one of the great pieces of libertarian legislation seemed like the correct place to say, to use an old line, that the price of liberty is eternal vigilance, that if you don't look out for and constantly redefend the rights you think you have, you lose them."

In an interview with the *New York Times*, Rushdie said that he had wanted to come to New York for a while, but that American authorities had discouraged him, saying that such a trip could endanger delicate negotiations over the fate of Americans being held hostage in the Middle East. The recent release of the remaining Americans "unloosed my tongue," he said, but he added that American officials were "still not thrilled by my coming here."

Rushdie said that he was trying "to have a life." But, he told the interviewer, gesturing to the elaborate security operation surrounding him, "so far, it's still not my life. It's not a *real* life. In real life you don't have twenty men sitting outside your door and pads on your windows."

Rushdie said that if the Ayatollah's *fatwa*, or death sentence, were lifted a relatively normal existence might become possible again. That, he argued, "would take the

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most censored stories of 1991

The top censored story of 1991 revealed how the news departments at CBS and NBC rejected rare, uncensored footage taken deep inside Iraq at the height of the U.S. air war in the Gulf, according to a national panel of media experts. The second overlooked story of the year reported how the government and an acquiescent press persuaded the American people to support the Gulf War by media manipulation, censorship and intimidation. The sixth-ranked under-covered story of the year revealed there was no evidence of an Iraqi threat to Saudi Arabia at the start of the Gulf War despite the administration's warnings.

Carl Jensen, professor of communication studies at Sonoma State University (SSU), California, and director of Project Censored, said that the Gulf War was one of the "best censored" wars in history.

Project Censored, a national media research effort now in its 16th year, located stories about significant issues which are not widely publicized by the national news media. Following are the top ten under-reported stories of 1991:

1. *Uncensored Iraq Coverage Spiked by Networks.* CBS and NBC rejected professional videotape footage taken at the height of the air war in Iraq by two Emmy-award-winning documentary producers. The footage substantially contradicted U.S. administration claims that civilian damage from the American-led bombing campaign was light.

2. *Operation Censored War.* The Gulf War set new, questionable standards for wartime secrecy. Many important stories, which the public had a right to know, are still not being reported by the major media. It took a freelance journalist, posing as a mortician, to get a more accurate estimate of battlefield casualties from the Dover AFB mortuary, the only one handling Desert Storm casualties.

3. *Voodoo Economics.* The media failed to explain how bad the national deficit was and why the economy went into a tailspin in 1991. The interest alone on the federal debt will be the nation's single largest expenditure this year, exceeding even the military budget.

4. *The \$250 Billion Political Cover-Up.* An hour-long television documentary, produced by PBS Frontline and the San Francisco-based Center for Investigative Reporting, revealed the truth about the extent of the savings and loan scandal and how it was covered-up so that it would not threaten George Bush's candidacy in 1988.

5. *DoD's Untold Scandal.* A Justice Department investigation into possible fraud and bribery in securing defense contracts could equal or exceed the "Teapot Dome" scandal or the publication of the Pentagon Papers in its scope, but we may never know. Search warrants and affidavits that contain transcripts of wiretapped conversations of employees with a major defense contractor have now been sealed by court order.

6. *No Iraqi Threat to Saudi Arabia?* Satellite photos of Iraq and Kuwait on September 11, 1990, revealed no

evidence of a massive Iraqi army threat to Saudi Arabia as cited by President George Bush that same day in his efforts to rally public support for the Gulf War.

7. *FOIA is an Oxymoron.* The erosion, and possible obsolescence, of the Freedom of Information Act over the past ten years coincides with a new and particularly hostile attitude towards the public's right to know which has characterized the Reagan-Bush administrations.

8. *Corporate America's Anti-Environmental Campaign.* Recent corporate anti-environmental innovations include multi-million dollar SLAPP suits, the harassment and surveillance of activists, the infiltration of environmental groups by "agent provocateurs," and the creation of dummy ecology groups to locate whistleblowers.

9. *The Inslaw Software Theft.* In a little-publicized but potentially explosive legal battle, the Inslaw Corporation charges that the U.S. Department of Justice robbed it of its case-management and criminal-tracking software program, conspired to send the company into bankruptcy, and then initiated a cover-up.

10. *The Bush Family's Conflicts of Interest.* In recent history, no president has had the blatant but unexplored familial conflicts of interest comparable to that of George Bush. These include his brother, Prescott, a financial consultant with influential contacts in Japan, South Korea, and the Philippines; his sons: Neil, a former director of Silverado Savings and Loan whose failure cost taxpayers about \$1 billion; Jeb, a Miami real estate developer with questionable ties to a drug trafficker; and George W., a director and consultant to Harken Energy Corporation, which has a lucrative oil-production agreement with Bahrain, a tiny island off the coast of Saudi Arabia.

The other 15 under-reported stories of 1991 were: The Strange Death of Danny Casolaro; Dan Quayle: Lobbyist for Big Business; FinCEN: A Threat to Privacy and Property; The Failure of Congressional Oversight; The Untold October Surprise Story; The Specter of Environmental Racism; Inside Bohemian Grove: The Story People Magazine Censored; Federal Seizure Laws: Making Crime Pay; The Rejected Syrian Hostage Offer; Judicial Manipulation of the Agent Orange Case; EPA Fails to Pursue Fraud and Abuse; Public Health Service Takes a New Look at the Fluoridation Issue; Congressional Intelligence Oversight Law is Meaningless; The Canned Hunt: Killing Captive Animals for Sport; Toxic PCB Contamination Above the Arctic Circle.

The panel of judges who selected the top ten under-reported news stories were 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, Senior 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, Consumers Union; Charles L. Klotzer, editor and publisher, St. Louis Journalism Review; Judith Krug, director, Office for Intellectual Freedom, American Library Association; Frances Moore Lappe, co-founder and co-director, Institute for the Arts of Democracy; William Lutz, professor, English, Rutgers University, and editor of *The Quarterly Review of Doublespeak*; Robert C. Maynard, editor and publisher, *Oakland Tribune*; Jack L. Nelson, professor, Graduate School of Education, Rutgers University; Tom Peters, nationally syndicated columnist on excellence; Herbert I. Schiller, Professor Emeritus of Communication, University of California at San Diego; and Sheila Rabb Weidenfeld, president, D.C. Productions. □

Impressions foes don't impress voters

In elections held November 5 in three suburban Chicago school districts, candidates running in support of efforts to remove the controversial *Impressions* reading series from school curricula finished far from the top, losing at times by margins of two-to-one. Their opponents said the elections simply confirmed what they knew all along: that those parents who complain that *Impressions* promotes witchcraft and satanism, among other things, represent a highly vocal but decidedly small minority.

Marie Slater, who won reelection in Wheaton Elementary District 200, defeating, among other candidates, anti-*Impressions* activist Linda Jandeska, said the slightly more than three thousand votes received by Jandeska represented the full extent of anti-*Impressions* sentiment in the district. "I think the campaign pulled out all the people who supported her opinion," Slater said. "I think that says a lot."

Jandeska remained undaunted, however. Indeed, one day after the election, a group of Wheaton district parents opposed to the reading series filed a lawsuit charging that school officials had failed to implement rules allowing parents to exclude their children from classes using the books. The suit seeks to ban use of the series temporarily, then compel the district to show they are implementing the rules.

In Arlington Heights elementary District 25, Arthur J. Ellingsen collected just over 1,400 votes, 800 votes short of victory. He said his stand against *Impressions* did not lead to his defeat, which he attributed to "cold weather and low voter turnout."

But Terry Francl, who defeated an anti-*Impressions* candidate in Palatine Elementary District 15, said low turnout almost always helps single-issue campaigns. "My biggest concern was the potential for a low turnout," he said. "If

there was ever an opportunity for a group such as the anti-*Impressions* group to do something, this was it." Three pro-*Impressions* incumbents were returned to office by a nearly 2-1 margin over the anti-*Impressions* candidate. Reported in: *Barrington Daily Herald*, November 7. □

two more censorship surveys

Attempts to censor books, magazines and other materials occurred in about four in ten public schools and libraries in Minnesota in the past three years, according to a survey released November 28 by the Minnesota Civil Liberties Union (MCLU). Those figures showed little change from numbers in the MCLU's first censorship survey in 1983. The survey did indicate, however, that fewer schools and libraries were removing or restricting challenged materials than in the early 1980s.

The survey was sent in April to all of Minnesota's public schools and libraries. Twenty percent of the schools and 31 percent of the libraries responded. "We may have a higher number of respondents that had challenges," said MCLU executive director William Roath. "On the other hand, it probably gives a pretty good picture of the kinds of challenges we're getting, and I do think it's comparable to the last survey."

Among the institutions responding, 39 percent of schools and 45 percent of libraries reported challenges. But the survey found that the number of materials removed or restricted as a result of challenges dropped from 64 to 41 in schools and from four to two in public libraries.

The top reasons given for trying to censor items varied little from 1983 to 1991. They included witchcraft, mortality, profane language, and violence. Among the books challenged were such classics as *The Diary of Anne Frank*, John Steinbeck's *The Grapes of Wrath*, and Dr. Seuss's *500 Hats of Bartholomew Cubbins*.

In a different survey, conducted by students at the University of Virginia, adults in that state's Albemarle County expressed support for the selection of school library materials by librarians and teachers.

Forty-four percent of the 383 county residents polled by the university's Center for Survey Research in October said they wanted materials chosen mainly by such trained professionals. Only nine percent said school boards should have the most say, while 28 percent said parents should have the greatest input.

Nearly two-thirds of those polled also said libraries should be able to subscribe to any magazine that is widely read in the community and not removed if some parents find them inappropriate. Reported in: *Minneapolis Star-Tribune*, November 28; *Charlottesville Daily Progress*, October 26. □

IFC report to ALA Council

The following is the text of the Intellectual Freedom Committee's report to the ALA Council, delivered January 29, 1992, at the ALA Midwinter Meeting in San Antonio by Chair Arthur Curley.

I am pleased to report to the Council on the activities of the Intellectual Freedom Committee at this Midwinter Meeting.

The IFC received an update and discussed the current status of the *Kreimer v. Morristown* case. As many of you are aware, and as Freedom to Read Foundation President C. James Schmidt reported to you at the Council and Executive Board information meeting, the Foundation filed an *amicus* brief before the United States Circuit Court of Appeals for the Third Circuit limited to two issues: first, that publicly supported libraries are limited public forums for *access to information* and, second, that there is a First Amendment right to receive information through a public library. Oral argument will be held in Philadelphia on Thursday, February 13.

The Intellectual Freedom Committee is keenly aware that professional concern and emotions run high in connection with the issues raised by *Kreimer v. Morristown*. The issues brought into focus by that case are not new ones. Many feel that existing ALA intellectual freedom policy, while providing an excellent philosophical framework, is lacking in specific procedural recommendations for dealing with issues of access, patron behavior, and balancing the rights of all patrons in using publicly supported libraries.

In response to this concern, at the 1991 Annual Conference in Atlanta, the IFC appointed a special task force to develop guidelines regarding patron behavior and library usage. Candace Morgan, PLA/IFC Chair, heads the task force. Its members include Donna Dziedzic, Assistant Director, New Jersey State Library; Nancy Vernon, President, New Jersey Library Association; Virginia H. Mathews, Chair, OLOS Advisory Committee; June Garcia, President, Public Library Association; and two members of the IFC, Pamela Klipsch and Barbara Jones. The task force prepared draft guidelines and circulated them for comment.

On Saturday evening, the IFC and the task force held an open hearing to receive comments on these guidelines. The hearing was extraordinarily well attended. Intended to serve as a forum for constructive suggestions for improving and revising the guidelines, the hearing also served as a forum for expression of concern, and what may fairly be characterized as the venting of some pent up frustration about the *Morristown* case itself. The Task Force and IFC benefited greatly from the exchange of views at the hearing, and Task Force Chair Candace Morgan is to be commended for setting the tone which resulted in an open and respectful airing of views among professional colleagues. Another such hearing will be held at the 1992 Annual Conference in San Francisco, so those unable to attend the Midwinter Meeting

may also be heard. The Task Force anticipates completing a new draft of the guidelines for circulation in February, and the IFC will take them up in San Francisco.

While we hope and expect that a final version of the guidelines might be presented to Council in San Francisco, a ruling from the Third Circuit Court on the *Morristown* case may not have been handed down by that time. When the ruling is issued, and whether or not it is appealed, will obviously affect the schedule for finalizing the guidelines, as members deserve to have included in those guidelines the latest information which may affect the drafting of rules for their libraries.

The IFC and the Task Force also agree that, while we may be able to develop quite specific guidelines on *how* to go about establishing rules and regulations on patron behavior, we may be unable to provide the very specific *dos and don'ts* of *what* to include that many attendees at the hearing requested. This is because of the specifics of state and local law every library must consult in their jurisdiction in connection with developing such rules. We, therefore, cannot responsibly or honestly provide a list of specific regulations which say, "if you do this and don't do that, you'll be safe." As in any profession, there will be grey areas which require the exercise of professional judgment with no guarantees that professional decisions won't be challenged.

Nevertheless, be assured that the IFC and the Task Force took to heart the urgency of the need for specific technical assistance regarding developing rules for patron behavior, and will respond as soon, as thoroughly, and as honestly as we are able.

Our ongoing challenge to the Child Protection Restoration and Penalties Enhancement Act of 1990 is still pending before the United States District Court for the District of Columbia. When we first filed our complaint asking that the court enter a temporary restraining order directing that the Department of Justice not enforce this onerous statute, the court indicated that it was willing to do such. The Department of Justice then agreed that it would not seek enforcement of the new law until regulations interpreting it were finalized. The Department finally issued its draft regulations on June 26, 1991. The Freedom to Read Foundation's counsel wrote to the Department of Justice with comments on those proposed regulations. To date, the regulations have not been issued in final form. Until they are, ALA, the Foundation, and our co-plaintiffs have successfully held off a very chilling piece of federal legislation from becoming effective.

Our efforts in relation to so-called "child protection" legislation has not completely quelled the enthusiasm of Congress for passing attractively titled, but extremely restrictive and probably unconstitutional, legislation designed to chill the production and distribution of constitutionally protected material — specifically, sexually explicit material.

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FTRF report to ALA council

The following is the text of the Freedom to Read Foundation's report to the ALA Council, delivered January 26, 1992, at the ALA Midwinter Meeting in San Antonio by President C. James Schmidt.

As President of the Freedom to Read Foundation, I am pleased to report to Council and the Executive Board on the Foundation's activities since the 1991 Annual Conference. As many of you are aware, the Foundation has been extraordinarily busy in a broad range of important First Amendment cases over the last six months.

At the 1991 Annual Conference, I reported that the Foundation had authorized its Executive Committee to file an *amicus* brief in support of the principles enunciated by Judge H. Lee Sarokin in his *Kreimer v. Morristown* opinion, in the event that decision was appealed by the Morristown Public Library. The Library did appeal, and the Foundation's *amicus* brief "in support of neither party" was filed on September 12, 1991. The Foundation's Executive Committee had an opportunity to review the appeal brief filed by the Library before it decided to proceed. The Library's brief contained one particular argument which the Foundation believed should not go unanswered before the Circuit Court of Appeals, namely, that there is not a First Amendment right to receive information in a public library. We believe this argument represented a serious threat to a fundamental concept of public library service.

Our brief discusses two issues: first, that libraries are public forums for the purpose of access to information. As such, they should be subject only to reasonable time, place and manner restrictions and rules governing non-speech elements of conduct, which restrictions and rules further an important government interest unrelated to the suppression of free expression. If publicly supported libraries are "designated public forums" they will enjoy a new and heightened level of protection under the First Amendment. Second, the brief argues that there is an established right to receive information, a right implicit in the First Amendment right of free expression and integral to the preservation of First Amendment rights as a whole. The Foundation believes that the recognition of these two crucial legal concepts by the U.S. Court of Appeals for the Third Circuit will provide significant assistance in combatting censorship and maintaining free access to publicly supported libraries for all library users.

The Foundation was privileged to have present at its meeting at this conference Patricia Tumulty, Executive Director of the New Jersey Library Association, and Jane Crocker, President Elect of NJLA, to contribute to the discussion of the legal issues the Foundation believes are so crucial to libraries and which are raised by the Morristown case. During the discussion, several misunderstandings were clarified. First, there did not seem to be substantive and philosophical differences between the NJLA brief and the

Foundation's with one exception: NJLA's *amicus* brief does not address the issue raised by the Morristown library's brief — the existence of a constitutional right to receive information. In response to a question from a Foundation Board member, NJLA reported that although no instance of another public library being sued on the basis of the Morristown decision was known, the Morristown decision nevertheless was perceived by many in the New Jersey library community to be a threat.

Another aspect of the discussion focused on the specifics of the reported dissatisfaction in the New Jersey library community with FTRF's position in this case. It was noted that the Foundation's brief is supportive of libraries' rights to make reasonable rules and, further, argues that the district court's "actual disruption" test is too strict. There were no portions of the Foundation's brief which NJLA had either discussed or taken a position on, but the Foundation's brief was still *perceived* to favor the plaintiff Richard Kreimer. We are confident that the discussion which took place at our meeting provided useful clarification on these issues to all concerned.

For the last few years, we have been reporting to you about ALA's and the Foundation's joint efforts in two related pieces of litigation, *ALA v. Thornburgh I* and *ALA v. Thornburgh II*. The earlier case successfully challenged nearly all of the restrictive and onerous provisions of the Child Protection and Obscenity Enforcement Act of 1988. That case is currently pending on appeal before the U.S. Circuit Court of Appeals for the District of Columbia. Meanwhile, Congress adopted new legislation entitled the Child Protection Restoration and Penalties Enhancement Act of 1990. Finding that this legislation failed to correct, and in fact compounded, any of the First Amendment related problems of the earlier legislation, ALA and the Foundation jointly challenged it in a new lawsuit. The District Court indicated a willingness to grant our motion for a temporary restraining order, whereupon the government agreed that it would not enforce this law until final regulations interpreting it are issued. Draft regulations were issued on June 24, 1991; the Foundation's counsel commented on them on July 31, 1991. Final regulations are still pending. Meanwhile, the joint efforts of the ALA, the Freedom to Read Foundation and their co-plaintiffs in these cases have prevented the enforcement of two very chilling pieces of legislation which would have severely curtailed the publication and distribution of constitutionally protected material.

At the 1991 Annual Conference, we reported to you that the U.S. Supreme Court upheld Title X regulations prohibiting speech about abortion at federally funded family planning clinics. Since that time, Congress has been trying through legislation to eliminate the "gag rule" laid down in *Rust v. Sullivan*, but the House has been unable to over-

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in review

50 Ways to Fight Censorship: and Important Facts to Know About the Censors. Dave Marsh. Thunder's Mouth Press, 1991. 128p. \$5.95 paper ISBN 1-56025-011-9 index

Unlike other handbooks, this is not merely advice on what to do when the censor comes. It supposes that those who support free expression can actively educate their community, organize as effectively as the censors, and be proactive, not just reactive. This is a call to arms to make the First Amendment a force in our society as well as our courts. The ordinary citizen, even kids, as well as the professional librarian, will be able to use some of these ways to protect free expression. Each of the 50 chapters is only a couple of pages and the heading exhortations are descriptive enough to serve as quick reference. Some require major commitments of time, money or talent but most are options open to anyone. Examples: "Get Involved With Your Library," "Call Your Radio Station Talk Show," "Buy Banned Records, Fight Record Labeling," "Start a Grassroots Anti-Censorship Organization," and "Sue the Bastards!" All the targets of censorship are included: schools and textbooks, cable and broadcast, arts and music, books and movies. Marsh's breezy style and confident humor along with the cartoons balance the density of information, instructions and examples, censors' and resource addresses. These up-to-date contacts are listed with the appropriate headings and whole chapters are devoted to the ACLU, FTRF, ABA and Article 19. *50 Ways to Fight Censorship* belongs in every library and bookstore and in the hands of every librarian.—Reviewed by Carolyn Caywood, Bayside Area Librarian, Virginia Beach Public Libraries, Virginia Beach, Virginia.

Make No Law: The Sullivan Case and the First Amendment. Anthony Lewis. Random House, 1991. 354 p. \$25.00

Make No Law is the story of *New York Times v. Sullivan*, the 1964 Supreme Court decision that transformed the legal standard to prove libel. Its title, taken from the First Amendment's prohibition that "Congress shall make no law . . . abridging freedom of speech, or of the press" is ironic. Libel, like obscenity, is one form of speech that is subject to restrictive legislation. The *Sullivan* case explored the limits of that restrictive power in a case involving an alleged libel against a public official. As Anthony Lewis, *New York Times* columnist, makes clear, the decision gave important new protection to the press in its coverage of controversial issues, but had unforeseen consequences as well.

Arising out of the civil rights struggle, the case focused on a full page ad placed in the *Times* in March, 1960, by the Committee to Defend Martin Luther King and the Struggle for Freedom in the South. Montgomery Police Commissioner L. B. Sullivan, although not named in the ad, claimed

that mention of "Southern violators" who "have answered Dr. King's peaceful protests with intimidation and violence" referred to him and damaged his reputation. He sued not only the *Times*, but four Alabama ministers who were listed as endorsers of the ad but who had not been consulted before its publication. Lewis shows that by naming them as defendants, Sullivan's lawyers insured that the case would be tried in sympathetic Alabama courts. In fact, a jury awarded Sullivan \$500,000, considered an enormous recovery at the time.

In deciding to defend the case, the *Times* broke with the customary newspaper practice of settling libel suits. For its appeal, the paper engaged Herbert Wechsler, Columbia University law professor and an authority on the federal system. In his briefs, Wechsler argued that the use of libel laws in such a situation threatened the free discussion of political issues that lay at the heart of the First Amendment. Like Wechsler's briefs, Lewis recounts the way in which our understanding of that amendment has evolved. The controversy over the 1798 Sedition Act, which made it a crime to "write, print, utter or publish . . . any false, scandalous and malicious writing" against the government, Congress or President of the United States, presaged the issue in *Sullivan*. The law was allowed to expire, and the nation adopted instead the view of James Madison that "the right of freely examining public characters and measures was the only effectual guardian of every other right."

Skipping the period of the Civil War, Lewis describes more recent decisions of the Supreme Court, including dissents by Justices Oliver Wendell Holmes and Louis Brandeis in espionage and sedition cases following World War I. He considers the precedent established by the court's 1931 decision in *Near v. Minnesota* barring prior restraint of publication and also its 1951 opinion upholding the conspiracy convictions of leaders of the Communist Party.

Using the papers of Justice William Brennan, housed at the Library of Congress, Lewis then traces the debate within the Supreme Court on the *Sullivan* decision itself. Through various drafts, Brennan was able to formulate a standard bridging the absolutist positions of Justices Hugo Black and William Douglas, who opposed all restrictions on speech, and the more conservative Justice John Harlan. The middle ground defined by the opinion provided that public officials might recover in a libel action only if they could prove that the statements were made with actual malice, meaning with knowledge of their falsehood or with a reckless disregard of the truth. Reviewing the facts, the court held that *Sullivan* could not meet this standard.

Because Lewis is not a legal scholar, he relies on other works for much of the necessary legal background. Although he refers to them in the text, he provides few detailed footnotes to primary sources. Overall, his discussion of legal precedents falls short—not enough insight for those already familiar with the area, too much detail for a reader coming to the subject for the first time.

Despite the importance of the *Sullivan* decision, Lewis's telling lacks the compelling human interest of his earlier work, *Gideon's Trumpet*, an account of the Supreme Court decision in *Gideon v. Wainwright* granting an indigent's right to an attorney in a non-capital, felony case. Commissioner Sullivan is not a sympathetic figure, and Lewis provides little information about him or about the Alabama culture that shaped his views. As Justice Black, a former Alabama senator, observed, it was probable that the allegedly libelous ad enhanced rather than hurt Sullivan's reputation in Montgomery.

Only in his discussion of the aftermath of the *Sullivan* case does Lewis demonstrate his journalistic acumen and passion. While observers thought the decision would discourage the use of libel suits by public officials, because of the difficulty of proof it required, the number of cases and the size of judgments actually increased. Lewis considers the suits by Israeli Defense Minister Ariel Sharon against *Time* magazine and General William Westmoreland against CBS as examples of this trend. Plaintiffs' efforts to determine whether a publisher acted with reckless disregard of the truth prolonged even unsuccessful litigation. Newspapers were forced to reveal the basis for editorial decisions. A whole series of cases was required to decide the meaning of public official and the scope of the new standard.

At a symposium on the 25th anniversary of the *Sullivan* decision, several law professors suggested ways in which the case might better have been decided. Lewis, who acknowledges his admiration for Justice Brennan, disagrees. Despite the unforeseen difficulties arising from the case, he believes its recognition of the central role of free debate in a political democracy was a major transformation in American libel law. At a time when we are debating the meaning of "politically correct," the brave words of Justices Holmes, Brandeis, and Brennan help us understand the importance of protecting even loathsome speech. Although disappointing in some respects, *Make No Law* reminds us, as did James Madison, that the First Amendment is the guardian of all other freedoms.—Reviewed by Jean Preer, Assistant Professor, School of Library and Information Science, The Catholic University of America, Washington, D.C.

Freedom of Religion. Freedom of Speech. Freedom of the Press. J. Edward Evans. Lerner Publications Company, 1990.

This series, illuminating American politics in under a hundred pages each, is formatted for the middle through high school student doing library research. Each book traces the historical evolution of its freedom into a generally recognized right. The major controversies over interpretation of the freedom are explored and the books can be useful sources for assignments on famous court cases. Finally, each book

presents the reader with a recent case and asks "What is your decision?" Presentation of the issues is clear and smoothly written. An appendix gives the full text of The Bill of Rights. The bibliography is well chosen for the audience and both a glossary and an index are included.

Freedom of Religion begins by explaining Roger Williams' "wall of separation." The historical section may surprise even those knowledgeable about the First Amendment. It exposes the myth that early colonists sought freedom of worship and recounts such incidents as Patrick Henry proposing a tax "for the support of the Christian religion." "Government Aid to Religion in the Schools" gets a full chapter, which includes the Creationism question. Sunday closings, tax exemptions, Nativity scenes, Mormon polygyny, peyote, sanctuary for refugees, flag salutes, conscientious objectors and religious fraud are among the controversies described. The case presented for the reader's decision is *Wisconsin v. Yoder*, whether the Amish could keep their children out of high school. This volume may be the most useful of the three.

Freedom of Speech traces its roots from Socrates through the Magna Carta and Milton to the English Colonies. It notes that court cases involving this freedom are a twentieth century phenomenon and that wartime has prompted most government censorship. Hate speech, demonstration and heckling are covered and the case for the reader's decision is *Feiner v. New York*, where a street corner speaker irritated his audience until the police stepped in. Both majority and dissenting opinions are quoted in this 1951 conviction. A list of guidelines on what speech is and is not protected is drawn from Supreme Court interpretations. Unfortunately, there is one appalling mistake at the very beginning of *Freedom of Speech*, "Congress shall make no law restricting (sic) an establishment of religion." This may be the weakest of the three books since it must leave the issues of printed and broadcast speech for the next volume.

Freedom of the Press has a shorter history but the issues followed on the heels of the technology. Licensing of printers, the Star Chamber, and the beginnings of newspapers lead the reader to John Peter Zenger and the role of the press as ally of the Revolution. The author speculates that that role preserved this freedom in spite of the Alien and Sedition Acts and Jefferson's attempts to use state laws to muzzle his opponents. Mob attacks like that on Elijah Lovejoy are deemed censorship by the author, as are the activities of the Post Office from 1835 to 1946. The Pentagon Papers, the suit over a civil rights advertisement (*New York Times Co. v. Sullivan*), General Westmoreland's suit against CBS, and George Carlin's troubles with the FCC are discussed. Ariel Sharon's suit against *Time, Inc.*, is the case presented for the reader's decision.—Reviewed by Carolyn Caywood, Bayside Area Librarian, Virginia Beach Public Libraries, Virginia Beach, Virginia.

The New Right v. The Constitution. Stephen Macedo. Cato Institute, 1987. 115 p. \$7.95.

Macedo's work is divided into two sections. The first section of the book explains the concepts, practices, and problems with the doctrine of Jurisprudence of Original Intent as defined by the New Right. The New Right, although not defined, is described as the conservative constitutional vision touted by Robert Bork and Edwin Meese. The concept of original intent "holds that the Constitution should be interpreted in accordance with the intentions of the Framers who drafted and ratified it. . . ." In practice, the Jurisprudence of Original Intent prefers majoritarian rule over individual rights and liberty. The New Right works to impose the will of the majority as the law of the land.

According to Macedo, the problems with the Jurisprudence of Original Intent are many. First, Constitutional principles must currently be applied to circumstances the framers never envisioned. Second, the framers themselves rejected the idea of original intent. James Madison and Alexander Hamilton opposed reliance on the intentions of the framers. The most significant problem with the Jurisprudence of Original Intent, according to Macedo, is that it ignores the fact that the Constitution established a form of liberal democracy, not a majoritarian democracy. Interpreted as such, it becomes the Jurisprudence of Selective Intent—original intent applies only when it increases majority and government powers and decreases individual rights.

Macedo offers an alternative to the Jurisprudence of Original Intent in the second half of his book. He calls it "Principled Judicial Activism". He defines Principled Judicial Activism as a "robust conception of judicially enforceable rights grounded in the text of the Constitution, in sound moral thinking, and in our political tradition." Legal interpretations should provide judicial projection of civil and personal rights. Constitutional matters need to maintain noneconomic liberties and values, i.e., freedom of speech and the right to privacy. The legal decisions must merge constitutional and moral theory to "help insure that our republic will remain worthy of allegiance and that we will be governed by more than power and mere willfulness".

Macedo's work provides important information that will fill a void in many library collections. He accepts neither the conservative nor the liberal view of Constitutional interpretation as correct. As a replacement, he offers a libertarian view. As a view not normally found in print, it deserves a wide readership. However, the book is not for the general reader. It requires some understanding of political stances and is written for a well-educated reader. It should be purchased with the understanding that although it is most appropriate for a select group of readers it deserves to be available to provide important information to any individual.—Reviewed by Rhonda Hiebert, Department Head-Interlibrary Loan, South Central Kansas Library System, Hutchinson, KS.

television and economic censorship

In the season premiere of the hit television comedy series *Murphy Brown*, the character played by Candice Bergen announced she was pregnant and also proclaimed her decision to have the baby. There was a time when Murphy's situation — pregnant, over 40, and single — would have been unheard of on television, but times have changed. They've also changed in another direction: could Murphy have exercised another choice — her legal right to have an abortion, as the title character of *Maude* did twenty years ago?

"If we had done that," said Diane English, creator and executive producer of *Murphy Brown*, "it would have been lights out."

In fact, even as the television networks have loosened reins on language, sexuality and violence, over the last year they have begun to exercise a new caution about the controversial issues that divide the country. That caution now confronts every writer and producer who wants to do more than convey the image of topicality. They call it censorship, but are quick to add that it is not a censorship based on perceived morality but almost purely on economics.

In an era where network television faces escalating competition for audiences and advertising, the leeway given a producer seems directly affected by where a series stands in the ratings. If it is a hit, advertisers are less likely to pull out of a potentially controversial episode. But the rules seem to change from one day to the next, from one series to another.

Del Reisman, president of the Writers Guild of America, West, is among those struck by the shift in attitude. "Writers have worked with network broadcast standards for forty years," he said. "But there appears to be a change in the air — a fear of subject matter — a specific fear of advertiser withdrawal that is more a reaction to the loss of network audiences and the recession than any real differences in what viewers will accept. For the first time in a long time, writers are asking, 'Shall we avoid certain subject matter? Is it worth our time and energy to submit provocative material?' Self-censorship hurts us all."

Network executives are worried about pressure groups such as the conservative Concerned Viewers for Quality Television, which called for a national "Turn Off the TV Day" in October — an effort that was notably unsuccessful.

But the networks are more worried about advertisers than pressure groups. In a soft economy, advertisers are quicker to withdraw support. Two years ago, ABC lost \$1 million when sponsors pulled out of an episode of *thirtysomething* that showed two gay men in bed together. Last spring, *L.A. Law* introduced a lesbian character who was promptly transformed into a presumably less threatening bisexual.

This season, the most acrimonious controversy was over an episode of *Quantum Leap*, which was originally about a gay military cadet who contemplates suicide. The network was unhappy with the script and insisted that, at the least,

the character be made older, to avoid the issue of teenage suicide.

"It's censorship based not so much on the direct influence of special interest, social conservatism or religious fanatics," said Barney Rosenzweig, executive producer of the often controversial CBS series *The Trials of Rosie O'Neill*. "It's censorship based on economics. It's a real issue in a very different and more ominous way than we've ever confronted it before."

Producer Bruce Paltrow said that in the mid-'80s he had waged and won a battle over presenting AIDS as a heterosexual problem, presenting a story line on his *St. Elsewhere* in which a sexually promiscuous doctor contracted the disease. Yet, since then, network television has dealt with the issue only rarely. "This kind of climate alters the way you think," Paltrow concluded. "You find yourself censoring yourself. You start to edit yourself around the controversial areas you might want to be examining." Reported in: *New York Times*, December 21. □

K-Mart latest boycott target; Waldenbooks pulls erotica

K-Mart is the latest store to be targeted for boycott by the American Family Association, the group's founder and president, Rev. Donald Wildmon, announced October 29. Wildmon, whose organization pressured 7-Eleven Stores to stop selling *Playboy* in its non-franchised outlets, said K-Mart was a target because it owns Waldenbooks, which, according to Wildmon, is a distributor of pornography. Wildmon claimed that his organization had mailed "boycott packets" to a million "Christian households" in support of the assault on K-Mart.

Wildmon said that a decade ago many people didn't consider magazines like *Playboy* and *Penthouse* pornographic. But that attitude is changing, he said, as more people recognize that "the most damage comes from soft-core, not hard-core, pornography. It's soft-core that breaks down the inhibitions. It's soft-core that makes it attractive."

In the wake of Wildmon's announcement, Waldenbooks pulled from its shelves a line of Victorian and neo-Victorian erotica published by Blue Moon Books. The Blue Moon imprint is the property of Barney Rosset, who in the 1950s founded Grove Press and successfully fought U.S. government restrictions on the publication and distribution of authors such as D.H. Lawrence, Henry Miller, and Jean Genet.

Wildmon's propaganda against K-Mart singled out Blue Moon Books, but also targeted *Playboy*, *Penthouse* and "homosexual porn" found on Waldenbooks' "alternative lifestyle" shelves.

Waldenbooks' decision to drop the Blue Moon titles was followed quickly by a similar decision by the Barnes & Noble chain, destroying "nearly sixty percent of my business," according to Rosset. Reported in: *Extra!* September-October 1991; *Columbia State*, October 30. □

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censorship dateline



libraries

Fresno, California

A photography display in the California State University, Fresno, library was labeled "inappropriate" November 19 by the dean of library services and was removed less than sixteen hours after its arrival. Dean Michael Gorman said the photos, taken from and used to promote a calendar entitled "Men of Cal State Fresno 1992," was "not suitable" for library display. "It has nothing to do with the library," Gorman explained.

Peter Robertson, a student and publisher of the calendar, charged Gorman with censoring the exhibit. "He's saying that it is inappropriate for 20,000 students to see that display," Robertson said. "I see it as a form of censorship and I'm bothered." He said the calendar project was "an artistic, philanthropic endeavor."

The calendar project was approved by several campus administrative bodies. The black-and-white photographs included no exposure of genitalia, and the models were not posed in sexually provocative positions. Proceeds from sale of the calendar were to benefit a college scholarship fund. An identical exhibit promoting the calendar remained on display without incident in the University Student Union.

"I don't think the human form is ever inappropriate," added Tally Duke Floyd, photographer for the calendar. "If it wasn't [an artistic endeavor], I could have done snapshots and it would have taken one hour. They are not cheesecake shots. Men should be allowed to express their sensuality too."

Robertson and Floyd were supported by an editorial in the campus newspaper, which declared that "the red hand of censorship has again visited CSUF to tell students what is 'appropriate' and 'inappropriate' for our tender eyes to view.

It's a good thing we've got the dean of library services or we would have to decide what to look at all by ourselves."

Gorman compared the photos to *Playgirl* centerfolds and called the exhibit nothing but a "commercial" for calendar sales. "I wouldn't have a New Kids on the Block calendar in the library, either," he said. "And I think if they were pictures of women we would have a riot on our hands. Do you think that people would like to see cheesecake photos of women in the library?"

When Robertson started working on the project, he went through proper channels to book the exhibit in the library. He said that he and Floyd spent at least three hours setting up the exhibit, but less than a day later he received a call from Gorman telling him the pictures would be removed. "I knew nothing about it until I saw it," said Gorman. "If they had asked me I would have said no."

"I was so taken back that I didn't have a response," Robertson remarked. "First I was shocked, then I was angered. I see a hypocrisy now in the library." He noted that while there was a banned books display downstairs in the library, upstairs his exhibit was censored.

"These are just males' chests," Robertson continued. "He would probably ban the Sistine Chapel. We produced what the women who are going to buy this calendar were asking for. Now there's controversy, but I don't think it's controversy. I think it's censorship." Reported in: *Fresno Daily Collegian*, November 20, 26.

Thousand Oaks, California

Eleven-year-old Tommy Horan is an avid reader. But when he believes a library book that he has read offends his family's "Christian values," he tells his father. He said he has found up to forty books over the past three or four years that have had either language or occult themes that offend his family. When he brought *The Boy Who Lost His Face*, by Louis Sachar, to his father's attention, the senior Tom Horan decided that enough was enough.

Initially, he filed a complaint with the Thousand Oaks Library but was dissatisfied with the response. In a written response, library administrator Kathleen Sullivan told him that the book's "language borders, at times, on the 'sleazy' but certainly reflects words and terms that are used by today's youngsters." She said the library would keep the book, but that staff members would be happy to help him and his son select materials that avoid offensive language.

Horan was not satisfied. "We as a society keep looking the other way and saying 'freedom of speech, freedom of the press,'" he said. "We're talking about gutter language and violent language. If we keep lowering our standards, those will become the standards for our kids." He said he would take his complaints to the City Council, recommending the establishment of a citizens committee to establish standards regarding violence, sexuality and obscenity in children's library materials. Reported in: *Thousand Oaks News-Chronicle*, October 19.

Bunnell, Florida

A health and human development library book will remain on the shelves at Old Kings Elementary School, but it will be a reference book rather than available for general circulation. The Flagler County School Board made the decision October 22 after Sam and Kathy Frisby complained that *How We are Born, How We Grow, How Our Bodies Work, and How We Learn*, by Joe Kaufman, should be available "by special request only." The Frisbys found two pages on the reproductive process objectionable when their ten-year-old daughter checked the book out last May.

The Frisbys also filed a petition signed by citizens outlining their concerns and affirming that they believed parents should have the primary responsibility for their child's education. At the board meeting, the Rev. Gary King charged board members with trying to "reinforce the pornographic message on HBO and Cinemax" by keeping the book in general circulation.

The board vote reversed an earlier review committee decision to retain the book on open shelves. Reported in: *Flagler/Palm Coast News-Tribune*, October 26.

Mount Vernon, Indiana

A user who borrowed a videocassette of the movie *River's Edge* in October complained about it to the Alexandrian Public Library board, which subsequently voted 3-2 to remove the movie. The ban prompted others to complain of censorship.

"I think it's easier for people to be offended by videos than by books," said Evelyn Walker, director of the library. Walker, who objected to her board's action, said the library has about 2,000 feature film titles. "I advised them not to do so; I didn't go along with it," she said. "I clearly stated to them that censorship is something that should not be done. But the board had the right to take this action."

Board president Nancy Scherer, who also opposed the removal, said that no board member had seen the film when the vote was taken. "I honestly feel there is an 'off' button on your TV and nobody is making you check out anything," she said.

Mike Fendrich, a board member who supported pulling *River's Edge*, said his concern was less with the movie itself than with "whether that [renting videos] is really the purpose of a library. I wonder why our library has videos. I don't think a library is the place for entertainment videos." Reported in: *Evansville Press*, November 12.

Howard County, Maryland

A top Howard County public school official ordered the removal of *Family Secrets*, by Norma Klein, from middle school media centers, based on the recommendation of a school system panel, which decided the 1985 novel was "not age appropriate." The ban resulted from a complaint by Elkridge parents Norman and Donita Zundel, who objected

to the book's "constant reference to the sex act" and "inappropriate foul language." Only two copies of the book were found in the county's twelve middle schools.

The decision to remove the book was made by Joan Palmer, associate superintendent for curriculum and supervision. She agreed with the recommendation of a review committee that voted 10-3 November 16 to remove the book. Palmer said *Family Secrets* would remain in high school media centers "since that is the audience for which the book is deemed most appropriate."

Palmer also announced that she would abide by the review committee's recommendations to allow two other contested books to remain in middle school libraries. By a vote of 9-4, the panel recommended retention of *Sweet Sixteen and Never. . .*, by Jeanne Betancourt. Parent Constance Cochran objected to the book's graphic depiction of teenage romance. The committee also voted unanimously to dismiss a complaint against *Witches' Children: A Story of Salem*, by Patricia Clapp. Bridget Green, a middle school parent, complained that the book was "not appropriate positive pleasurable reading for the young age group." Reported in: *Columbia Flier*, October 31, November 21; *Howard County Times*, October 24.

Parish, New York

The Altmar-Parish-Williamstown school district learned in December that it would have to decide whether *Carrie*, by Stephen King, should continue to be banned from district libraries after an elementary student brought it to class. Superintendent Michael Smith said a third or fourth grade teacher confiscated the book and found it marked with a high school library stamp. The book had apparently been missing for some time.

"The teacher brought it to our attention," said Smith, and a committee was formed to review the book. The committee, headed by the district curriculum coordinator, included a fourth grade teacher, a librarian, an English teacher and an elementary reading teacher.

Smith said that although his own library preferences do not include Stephen King, he had some "initial reticence" in banning *Carrie* from the high school library, because of its implications of censorship. "That's the issue in many people's minds," he said, "that it's censorship as opposed to eliminating a book." Reported in: *Oswego Palladium-Times*, December 28.

Medina County, Ohio

For over a year, Barbara Rocha and Lynn Hague have been writing letters to state and county officials in opposition to a Medina County District Library policy that lets children check out unrated and R-rated videos. The two have lodged complaints against several films that circulate under the policy, including *The Accused*, *Angel Heart*, and *My Life as a Dog*, all of which Hague calls "definitely pornographic"

because they contain sexual scenes or overtones. Library officials countered that the system owns no pornographic, NC-17 or X-rated films.

"It doesn't seem like the situation is going to change," Hague said. "They continue to have the policy. Something has to be done."

Hague charged that the library was taking away parents' rights to protect children by allowing them to check out videos. She wants the library to remove all unrated movies, except for "old classics," and not to allow children to check out videos. "I don't think that's censorship," she said. "I think that's being responsible with community money."

Rocha suggested that parents be able to sign special cards so their children could not check out videos, and to have the library enforce a rating system. But Library Director Bob Smith said such a policy would have the opposite effect. Having special cards for some children would be costly, he explained, and the library almost would need to hire another full-time person to handle the paperwork. Removing unrated films would eliminate most instructional and foreign films, he added.

"We have to look out for the philosophy of providing information and free access and understanding the hard role the parent has," Smith said. "Would you want someone to say what you should or should not read, or take out of the library?" Reported in: *Medina County Gazette*, November 13.

Perry Township, Ohio

Life can be cruel, especially in the fifth grade. But should a portrayal of the unrelenting harassment of a fifth grade girl be made available to elementary school readers? Parent Brent Burner thinks not, and asked the Perry school board to remove *Blubber*, by Judy Blume, from elementary school libraries.

"There are so many uplifting, positive things they could be reading. Why choose to dwell on something entirely negative?" Burner asked. In the book, which centers around the terrible teasing of an overweight girl, "bad is never punished. Good never comes to the fore. Evil is triumphant," Burner complained. "There's no use hoping the teachers can save you; they can't. They're fools."

Burner began his campaign after his fourth-grade daughter, a student at Whipple School, asked him about it. In early December, he lost an appeal to a district review committee. "When you get to the higher ethical meaning, the book does have a redeeming message," said Elaine Trevelli, Perry schools curriculum director and a member of the review body. "The theme would be one of individualism and the fact that differences occur in people, and an understanding that not all children are alike."

Burner's next step was to appeal to the school board, which scheduled a decision for January. The board can overturn the committee's decision, and Burner has already found a

sympathetic ear in President Chuck Stewart. "I think the book should be trashed. I don't think there's a thing redeeming about the book," Stewart said.

But Stewart was unsure about whether the board could legally remove the book. He said they might limit its circulation, perhaps compelling pupils to get parental permission before checking it out. "I think we can legally do that," he said. Reported in: *Canton Repository*, December 15.

Berkeley County, South Carolina

Endless Love, a novel by Scott Spencer, was removed from the Berkeley High School media center in October. The Berkeley County School Board banned the book because it contained what they considered to be explicit pornographic passages and adult material unsuitable for teenage readers.

Endless Love had been on the library shelves at Berkeley since 1984, but no one had complained about it until last March. A committee of two parents, a librarian, an assistant principal, a teacher and media coordinator Drucie Raines reviewed the book and presented their recommendations to the board on October 15. No parents argued in favor of the book, but Raines said she thought eleventh and twelfth-grade students could handle it. The committee recommended retaining the book, but the board decided otherwise.

"I don't care if it's good literature, we should get it out of the library — opps, I mean 'media center,'" board member Harold Staley commented. "Laymen in our community can recognize hardcore pornography, but we have some educated fools in our midst."

Frances Brewer agreed and added, "There may be some students who can handle this in the larger context of the book, but there may be others just looking for the 'good parts.'"

Published in 1978, *Endless Love* is about an obsessive romance between two teenagers. It was highly praised and, according to Raines, was recommended by several selection sources. It was adapted into a 1981 film with Brooke Shields and Tom Cruise, which received an R rating and contained graphic love scenes and nudity. Reported in: *Berkeley Independent*, October 30.

Mount Vernon, Washington

Members of a Mount Vernon School District committee decided October 22 to read a book allegedly containing obscenity before deciding whether to pull it off school shelves. The book, *Long Live the Queen*, by Ellen Emerson White, was challenged by the parents of a La Venture Middle School student because it contained a word they found objectionable.

Jeannie Henderson, whose 13-year-old daughter brought the book home, questioned its use of the "F-word." "If this book is allowed into the library, it opens the door for even worse material," she said. "It's hypocritical for the school to prohibit obscenity but to provide it in the school library." Reported in: *Skagit Valley Herald*, October 23.

schools

Banning, California

Maya Angelou's autobiography, *I Know Why the Caged Bird Sings*, was removed from a Banning eighth-grade class after several parents complained about explicit passages involving child molesting and rape. Coombs Junior High School Principal Kathy McNamara and the teacher agreed November 21 to stop using the book until the controversy could be resolved. Five parents requested alternative assignments for their children.

Charlotte Leslie, who rallied parental opposition to the book, said her 13-year-old son "came home from school and took me in the bathroom and said he didn't want to go back to class. He said the book is gross." Leslie said her son was offended by several passages that graphically depict the molestation and rape of the book's 8-year-old protagonist. Also offensive she said, was a segment describing a young woman's genital area, which is exposed when she does a handspring.

Leslie said the book is "explicit enough to be smut," charging that it is morally and religiously offensive. "But this isn't an issue about religious fanaticism or censorship," she said. "It's an issue of age appropriateness. There's enough good literature out there. Eighth-graders don't need to be learning about pedophiles and how to become one, or how to be raped and masturbated with."

Superintendent David Long said the school district bought a classroom set of the book based on the recommendation of a teacher committee, which drew from a state Department of Education list of recommended supplemental literature and accompanying synopsis of different works. However, the Angelou book appears on the state list for grades ten and up. Reported in: *Riverside Press-Enterprise*, November 22.

Santa Cruz, California

On November 20, Santa Cruz High School student Maro Peduto was asked by the school principal to modify a costume deemed too risqué for a Thespian Society benefit variety show. In his section of the skit, Peduto was to walk on stage wearing skin-tone briefs with a large, green fig leaf on the front, striking a classical pose for a few seconds.

Thesplan adviser Leah Slock objected to the costume at rehearsal and called in principal Terrance Pearman, who said Peduto had to wear flesh-colored tights under the briefs. Pearman said he would prefer to "err on the side of caution."

"The whole thing is a crackdown on expression," countered Peduto, whose mother sewed the fig leaf on his costume. "I told [Pearman] that children who go to an art museum would see the same thing."

Luke Hiens, one of three student directors of the variety show, said that at least two other acts had profanity and suggestive lyrics censored. "It seems they're going for the most conservative views," he said. Reported in: *Santa Cruz Sentinel*, November 21.

Cheshire, Connecticut

Two children's books were pulled from the language arts curriculum at Cheshire's four elementary schools November 8 after irate parents demanded their removal from fifth-grade classrooms. Teachers were ordered not to teach *The Alfred Summer*, by Jan Slepian, or *The Great Gilly Hopkins*, by Katherine Paterson, which had been used to supplement reading textbooks.

About thirty parents attended a board of education meeting November 7 to protest the allegedly obscene and derogatory language in the books, which one parent branded "filth." The parents objected to use of many words including "damn," "Christ," "hell," "stupid," "heck," "crap," and "shut up." They also charged that the books contain derogatory references to blacks and women, including a reference to a woman's "huge breasts."

But Superintendent John Barnes defended the books. "These are award-winning books. I haven't read them yet, but I don't believe that they could be at all pornographic, like some of these parents believe," he said. Barnes agreed, however, to convene a special review board to assess the books and the board ordered their suspension from the classroom until that committee completes its work.

"No matter what 'phenomenal metaphors' or 'excellent themes' could be taught through these 'prize-winning' books, they are totally inappropriate and unacceptable for our public school system," said parent Sharon Kuehlewind, who spearheaded the removal effort. "They are filled with profanity, blasphemy and obscenities, and gutter language. The authors dragged God and the church in the mud and slyly endorsed unwholesome values such as stealing, smoking, drinking and simply rebelling against authority."

School board member George Bowman angrily supported the protesting parents. "Remove this trash from our system, find out who put it there and fire them," he yelled. "Obviously this material was written by someone with a perverted mind." Waving copies of *Playboy* and the *National Enquirer*, he asked if they too would be acceptable reading for fifth-graders. If the books were not removed by the next day, Bowman threatened, he would take them out himself.

Kuehlewind stressed that she was not asking for the removal of the books from school libraries. "Censorship is not the issue," she said. "We're not asking to take the books from the library or the stores. We are merely saying don't give them to our children." Reported in: *Cheshire Herald*, November 14, 27, December 12, 19; *Meriden Record Journal*, November 9, 13, 22, 26, December 10, 18; *New Haven Register*, November 13.

Palm Beach Gardens, Florida

Jimmy Dodson figured he had a timely idea for his science fair project at H.L. Watkins Middle School. He set out to determine just how much his fellow eighth-graders knew about AIDS. But school district officials refused to allow the project.

Jimmy, whose father, Dr. David Dodson, is a specialist in infectious diseases, had done surveys before. He planned to use part of what he figured was a reputable model, the National Adolescent Student Health Survey, which was used for the same age group by the U.S. Centers for Disease Control and others. But when he sought permission to circulate the questionnaire, he was told by school administrators that any references to sex and drugs would have to be eliminated. So he changed those parts of the survey. But that was not good enough.

Jimmy and Dr. Dodson appealed to the Superintendent's office, where they spoke to Deputy Superintendent Bernard Shulman. After consulting with committee members, he also refused to allow Jimmy to distribute the survey.

"At one point, he said what they're afraid of is if [Jimmy] distributes the survey, some students might start asking questions about AIDS," Dr. Dodson said. "I said, 'Excuse me? Isn't that the idea — to get them interested enough to ask questions?' We're facing a public health epidemic here, and we have an administration so fearful of criticism that they're afraid to mention the words."

With the help of his parents, Jimmy decided to circulate his survey off school grounds, corralling eighth-graders as they pass on a public sidewalk near the school. His hopes for the number of surveys completed dwindled, however, from the original 300 to about 50.

"What strikes me as ironic is that the School Board has literally forced the discussion of AIDS from the classroom out onto the streets," Dr. Dodson said. Reported in: *Palm Beach Post*, December 21.

Dover, Delaware

There was no fall play at Dover High School this academic year, and some parents charged that administrative censorship was to blame. Drama director Gilbert Given submitted three play ideas for approval, but each was rejected because the content and issues had some parents concerned.

Given had planned for his students to present two separate two-act plays for the fall show, *Seascape* and *A Coupla White Chicks Sitting Around Talking*. When both were rejected, he submitted *Play On*. This, too, was turned down. "I am very upset. Professionally, they have done a lot of harm to this theater program," Given said.

The award-winning theater program has in the past leaned toward plays that were dramatic and carried a social message, eschewing the usual light musicals often favored for high school performances. Their repertory has included *House of Blue Leaves*, *The Effect of Gamma Rays on Man-in-the-Moon Marigolds*, *The Cave Dwellers*, *What I Did Last Summer*, and *The Tempest*.

"These plays were axed without, I believe, any justified concern for the Act I students, the theater program, theatergoers and the community alike," commented Stephen S. Hickman, whose daughter is a participant in the program.

"I give credit to the drama director for the fine quality theater performed in the past and the other performing groups he has brought into the school. This caliber of professional should not be cornered and caged. We have to be cautious of controlling and censoring arts forms."

But administrators disagreed. "I think censorship is a poor choice of words," said assistant superintendent Joseph L. Crossen. "In our judgment, they were not appropriate for a high school performance. We felt that a great deal of language and a number of the scenes were too explicit."

District officials also proposed a new curriculum review policy to examine future school plays. "A list of set plays would be adopted, as any set of curriculum would be adopted, and then the director can choose from those plays," Crossen said. "There would be a procedure involving administrators, teachers and community members to review any new plays which might be in question and we would rely on that group to add to the list."

As a result of the school's actions, parents and friends of the Act I Players formed the Dover High School Theater Boosters, electing Barbara Neaton president. Neaton said she didn't necessarily disagree with having a review procedure. "I truly believe there are plays that are inappropriate for our students to do," she said, "although I don't necessarily feel these plays were of that variety." She said the proposed policy would bear watching and complained that her group would not be allowed to see it or contribute to its formulation until it went to the school board.

"This all happened so suddenly and without much warning, and the kids were all taken very, very much by surprise," she said. "It was something that has never happened this way before." Reported in: *Delaware State News*, November 9.

Houma, Louisiana

Mark Twain's classic, *The Adventures of Huckleberry Finn*, will not be read by American literature students in Terrebone Parish public schools this academic year, officials decided in October. The book, long a part of the English curriculum, was removed from the mandatory reading list after some residents complained about its repeated use of the word "nigger."

"We have not banned the book. It's on the shelf. It's recommended reading," said L.P. Bordelon, assistant superintendent for curriculum and instruction. The book will remain in all school libraries, he added.

Black parents objected to requiring the book, said Charles Brown, president of the Terrebone Parish NAACP. "It was a hardship on a lot of young kids that were forced to read the book out loud in the classroom. As soon as it got to the word 'nigger,' the white students would laugh at them," Brown said. "They still remember that terrible day, that awful day they went home and cried because of how bad they felt from that."

According to teacher Pauline Fleming, the book was read aloud because it is written in dialect and might prove difficult for students to read on their own. "It really bothers me that it's being removed," she said. "To me, it's censorship no matter what name you give it."

Etta Sonnier, another teacher, said she had never heard complaints about the book. "Anybody who wants that book [out of the classroom] just misunderstands the context," she said. "Anybody who feels there is racial prejudice would want that book taught because it is such an anti-racism book."

Both the Rev. Arthur Verrett and Donald Verret, the only two black members on the school board, applauded the superintendent's action. Unless board members can "adopt the internal frame of reference" that black students have, they cannot understand how offensive the book is, Verret said. "If you were in a situation and a book was being read and it referred to your race in a derogatory way, then you'd understand what I'm saying." Board members responded to the removal by asking its Education Committee to establish formal guidelines for determining required reading. Reported in: *Philadelphia Tribune*, October 8; *Houma Daily Courier*, October 16.

Underwood, Minnesota

The Underwood School Board in late October removed a controversial book from an eighth-grade literature class. *The Boy Who Drank Too Much*, by Sheppard M. Greene, had prompted complaints from a few parents who considered the language in the book inappropriate and didn't want their children reading it.

"There are a number of books that are more suitable, less offensive and more worthy of the student's time," reported a committee appointed to review the book. The committee also recommended that another committee be formed to help teachers choose books for their classes. Such a review process would "help to assure teachers that there is support for the material they have selected," the report said.

The committee found fault with the book's sexism, and its seeming toleration of alcohol consumption by minors short of dependency. Reported in: *Fergus Falls Daily Journal*, October 31.

Big Timber, Montana

A complaint was filed September 16 against the required reading of A.B. Guthrie's novel of the American frontier, *The Big Sky*, in a class on frontier literature. Pastor Lynn Holm filed the complaint, charging that the book is filled with explicit, vulgar language.

"There are plenty of other clean writers who do not write in that way," he said. "Would your school newspaper print the accounts of immorality as Guthrie writes them? I'm sure they would not! Neither would a public newspaper. If it is not fit for a school or public newspaper, what makes it fit reading for high school (or any age) readers. I would like

to see it off the required list." Reported in: *Big Timber Pioneer*, October 16.

Omaha, Nebraska

Farley Mowat's 1987 biography of gorilla researcher Dian Fossey met with critical praise. But when the principals of Omaha's seven public high schools learned last spring that Mowat's *Woman in the Mists* was on a required reading list for the 1992 National Academic Decathlon, which tests teams of students in several academic subjects, they removed it. They charged the book has racial slurs, passages degrading to women, profanity, and a long discussion of the aftermath of Fossey's abortion.

"The racial slurs and degradation to women are the biggest thing," said Rick Werkheiser, director of secondary education. "There is a strong multicultural element in this district." He said *Woman in the Mists* "certainly does not reflect what we're trying to see happen with our youngsters in our schools. It's very insensitive and degrading."

Ann Joynt, executive director of the United States Academic Decathlon, said the Omaha school district was the only one in the nation she knew of to have taken such a measure. Last April, the decathlon's national board rejected an Omaha request to remove the book. Omaha students have the option of being tested at regional and state levels on a substitute book, *Gorillas in the Mist*, Fossey's own account of her work, or of bypassing that portion of the test entirely. If an Omaha team makes the nationals, however, it will still be tested on *Woman in the Mists*, which accounts for about a third of the language and literature test.

Team coaches at Omaha North and Omaha South high schools took opposing sides in the controversy. Mellanee Kvasnicka of South High said she was instrumental in having the book removed from the decathlon curriculum. "As an adult, I can read any book I want," she said. "That is one thing. It is another thing for me to hand a group of students a book I think has profanity in it and say 'If you want to be considered for the team, this is the book you have to read.'" Kvasnicka said she thought it would be fine for students to read the book on their own, however.

Mike Krainak, academic decathlon coach at North High, disagreed. "I don't want some self-censoring group telling me I can't handle it or that the students can't handle it," he said. "That's the biggest insult of all. If I were a student, I'd be outraged." Reported in: *Omaha World-Herald*, November 21.

Middlesex, New Jersey

The propriety of showing the R-rated films *Platoon* and *Coming Home* to Middlesex High School juniors and seniors studying the Vietnam War was questioned at a board of education meeting October 8. After wavering on the issue, the board decided to include the films only if they were especially edited for classroom use.

Exclaimed one outraged parent, "The next step is book burning!"

That the films contain the four-letter words was a central objection raised by those who opposed their use. "But you can hear any of that right in the school parking lot!" responded a woman in the audience. When a board member said that she objected to a scene in *Coming Home* that depicted oral sex, the same woman shouted, "You'll find that out in the parking lot, also!" Reported in: *Middlesex Chronicle*, October 10.

Passaic, New Jersey

A grievance filed by the teachers' union protesting the removal by administrators of an Uncle Remus story from a language arts class went to a state arbitrator in December. The grievance was filed after Superintendent Beryl Zankel chose to remove a book containing "The Wonderful Tar Baby Story" after a state education official complained that the tale was racially offensive.

Although school board members called the story racist, Zankel claimed she did not pull the story because of its content. Zankel said the book, used for optional reading assignments, was published in the 1950s and was too old to remain in the classroom.

Zankel was alerted to the book when a former city teacher, now with the state Division of Urban Education, wrote to the principal of Lincoln Middle School after the book was distributed in his child's eighth grade class. The students were told to choose stories from the book, but were not assigned the "Tar-Baby" tale specifically.

Donna Mickolajczyk, president of the Education Association of Passaic, said Zankel violated the academic freedom clause in teachers' contracts by yanking the book. "Nobody had to read that story," she said. "That story was not assigned." Reported in: *North Jersey Herald & News*, October 23, November 2.

Willard, Ohio

Parents opposed to the controversial *Impressions* reading series tried in November to hit the school board in the pocket-book. After they failed to get the series pulled from elementary school, the parents collected 1,300 signatures on a petition for an initiative to repeal a district operating tax approved by voters in 1990.

"We want to send a message to the other board members and the school administration that we don't want our tax money used to fund a school system we have no say in," said Billy Inmon, a school board member opposed to the reading texts.

"We see it as blackmail; they refer to it as leverage," commented school superintendent David Hirschy. "They hope to damage the school system. They say we don't need the money, that we have plenty. But you can bet the ranch that if we lose this money, there will be massive cuts."

Last year, seventeen parents sued the district in federal court, charging that the series features rituals, practices, exercises, and lessons that promote occult religions, thus undermining their right to instruct their children in their own faith. The suit was later dropped.

"Those who want to keep the books have tried to paint us as religious fanatics, who are concerned about satanic and demonic elements," Inmon said. "There may be some who feel that way, but a lot of us just believe that the books are harmful because they focus on things like suicide and abuse, using graphic descriptions of blood and gore. The parents' rights issue has become more important than the series," he added.

Hirschy said that most teachers, students and parents supported the books. "In a democracy, it's majority rule, and we didn't think a small group of parents should take precedence over the majority." Reported in: *Toledo Blade*, November 2; *Davis Enterprise*, November 5.

Fort Mill, South Carolina

Members of a parents group asked Fort Mill school board members December 5 to eliminate a children's guidance program and any other "mass counseling," and to develop guidelines on what kind of materials counselors may use. Dean Erickson, chair of the newly formed Citizens for Excellence in Education in York County, said the group objected to a "Pumsky" guidance program because, they contend, it promotes New Age ideas that are contrary to Christianity. Parents have objected to "guided imagery" in the program, saying such "mind trips" are part of the "New Age" philosophy and derived from Hinduism.

"I'm not allowed to go into the schools and teach Christianity. Why are we having Hinduism taught in the schools?" asked the Rev. Jack Basie of Ebenezer Presbyterian Church.

The "Pumsky" program has been in use in Fort Mill schools for three years. It revolves around a central dragon character named Pumsky and is designed to improve self-esteem and help students make decisions. The program is optional. The Fort Mill district created an 11-member committee of parents, teachers, and administrators to review concerns about the program. Reported in: *Rock Hill Herald*, December 6.

colleges and universities

Franklin, Indiana

The cancellation of a pro-Palestinian play at Franklin College probably amounted to censorship by the administration, but was a result of bad timing and miscommunication, a committee of professors concluded. The college had scheduled a September 26 performance of *Ansar*, a play depicting the treatment of Palestinian prisoners in Israeli prison camps. But a few weeks before the performance, administrators canceled the play, citing concerns that the Israeli view was

not represented. Members of the campus chapter of the American Association of University Professors raised questions about the cancellation and a committee of three professors was appointed to investigate. The committee concluded that the cancellation was related to reactions to a three-day conference on the Middle East held at the college last spring. Reported in: *Franklin Daily Journal*, November 7.

Flint, Michigan

Removal of a Lawrence Ferlinghetti poem that was displayed for a decade at University of Michigan-Flint stirred a campus debate over censorship in December. The poem, "Repeat After Me," framed with a drawing of abstract sexual images, was removed from a wall at The Grill, an eatery in the University Center. "Repeat After Me" is a parody of the Lord's Prayer, and several parents of students had complained that it attacked their religious beliefs.

A governing board reviewed the complaints and considered three options: removing the work; leaving it alone; or offering it to an academic department for use in teaching, and then rehung it. The latter was decided on by a majority of five votes, with one professor for removal, and three for leaving the work alone. But before any department agreed to accept it, Vice Chancellor Dorothy Russell had it removed.

"It has always been a controversial piece," Russell said. "We are talking to legal counsel in Ann Arbor to ensure we do not violate anybody's rights. We take this matter very seriously. It involves freedom of speech." Reported in: *Flint Journal*, December 19.

Schuylkill Haven, Pennsylvania

After a storm of protest from students and a barrage of national publicity, a nude painting removed November 12 from a classroom at the Pennsylvania State University's Schuylkill campus was rehung November 15 in a different location. The painting, a copy of Goya's famous 1800 "Nude Maja," was removed from a classroom used primarily for music classes after a female instructor complained that the portrait of a nude reclining woman constituted sexual harassment. The picture was moved to a study room in the campus community center.

"It's in an area where people don't really have to go into, so it will be a voluntary thing if people want to view it," said campus executive officer Wayne D. Lammie. "I've talked to people on all sides of the issue, and they all seem to think it's a viable solution."

The removal of the nude portrait of the Duchess of Alba, reportedly Goya's long-time lover, stirred a commotion that spread nationwide after it was covered on WABC radio in New York and in the newspaper *USA Today*.

"It has gotten people's attention and students are anxious to talk about a whole range of women's issues and artistic issues," Lammie said. "Hopefully, we'll get some more artwork that is controversial and continue this discussion."

The copy of Goya's masterpiece had hung in the classroom with four other copies of classic paintings for more than a decade before the unnamed instructor complained. "Her complaint indicated the painting created an uncomfortable environment in the classroom and diverted students' attention. She also found comments often made by students about the picture to be lewd and offensive," Lammie said.

After music instructor Paul W. Miller refused to remove the painting, the complaint was passed on to the campus' Liaison Committee of the Penn State Commission for Women. Lammie said he removed all five paintings, once used for an art class, after the committee agreed with the instructor's complaint and university lawyers advised him that it could form a legitimate basis for a sexual harassment suit.

"Female faculty find it difficult to appear professional when forced to lecture to a class with a picture of a female nude on the wall behind them," the committee said. "Sexually graphic images create a chilling environment which makes female teachers and students embarrassed and uncomfortable and diverts student attention from the subject matter."

"The University's position is that the painting is out of place and needed to come down," said Bonnie Ortiz, director of the University Affirmative Action Office. She said the display amounted to sexual harassment as defined by a federal court case decided last spring in Jacksonville, Florida. In that case, the court held that women steelworkers were sexually harassed because the traditionally male environment included visuals of nude women on such things as "cheesecake" calendars.

Other faculty members and students disagreed, however. "Goya is one of the masters," said Mary Louise Krumrine, an art history professor at the university's main campus at University Park. "It's a work of art and not of a sex object. It's not the first nude ever done. Nudes go back to the great Greek sculptures." She said that if "Nude Maja" is sexual harassment, then every nude painting is sexual harassment. "I think sexual harassment is out of hand," Krumrine continued. "Where's it going? Some professor could find paintings of trees offensive."

"No matter what guise or avenue is taken here, it's censorship," contended Miller, who used the classroom for fifteen years. "All of a sudden the paintings are gone."

Lammie said the issue to him never was censorship, but whether the classroom, where people offended by the art did not have the option to get up and leave, was the proper setting for its display. But student government president James E. Ford disagreed, blasting the removal as a "ludicrous" example of censorship.

Ford said most students probably would be satisfied with the move to the community center, but he said the real issue

remained censorship. "I find it hypocritical because the university says it strives for cultural diversity, and then it removes culture from the classroom," he said. "They only put it back up to protect the image of the campus." Reported in: *Daily Collegian*, November 15; *Harrisburg Patriot-News*, November 17.

student press

Costa Mesa, California

A newspaper advertisement that claims the Holocaust never occurred provoked debate last fall over censorship, anti-Semitism, and the nature of historical thought on several prestigious campuses to which it was sent. The Committee for Open Debate on the Holocaust, a Costa Mesa, California, group that contends the extermination of Jews by Nazi Germany never took place, sent copies of the full-page advertisement to student newspapers with checks or money orders to pay for publication.

The ad was written by Bradley R. Smith, who is affiliated with the Institute for Historical Review. He apparently financed the ad with his own funds. "Students don't have twenty to thirty years of propaganda baggage about the Holocaust," Smith explained.

Some campus newspapers, saying they did not want to censor ideas, ran the advertisement. Others ran it with editorial disclaimers. Still others rejected it.

Among the reactions:

- Student editors chose to publish the ad in papers at Cornell and Duke Universities, Northern Illinois University, and the University of Michigan. The moves prompted emotional protests by hundreds of students and faculty on all four campuses.

- The *Daily Pennsylvanian* at the University of Pennsylvania reversed a decision by its business manager to publish the ad. The paper ran an article explaining that it could not run an ad that it said promoted hatred.

- At the *Daily Texan* at the University of Texas, Austin, the paper's eleven-member board voted unanimously December 10, following nearly a month of debate, to overturn an initial decision by editors to publish the ad. The ad had been scheduled for publication November 20. The board also voted to amend newspaper policy to make opinion ads hold to the same standards as other advertisements.

- Brown University's *Brown Daily Herald* refused to run the submission as a paid advertisement, but published an article about the group with a copy of its ad and a lengthy rebuttal.

- The *Daily Targum* at Rutgers University also declined to run a paid advertisement, but ran the ad's text as a guest column, accompanied by three articles written in rebuttal and an editorial explaining the editors' decision.

- The *Harvard Crimson*, *Yale Daily News*, and the *Daily Cardinal*, the student newspaper of the University of Wisconsin, Madison, refused to run the ad, saying it was offensive and historically inaccurate. The *Daily Californian*, an independent newspaper serving the University of California, Berkeley, also refused to run the ad, citing a previously existing policy that prohibits the acceptance of "racist, sexist or violence-promoting ads."

"This clearly was an ad based on hatred and racism and trying to rewrite history," commented Hal Greenwald, program director for Duke's Hillel Foundation. He said the ad should not have run in any paper. "It's an attempt to obliterate the deaths of millions of Jewish people at the hands of the Nazis."

That very sentiment, however, made Michael Gavis, business manager of the *Daily Pennsylvanian*, think differently. "This guy is a dangerous neo-Nazi, and I want people to know these people still exist and still have money and power," he said. "I believe that, as a Jew, the most important thing about the Holocaust is to remember what happened."

Rejecting Gavis's initial decision to accept the ad, Helen Jung, the paper's executive editor, wrote in an editorial: "This was not an issue of free speech. Rather this was an issue of deciding what was in the best interest of the newspaper. Running an ad with factual errors that fostered hate was not."

Other editors disagreed. "It is not our responsibility to protect our readers from disturbing ideas," said Valerie Nicolette, managing editor of the *Cornell Daily Sun*. Editors, she argued, evaluated the ad based on their standards of obscenity and racism and it passed. The next day about 400 students and professors protested outside Cornell's student union.

At Duke, a similar decision by *The Chronicle* also led to protest. "If we believe it is a lie, then we have to put it in a public forum to explain why it is a lie," explained editor-in-chief Ann Heimberger. The next day a rally against the ad drew 400 students, many of whom called for Heimberger's resignation. "I must admit I underestimated the amount and intensity of the backlash we received over the ad," the beleaguered editor said.

The Duke Department of History purchased a full-page ad to refute the claims that the Holocaust had not occurred. Professor Allan Kornberg, chair of the political science department, said the *Chronicle* violated its own policy on running racist ads. "The First Amendment is not a license to print lies," he said.

Duke's president also condemned the ad, but applauded the decision by the paper, which is independent of the university, to print it. President H. Keith Brodie called the ad's claims "offensive," but said to suppress the claims would have "violated our commitment to free speech."

At Michigan, Andy Gottesman, editor-in-chief of the *Michigan Daily*, said the newspaper's business staff published

the ad without informing the editorial staff. The business staff then published an apology for running it, but the editorial staff printed a front-page statement saying that it was right to run the ad, for to do otherwise would condone censorship. "There was a lot of anger and confusion," Gottesman acknowledged.

At Rutgers, the decision to run the ad as an opinion column with several strong rebuttals also ran into protest, as about 300 people attended a rally. "Would the Rutgers newspaper run a guest opinion from the Flat Earth Society and ask people to rebut it?" asked Rabbi Abraham Cooper of the Simon Wiesenthal center. "What Bradley Smith is desperate for is acceptability. Unfortunately, I think Bradley Smith got from Rutgers exactly what he wanted.

"I think [the students'] hearts were in the right place," said David Oshinsky, a Rutgers history professor. "But I still disagree with them."

Cornell President Frank H.T. Rhodes took out an ad in the *Cornell Daily Sun* that said: "The university plays no role in directing the newspaper's affairs." Freedom of the press "protects the exercise of discretion by newspaper editors as to what they choose to print or not to print," his ad continued. "No matter how flawed the exercise of that discretion may be in any particular case, it is essential that the fundamental principle be respected." Reported in: *Chronicle of Higher Education*, November 27; *Austin American-Statesman*, November 29, December 11; *Daily Californian*, December 5; *Philadelphia Inquirer*, December 6; *University of Missouri Maneater*, December 6.

Lake Elsinore, California

For the second time in a year, Elsinore High School administrators confiscated an issue of the *Tiger Times* student newspaper before distribution. Principal Edward Brand said he seized all 1,800 copies of the December issue because it contained a photograph of a male student who exposed his underwear imprinted with his class year "'92" to a crowd of students at a stage performance.

"There was a picture in there I considered obscene and vulgar," said Brand. "We have an image to protect in the community. I am very proud of our student newspaper, but in this case I think this photograph was inappropriate and in bad taste."

Brand said student editors could appeal to the School Publications Board under a policy adopted last June. That policy was drafted after the January, 1991, edition was confiscated by a former principal because it contained stories about conflicts on campus between black and Hispanic students. An April Fools' Day parody issue prompted the district to remove the newspaper adviser. Reported in: *Riverside Press-Enterprise*, December 21.

Broward County, Florida

A principal's decision to screen the student newspaper for controversial articles spurred Broward County high school journalism teachers to dig in for a censorship fight. Public school newspaper advisers charged that a previously unused policy giving principals power to review and approve student journalism defies the spirit of the First Amendment and should be rewritten.

The policy debate began after Ronald Wilhoit, principal of Coconut Creek High School, said he would start previewing the school paper because an article in the November 20 issue brought protests. A four page story on campus violence quoted racist bathroom graffiti to back up a survey of 250 students. About 66 percent of those surveyed said school tensions were racially motivated.

Student reporters Kristen McCoy and Orlando Sanchez said they quoted the graffiti — "KKK is getting bigger, aren't you sorry you're a nigger" — to show that racism exists on campus. But some students, parents and members of the North Broward NAACP complained that the paper perpetuated the graffiti's message by printing it. As a result, the school's paper, *The Harbinger*, faces prior review for the first time in seven years.

"If we had not had this incident, I would not have felt the need to set up this procedure," Wilhoit said. "But whether I like it or not, this is my responsibility." Reported in: *Miami Herald*, December 9.

West Palm Beach, Florida

The editor and managing editor of *The Rudder*, Palm Beach Atlantic College's student newspaper, who accused the school administration of censorship in November, learned December 16 that they had been fired and lost their scholarships. Vice President for Student Development Dan MacMillan said he fired Louis Maglio and Kittie Stuart for two reasons: insubordination and a lack of confidence in their abilities. "I don't see censorship as a related issue," he said.

The two editors had previously attempted to publish an anonymous letter and an editor's note that questioned a policy banning homosexual activity at the Baptist-affiliated college. Administrators agreed to publish the material in the November issue only after heavily censoring it. The deleted portions appeared blacked out with the word "censored" stamped on top.

"I think they weren't comfortable with the issue of homosexuality being brought up in the paper," said Maglio.

"I don't think they go around on witch hunts looking for homosexuals. But its the No. 1 sin on the hit parade," added Stuart.

To show their displeasure with the newspaper, several students, led by a student government officer, threw away about half of the 1,500 copies of the issue, according to

Maglio. MacMillan said at the time that the student leader involved regretted his action, but Maglio and Stuart disputed that.

“He’s been walking around like a rooster, saying ‘We got rid of the liberals,’” Maglio said of the student leader. “A lot of students in student government have in mind that they can dictate what students can think and what they can read.” Stuart said the destruction of newspapers bothered her more than the university’s censorship. “There’s so much intolerance there,” she said. “That scares me.”

Maglio, a 31-year-old junior, and Stuart, a 52-year-old widow who plans to graduate with a political science degree, both lost the \$500 scholarships the school gave them for their work on *The Rudder*. Maglio said he also will lose a \$750 scholarship from a private foundation that is based on his work on the newspaper.

Because Maglio and Stuart comprised the entire staff of the newspaper, the December issue was canceled. They had planned to devote the issue to the 200th anniversary of the Bill of Rights. Reported in: *Palm Beach Post*, November 20, December 17, 20; *Miami Herald*, December 18, 19.

Wheeling, Illinois

A literary magazine at Fremd High School caused a stir after some articles describing self-induced abortion, incest and child molestation prompted Principal Thomas Howard to discontinue the magazine. Students and teachers who worked on the magazine, *Burn the Image Backward*, charged censorship, and Howard agreed.

“When the majority of my staff tells me it’s garbage, I have to pay attention,” he said. “It’s just not proper for that kind of material to be published in a high school magazine.”

“It is censorship. If you don’t like what might be produced, you just don’t do it,” said English teacher and faculty adviser Kevin Brewner. “Anytime there’s a complaint and someone says, ‘Let’s do away with it,’ that’s censorship.”

Besides the intermittent use of swear words — which were blanked out — critics of the magazine objected to poetry and fiction entries by Nanette Rambo. Both pieces addressed the issue of abortion. “I was very upset when they didn’t want something like my writing in there. They didn’t have to read it, and they didn’t have to discontinue the magazine,” Rambo said.

“I understand why some people were not comfortable with the last literary magazine, but it was something they weren’t forced to read,” added Adrian Luff of the magazine staff. “They are refusing to allow any student to do any writing because of one or two stories that somebody didn’t like.” Reported in: *Wheeling Daily Herald*, October 28.

Columbus, Ohio

Three editors of the Ohio State University *Lantern* resigned, seven were fired, and at least six reporters refused to work October 27 because of a School of Journalism policy implemented two days before. The exodus concluded a three-week dispute between staff members and the school over the establishment of a prior review policy. On December 5, the former *Lantern* staffers began publication of the *Independent*, a non-affiliated student-run newspaper published initially with the assistance of sympathetic editors at the *Oakland Post*, an independent, student-run newspaper at Oakland University in Rochester, Michigan.

The controversy began when the new journalism school director, Pamela Shoemaker, sought to enforce a policy allowing the newspaper’s faculty adviser to review stories before publication for libel. The newspaper staff resisted and, after efforts to reach a compromise agreement failed, faculty members voted 12-7 October 25 to implement the policy.

The student journalists contended that the policy is unconstitutional. They were supported by some faculty members. Professor Thomas Schwartz called the policy “illogical, ill-conceived and illegal. This is a blatantly unconstitutional document,” he said.

In 1988, the U.S. Supreme Court ruled in *Hazelwood v. Kuhlmeier* that elementary and secondary school administrators may exercise pre-publication review powers over student periodicals published as part of a school’s curricular program. The decision, however, explicitly stated that the ruling did not apply to college journalists. “I don’t think we will know [if the policy is constitutional] until it’s litigated to the Supreme Court level,” concluded Professor Kevin Stoner, chair of the Publications Committee that sets policy for the *Lantern*.

“When the dispute began, I thought fighting the policy from within was the most effective manner, but Friday’s faculty meeting blew that right out of the water,” said City Editor Kristen Baird in her letter of resignation. Editor-in-chief Debra Baker and Editorial Editor Melissa Romig also resigned. “I’m 22 years old. I’m not giving up my philosophical beliefs for this paper,” Baker said.

The dispute was over the principle of prior review, not over a particular story. Under the new policy, the *Lantern* adviser and student editor will request a lawyer’s opinion whether to print a potentially libelous story. If the lawyer finds a story libelous, the editor would be required to make appropriate changes.

The decision by the ex-editors to initiate a new independent publication came about after *Oakland Post* editor Meg O’Brien got in touch with some of the *Lantern* protesters and offered help. She offered to typeset and lay out a four-page broadsheet and the *Post*’s board of directors agreed to donate \$400 to print one 7,000 copy issue. Former *Lantern* editor Kim Bates said the new paper would compete with the *Lantern* for campus advertisers. But “it’s not to slam the

Lantern," she said. "We're real excited about the chance to do this without censorship by the administration." Reported in: *OSU Lantern*, October 28, 29; *Columbus Dispatch*, November 26.

Corpus Christi, Texas

Corpus Christi Independent School District trustees approved new limits on student journalists and student expression December 9. Both supporters and opponents said the new limits were more restrictive than the district's first proposal, which caused an uproar in October (see *Newsletter*, January 1992, p. 12). The new policy was written by the school board's lawyer after high school journalism teachers complained that the speech limits initially considered by the board were too vague and restrictive.

The new policy allows the district to bar student expression that:

- "Would substantially interfere with the work of the district."
- "Would impinge upon the rights of other students."
- "Is ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, unsuitable for immature audiences, or fails to meet the reasonable standards of the professional employees who supervise the production of the publication."
- "Might reasonably be perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with the shared values of a civilized social order."

The original policy was written by the Texas Association of School Boards in response to the U.S. Supreme Court's 1988 *Hazelwood* decision that permitted greater official restriction on student journalism. Amid public criticism of the policy, the board on November 12 postponed a final decision so teachers could write and submit a policy they preferred. The teachers proposed a policy at a November 18 meeting with district officials, but board attorney J.W. Gary rejected it and drafted his own.

"The first one didn't give much [censorship power] away, but when I rewrote it I didn't want to give away anything," Gary said. "If the Supreme Court gives you something, use it."

Teachers and lawyers argued, however, that the *Hazelwood* ruling gave the district the right, not the obligation, to adopt more restrictive policies. "They're creating problems for themselves," commented Mark Goodman, executive director of the Student Press Law Center in Washington, D.C. "I don't think there's any question that it's only a matter of time before someone questions the appropriateness of their action. That language is going to be abused by someone who wants to control expression without any valid educational basis." Reported in: *Corpus Christi Caller-Times*, December 10.

art

Chula Vista, California

Installed last summer on the Mexican side of the Otay Mesa border crossing between the U.S. and Mexico, Luis Jimenez's fiberglass sculpture "Fiesta Jarabe," which depicts a man and a woman engaged in a Mexican folk dance, was intended as a salute to everyday Mexican-Americans. But Patrick Osio, Jr., a Chula Vista resident who is leading a campaign to have the statue removed, said it "lacks taste" and "is culturally insensitive."

Osio, who publishes a small border weekly, said the sculpture "is a total aberration" of Mexico's folkloric dance. He launched a petition drive protesting the artwork in his newspaper and, as his critique spread, the controversy was brought to the San Diego County Human Relations Commission.

"This is not opposition to the artist," said Gloria Carranza, a member of the commission's subcommittee on border issues, who placed the item on its agenda. "I simply think it is in bad taste, and maybe more research should have been done into something more culturally sensitive" Reported in: *San Diego Union*, November 9.

Sacramento, California

On November 6, the federal General Services Administration (GSA) removed a black plastic sheet covering a painting of a partially nude woman, which was part of a new art display in the lobby of the federal courthouse building in Sacramento. The sheet had been placed over the ceiling-to-floor painting in response to complaints by some female employees that the work was offensive.

The unframed painting by Chico artist Dayton Claudio, entitled "Madonna," depicts a naked woman loosely holding a canvas. The decision to cover it prompted howls from some courthouse denizens who noted that it was displayed beside a glass case featuring the Bill of Rights.

But GSA representative Mary Filippini insisted the issue was not censorship. "The freedom of the artist to paint what he does is unquestionable," she said. "But people must understand there may be or may not be appropriate places where he can display this. We need some time to sort this out with the tenants. But in the meantime, we're going to keep the sheet off."

In an interview, Claudio said he would not comply with a request by the GSA to remove the painting, which was among ten of his works installed in the courthouse for an exhibition. Filippini said that if a decision was made to remove the work and the artist did not oblige, the agency might take it down anyway. However, she doubted it would come to that. Reported in: *Sacramento Bee*, November 6, 7.

Santa Cruz, California

A public art exhibit in a Santa Cruz community center that was intended to celebrate the 200th anniversary of the Bill of Rights was shut down by city officials in early December. They claimed the works were too offensive to be viewed by children and the elderly. A total of 17 of 25 works displayed were deemed objectionable and removed by center director Raymond Evans, effectively terminating the exhibit.

The publicly owned and operated center requires art show coordinators to adhere to standards of decency, prohibiting material that is deemed overtly violent or sexual. "The art displayed at a public facility has to meet a different standard than art at a commercial gallery," said city Parks and Recreation Director Jim Lang.

Even the artists agreed that some of the works displayed — for instance, a color photo of male genitals and a black-and-white photo of a nun in a sexually suggestive pose — could be classified as inappropriate. But other works were much less explicit, including a painting featuring Sen. Jesse Helms (R-NC) brandishing an assault rifle and surrounded by scantily clad women and a 5-foot-tall cereal box showing the Bill of Rights packaged as a commercial product.

"We thought that some of the works might be censored," said Sarah Ringler, a schoolteacher who helped organize the show. "But we were really shocked at the extent of it. I don't quite know their rationale. It appears to be political. It just goes to show you how subjective censorship really is. We are prepared to work with the ACLU and take it to court if necessary." Reported in: *Santa Cruz Sentinel*, December 4, 10; *San Jose Mercury-News*, December 4.

Springfield, Missouri

Photographer John Thornton said he was trying to be original with his photo of colored condoms. "I could've done it with jelly beans or with flowers," he said, "but somebody else's done that. I really wasn't trying to get across any political type message. There's nothing overtly sexual about it in any way. If you were just walking by and glancing at it, you'd think it was just a bunch of balloons."

Thornton's photo, one of six he entered at the Ozark Empire Fair, was rejected by fair general manager Dan Fortner and three fair directors. They said it was unsuitable. "This is a family event," Fortner said. "It's not a New York art gallery. We are talking about condoms."

"I really didn't think this was anything that controversial," said Thornton. But "I wasn't too terribly surprised when I got it back." Still, he mused, "it's kind of strange they would think multicolored condoms are more inappropriate than a nude." Indeed, two nude photographs won top ribbons at the fair. Reported in: *Springfield News-Leader*, July 28.

New York, New York

Justice Clarence Thomas and law professor Anita Hill are involved in another controversy — this time as figures in

an oil painting rejected by a Soho art gallery. Ellen Cantor of Jersey City, New Jersey, contributed a sexually explicit painting called "Here Comes the Judge" to the "True Love and Other Stories" exhibit at the Stendhal Gallery in Manhattan. But shortly after Cantor put her painting on the wall, the curators told her to take it down.

"I believe that the curators rejected the painting because it's discussing a highly charged political issue which includes race, gender, sex, and power," Cantor said. "It's a very explicit sexual painting that shows the man's and woman's genitals. It's politically incorrect to censor a painting right now in the art world and this is the reason I feel they say they rejected the painting on the basis of size and not because of its controversial content."

"It's a very explicitly erotic painting, which most of my paintings are," Cantor said. "Its purpose is to create a discussion of exploitation and the prejudices people had in the Judge Thomas case. It was a sarcastic painting of how people viewed women, sort of a sarcastic comedy."

Curator Roberto Mitrotti said Cantor's work crossed the line to exploitation. "I like art that shocks and gives you a punch," he said, "but at the same time while it gives you the punch, it has to have the purpose of waking you up to something. Exploiting a situation which is being played up by the media is too pretentious if it is done without any redeeming social or psychological value. There was nothing added to the story that hadn't already gotten on television or in the newspapers. So, I call that amateurish." Reported in: *Jersey Journal*, November 29.

rap music

Los Angeles, California

Rap musician Ice Cube's recent album, *Death Certificate*, has managed to offend Korean merchants, Jewish groups, members of the performer's former group, N.W.A. and, as a result, a variety of groups have called for boycotts of both the album and a malt liquor whose ads feature the controversial rapper.

In one song, Ice Cube seemingly calls for attacks on Korean groceries in black neighborhoods: "So don't follow me up and down your market/ Or your little chop suey ass'll be a target. . . / So pay respect to the black fist/ Or we'll burn your store right down to a crisp." In another song, he calls on N.W.A. to get rid of its Jewish manager, Jerry Heller: "Get rid of that devil, real simple/ Put a bullet in his temple/ 'Cause you can't be the nigger for life crew/ With a white Jew telling you what to do." The song also urges N.W.A. to hang founding member Eazy-E from a tree and burn him with gasoline.

Death Certificate has been denounced by civil rights groups, including the Los Angeles Urban League and the

Southern Christian Leadership Conference. In an unprecedented editorial, *Billboard* magazine urged stores to "strongly protest the sentiments expressed on that album," which in December reached number three on that magazine's pop music chart.

With relations tense between some Korean grocers and black customers, especially in New York, Washington, and Los Angeles, the album caused a dramatic stir in the Korean-American community. After the album's release, the Korean consulate in Los Angeles wrote a letter of complaint to Ice Cube's producer. In addition, the Korean-American Grocers Association organized a boycott of St. Ides beer, for which Ice Cube is the celebrity promoter. Between 5,000 and 6,000 Korean merchants shipped cases of the liquor back to its producer McKenzie River Corporation of San Francisco. The boycott ended November 20 when the company agreed to pull the Ice Cube promotional material and donate up to \$90,000 from profits on St. Ides from Korean-owned stores toward scholarships for black and Korean students.

The Simon Wiesenthal Center in Los Angeles, which monitors anti-Semitism and racism, urged four chain stores to pull the record. "There is no difference between David Duke and Ice Cube," said Rabbi Abraham Cooper of the center. "[Both] propagate racist ideas to people who have frustrations. Instead of trying to find solutions, they come up with simplistic answers and slogans. He has a right to write and sing, but we have a right not to sell it or buy it." Reported in: *Newsweek*, December 2; *Washington Post*, December 1; *Western Herald*, December 4.

Detroit, Michigan

A popular but sexually explicit 2 Live Crew music video is unfit to air, a Detroit cable company executive decided in October. Don Barden, owner of Barden Cablevision, said he pulled "Pop That Coochie" from programming schedules because it wasn't "culturally enriching." The video had topped a dial-in viewers' request list for six weeks. Reported in: *Oakland Press*, October 31.

Fairview Heights, Missouri

The president of Streetside Records said December 10 that the company would refuse a request from the Fairview Heights Police Department to pull a rap album by 2 Live Crew from the shelves of its store. The issue arose when Belinda Sentiff of Collinsville complained to police that her teenage son had bought the group's album, *Sports Weekend: As Nasty As They Wanna Be — Part 2*.

Police Lt. Mike King said officers had not listened to the album but had found the song titles obscene. "I couldn't see any value in it," King said. Several music store managers in the St. Louis area said they had no complaints about the album, except from Sentiff. Nevertheless, police asked stores in Fairview Heights to remove the album. Officers warned that clerks who sold it could be arrested and charged with violating the city's obscenity ordinance.

Camelot Music, Musicland, Music Vision, Streetside Records and Tape World withdrew the album, but only Streetside decided to restock it. John D. Mandelker, president of Streetside, said the 2 Live Crew's music might be offensive or obnoxious but that it was not obscene. "Clearly, the record does have artistic merit," he said.

Chuck Shoup, manager of Music Vision, said sales would probably pick up because of the publicity. But rap fans would not find the album in his store. "The Police Department asked us to pull it. We rely on them for a lot of things, so we don't want to rub them the wrong way," Shoup said. Besides, he said, "I hate selling this [expletive], personally." Reported in: *St. Louis Post-Dispatch*, December 11.

publishing

Seattle, Washington

After experiencing tremendous difficulties finding a printer for two publications with lesbian and gay subject matter, Seattle-based Bay Press issued a call for the creation of a directory of printers and perhaps even an independent printing house for the production of such literature.

The call followed the refusal by thirty American printers to produce *How Do I Look?*, an original collection of essays and discussions, edited by Douglas Crimp, that examines representations of lesbians and gay men in film and video. Bay Press earlier experienced difficulties printing *AIDS Demographics*, which Crimp also edited.

Printers refused the book because of several images taken from gay male pornography, safer sex videos, and reproductions of nudes by Robert Mapplethorpe, according to Bay Press publicist Christopher Stearns. "All of the images are really images to be reckoned with, which is what the book is about — how we react consciously and subconsciously to representations of gays and lesbians," Stearns said. "They are very explicit images that you would not expect to find in an academic text."

"This situation exposes the need for publishers to work in solidarity," Stearns added. "Clearly there is a need for a directory that identifies progressive printers. Maybe we need our own printing house."

Indeed, the problems experienced by Bay Press are not unique. In September, Boston-based Alyson Publications was turned down by its regular printer when *Gay Sex: A Manual for Men Who Love Men*, by Jack Hart, was submitted. The publisher went to eighteen other printers before finding one to accept the job (see *Newsletter*, January 1992, p. 14). "We're hearing more from gay publishers lately about sexually explicit materials being turned away," reported Siobhan Dowd, program director for the New York chapter of PEN.

(continued on page 70)

from the bench



U.S. Supreme Court

On December 10, the Supreme Court declared unconstitutional a New York law aimed at limiting the ability of criminals to profit from selling their stories to book publishers or movie makers. Voting 8-0, the Court said the 14-year-old "Son of Sam" law, a model for laws now in effect in most states, violated the First Amendment by singling out a criminal's earnings from only one source — speech or writing about the crime.

Under the law, which had been applied in several prominent cases, any money that convicted or accused criminals earn from selling their stories must be placed in a state-run escrow account for five years for distribution to any victims who come forward and prove their eligibility during that time.

Writing for the Court, Justice Sandra Day O'Connor said states have "an undisputed compelling interest in insuring that criminals do not profit from their crimes." But that worthwhile goal, she said, could not justify a burden on "expressive activity" that the state "places on no other income." [For excerpts from the decision see page 54].

Justice O'Connor's analysis relied heavily on Supreme Court precedents in the tax area, which held that a state's general interest in raising tax revenue could not justify placing special tax burdens on the press. In this case, she said, the state's general interest in "transferring the proceeds of crime from criminals to their victims" does not justify placing special burdens on a criminal's speech.

The decision overturned a 1990 ruling by the U.S. Court of Appeals for the Second Circuit in New York and, by implication, a decision in a separate case in 1991 by New York State's highest court (see *Newsletter*, July 1991, p. 121). It

also cast serious constitutional doubt on the laws of 41 other states, as well as on a 1984 federal law permitting judges, as part of sentencing proceedings, to order the forfeiture of a defendant's assets from book and movie contracts.

New York's law was passed in 1977 after a series of murders by an anonymous killer who identified himself as "Son of Sam." The legislature passed the law in response to reports that the killer, eventually identified as David Berkowitz, was being offered a large amount of money for his story. The law was never applied to Berkowitz, however, because he was found incompetent to stand trial.

As originally enacted, the law applied only to convicted criminals. It was later broadened to cover those accused of crimes but not convicted and to those never formally accused but whose books included admissions to previously unknown crimes. It was this broad version of the law that was brought before the Court in a challenge by publisher Simon & Schuster, which in 1986 published a bestselling account of life in the Mafia called *Wiseguy*. The book, by Nicholas Pileggi, was based on conversations with a career criminal, Henry Hill, to whom the publisher paid almost \$100,000 for his cooperation.

The New York Crime Victims Board, which administers the law, found Simon & Schuster in violation and ordered the publisher to place the money it owed Hill into the board's escrow account. The publisher then went to federal court seeking a ruling that the law was unconstitutional. That effort was unsuccessful at both the district and appellate levels.

Justice O'Connor's opinion in *Simon & Schuster v. New York Crime Victims Board* was joined by Chief Justice William Rehnquist and by Justices Byron R. White, John Paul Stevens, Antonin Scalia, and David H. Souter. Justice Clarence Thomas did not take part in the case because he was not on the bench when it was argued on October 15.

Justices Harry A. Blackmun and Anthony M. Kennedy did not sign the opinion. Instead, each filed a separate concurring opinion. Justice Kennedy said the Court should have struck down the law on somewhat broader grounds. Justice Blackmun said the Court should have provided more guidance for other states.

It had become evident at oral argument that the Court had serious concerns about the law and the final outcome of the case was not a surprise. Justice O'Connor's opinion was nonetheless surprisingly far-reaching. The Court could have struck down the law on narrower grounds, focusing on the broad wording of the statute. Justice O'Connor's opinion, however, mentioned the particular aspects of the New York law only in passing, and focused almost entirely on the core First Amendment issue of whether the state could justify treating earnings from expression differently than earnings from other activities.

O'Connor gave short shrift to all three of the state's main arguments: that the law was not really a burden on speech

excerpts from Supreme Court ruling on 'Son of Sam' law

Following are excerpts from the U.S. Supreme Court's decision December 10 in *Simon & Schuster v. New York Crime Victims Board*, striking down a New York law that required criminals to forfeit their earnings from books or movies about their crimes. Justice Sandra Day O'Connor wrote the opinion for the Court, which was joined by Chief Justice William Rehnquist, and by Justices Byron White, John Paul Stevens, Antonin Scalia, and David Souter. Justices Harry Blackmun and Anthony Kennedy filed concurring opinions. Justice Clarence Thomas was not on the bench when the case was argued and did not vote.

By Justice O'Connor, for the Court

A statute is presumptively inconsistent with the First Amendment if it imposes a financial burden on speakers because of the content of their speech. . . .

The Son of Sam law is such a content-based statute. It singles out income derived from expressive activity for a burden the State places on no other income, and it is directed only at works with a specified content. . . .

The Board . . . argues that discriminatory financial treatment is suspect under the First Amendment only when the legislature intends to suppress certain ideas. This assertion is incorrect; our cases have consistently held that "illicit legislative intent is not the *sine qua non* of a violation of the First Amendment."

The Son of Sam law establishes a financial disincentive to create or publish works with a particular content. In order to justify such different treatment, "the State must show that its regulation is necessary to serve a compelling state interest and is narrowly drawn to achieve that end."

The Board disclaims, as it must, any state interest in suppressing descriptions of crime out of solicitude for the sensibilities of readers. . . . The Board thus does not assert any interest in limiting whatever anguish Henry Hill's victims may suffer from reliving their victimization.

There can be little doubt, on the other hand, that the State has a compelling interest in ensuring that victims of crime are compensated by those who harm them.

The State likewise has an undisputed compelling interest in ensuring that criminals do not profit from their crimes. . . .

The Board attempts to define the State's interest more narrowly, as "ensuring that criminals do not profit from storytelling about their crimes before their victims have a meaningful opportunity to be compensated for their injuries." Here the Board is on far shakier ground. The Board cannot explain why the State should have any greater interest in compensating victims from the proceeds of such "storytelling" than from any of the criminal's other assets. Nor can the Board offer any justification for a distinction between this expressive activity and any other activity in connection with its interest. . . .

In short, the State has a compelling interest in compensating victims from the fruits of the crime, but little if any interest in limiting such compensation to the proceeds of the wrongdoer's speech about the crime. . . .

As a means of ensuring that victims are compensated from the proceeds of crime, the Son of Sam law is significantly overinclusive. As counsel for the Board conceded at oral argument, the statute applies to works on any subject, provided that they express the author's thoughts or recollections about his crime, however tangentially or incidentally. In addition, the statute's broad definition of "person convicted of a crime" enables the Board to escrow the income of any author who admits in his work to having committed a crime, whether or not the author was ever actually accused or convicted.

These two provisions combine to encompass a potentially very large number of works. Had the Son of Sam law been in effect at the time and place of publication, it would have escrowed payment for such works as *The Autobiography of Malcolm X*, which describes crimes committed by the civil rights leader before he became a public figure; *Civil Disobedience*, in which Thoreau acknowledges his refusal to pay taxes and recalls his experience in jail; and even the *Confessions of Saint Augustine*, in which the author laments "my past foulness and the carnal corruptions of my soul," one instance of which involved the theft of pears from a neighboring vineyard. . . . □

because criminals were still free to speak and write, albeit not for pay; that any burden on speech was acceptable because the state's goal was not to censor but to compensate victims; and that the law did not single out the "media" for any special burden.

"The government's power to impose content-based financial disincentives on speech surely does not vary with the identity of the speaker," O'Connor concluded. Reported in: *New York Times*, December 11.

The Supreme Court on January 27 left intact a federal law aimed at denying children access to "dial-a-porn" services that offer telephone sex for a fee. Without comment, the court declined to consider a challenge to a 1989 law requiring telephone companies to block access to sex-message services unless a customer asks in writing to receive them. The refusal to consider the case threatened to all but destroy the "dial-a-porn" business.

Joel Dichter, a lawyer for four companies that sought Supreme Court review, had told the justices that the law "has broadly and unnecessarily curtailed, if not destroyed, adult access to lawful, protected speech." The Lambda Legal Defense and Education Fund, a homosexual rights group, had filed an *amicus* brief saying that the services provide "risk-free sexual satisfaction" in the midst of the AIDS epidemic and "offer an opportunity to engage in intimate adult communication while retaining a deeply desired and guarded anonymity."

The Court had given dial-a-porn a reprieve in 1989 when it struck down a ban on all sexually oriented message services. The justices said that the blanket ban had "the invalid effect of limiting the content of adult telephone conversations to that which is suitable for children to hear."

Congress then quickly passed a new law that requires phone companies to block access to such services — available through 976 exchanges — unless written requests are received asking for access. U.S. District Court Judge Robert Patterson had ruled the new law unconstitutional because it was not the "least restrictive means" of keeping indecent messages from children while allowing access for adults. He said "voluntary blocking" by individual customer request was adequate. The U.S. Court of Appeals for the Second Circuit reversed Patterson's ruling, however, and in *Daily Information Services v. Barr* the Supreme Court declined to review that appellate decision. Reported in: *San Francisco Chronicle*, January 28.

obscenity

Dallas, Texas

One of the federal government's most powerful laws on obscenity was blunted by a federal judge in Texas, prompting prosecutors to seek appellate court approval to sharpen it again. The law, enacted by Congress in 1988 as part of a Reagan administration campaign against pornography, allows the government to seize the entire business of a publisher who has been convicted of a single obscenity violation.

The Justice Department has maintained that any publisher who distributes both obscene and non-obscene videotapes should be deprived of his entire operation when illegal revenue has been commingled with lawful proceeds. But U.S. District Court Judge Barefoot Sanders rejected that position in the first test of the forfeiture provision of the law.

In July, a Dallas jury found California Publishers Liquidating Corp. and two other companies guilty of shipping two obscene videotapes from Los Angeles to Dallas. Only those two, out of an inventory of 5,700, were deemed obscene. Prosecutors then sought forfeiture of all three businesses — valued in the millions of dollars — based on the two obscene tapes. Their theory was that "all funds with which such proceeds had been commingled were also subject to forfeiture."

But Judge Sanders ruled October 17 that he would not confiscate millions of dollars because of obscene tapes worth \$9.90. The Eighth Amendment requires, he wrote, "as a matter of principle that a criminal sentence must be proportionate to the crime for which the defendant has been convicted."

In addition, he ruled that the government's position violated the U.S. Supreme Court's edict that obscenity be determined by juries based on community standards. Though the Dallas jury found that the videos were obscene based on Dallas's standards, no jury had reached the same conclusion about all the other videotapes in warehouses in Los Angeles.

"What the government seeks to do," Judge Sanders wrote, "is to prosecute obscenity cases in what they perceive to be the most conservative communities in the nation and then to impose such standards on the rest of the nation by means of seeking the forfeiture of all assets of any company convicted for the sale of even one or two videos based upon those local standards."

Patrick Trueman, head of the Justice Department's Child Exploitation and Obscenity Section, said the department would appeal. "We've taken a hit but it will not deter us from using [the law] again," he said. [For more on the department's war on pornography, see p. 60]

First Amendment lawyers hailed the Dallas ruling. "It is now clear that [the forfeiture law] cannot be used as the bludgeon the government wanted and the publishing and media industry had feared," said Clyde DeWitt, president of the First Amendment Lawyers Association, an organization of attorneys for defendants in obscenity trials.

The 1988 law requires only a single obscenity conviction to trigger the forfeiture provisions. In contrast, the 1984 federal racketeering-obscenity law required that a defendant be convicted of two felony charges before forfeiture was permitted. That earlier law was upheld by the U.S. Court of Appeals for the Fourth Circuit in the case of *U.S. v. Pryba* in 1990. The U.S. Supreme Court declined to review the ruling.

Paul Cambria, an attorney for the defendants in both the Pryba and California Publishing cases, said the Supreme Court "dodged the bullet by not [reviewing] the Pryba case." But Cambria said Judge Sanders's opinion will be hard to ignore because it is "so comprehensive and cogent." Reported in: *Wall Street Journal*, November 26.

university

Berkeley, California

In the latest round of a national legal battle over free speech on campus, the University of California, Berkeley, won the right to continue funneling student fees to partisan student groups. Like most universities, Berkeley gives some money raised from student fees to the student government, which in turn votes to finance various student causes. Four Berkeley students sued the university in 1979, saying students

the Supreme Court and free expression, 1990-91

The mass media and freedom of expression fared poorly during the 1990-91 term of the U.S. Supreme Court, according to a report in *Editor & Publisher* magazine. Advocates of free expression prevailed in only 36%, or four of eleven cases, decided by the court. This was a sharp drop from the 64% success rate during the first four years of the Rehnquist Court, 1986-90.

The following are the percentages that individual justices favored speech and press rights: Thurgood Marshall, 73%; Harry Blackmun, 73%; Sandra O'Connor, 64%; John Paul Stevens, 45%; David Souter, 45%; Anthony Kennedy, 36%; Byron White, 36%; Antonin Scalia, 35%; William Rehnquist, 27%.

None of the important cases concerning speech or press from 1990-91 would have been decided differently without Marshall, who retired last June, or Blackmun, who is currently the oldest member of the court at 82. There were only two cases in which speech or press rights prevailed by a close, 5-4 vote, and in one of those cases Marshall and Blackmun dissented from the pro-press majority, giving greater weight to protection of the countervailing rights of criminal defendants.

All four cases in which decisions favored speech and press advocates had a narrow and qualified application. The seven cases in which speech and press advocates lost were broader and more significant. Reported in: *Editor & Publisher*, September 21. □

shouldn't be forced to spend money on causes they don't believe in. A similar suit filed later by 32 Berkeley students was merged with the first one.

The U.S. Court of Appeals for the Ninth Circuit, which first ruled in favor of the university in the 1980s, redecided the case in January in light of a 1990 U.S. Supreme Court decision concerning California state bar dues. In that case, the Supreme Court found that associations violate free-speech rights when they compel members to pay to support the group's ideological causes.

The Berkeley case differed, the appellate court said, because politics isn't germane to a bar association but is to educating university students. "The court regarded the activity as educational — one which supplements classroom education by exposing the students to divergent views," the ruling stated. Citing a North Carolina case in which students unsuccessfully challenged the use of mandatory student fees

to fund a student newspaper whose views they disapproved of, the appellate court wrote, "The very nature of university education presupposes free expression of divergent views." Reported in: *Wall Street Journal*, January 15.

copyright

New York, New York

Representatives of the Association of American Publishers and Kinko's Graphics met in New York in October to announce that Kinko's had agreed to pay \$1.9 million in damages and legal fees as part of an agreement ending the two-year-old copyright infringement suit against the national chain of photocopying shops. Kinko's also agreed not to appeal the decision reached last March by the U.S. District Court, which found the chain in violation of the copyright act. The ruling prohibited Kinko's from continuing to produce unauthorized photocopied anthologies of copyrighted works without the requisite permissions (see *Newsletter*, July 1991, p. 121).

Following the points outlined in the court ruling, Kinko's agreed that:

- All its 600 stores will obtain prior permission before photocopying copyrighted materials for distribution in the classroom.
- Unauthorized photocopying is an infringement and punishable by substantial damages.
- Photocopying for educational purposes alone is not justification for not obtaining permission of the copyright owner of the material.
- Educational needs have been served for three decades by authorized anthologies, prepared legally with prior permission granted and requisite fees paid. Reported in: *Publisher's Weekly*, November 1.

church and state

Austin, Texas

The inclusion of a Christian cross in the municipal insignia of Austin, Texas, does not, given its unique history and non-proselytizing effect, run afoul of the First Amendment's Establishment Clause, the U.S. Court of Appeals for the Fifth Circuit ruled November 4.

The cross found its way into Austin's insignia in 1916 because it was part of the family coat of arms of Texas patriarch Stephen F. Austin. A present-day citizen of Austin, however, asserted that the cross's color, location, and prominence create the perception that the insignia endorses Christianity.

The court said the only dispute was whether the inclusion of the cross had the primary effect of advancing religion. It concluded that inclusion of the cross did not demonstrate any greater preference for religion than did the creche or menorah displays or the legislative prayer approved by the

Supreme Court in previous cases.

The court acknowledged, however, that two other circuits had found constitutional violations when reviewing municipal seals that included religious symbols. But it denied that there is a split in the judiciary on the issue. Rather, the court said, the different result merely demonstrated that such cases must be decided on their facts. Reported in: *U.S. Law Week*, December 10.

right of publicity

Seattle, Washington

Four months after a play based on the life of the singer Janis Joplin was closed because of a lawsuit by the Joplin estate, a federal judge ruled that the production is a protected form of speech. The ruling on December 16 by U.S. District Court Judge John C. Coughenour in Seattle is one of the few nationwide in which a court has tried to define the commercial rights of a celebrity's estate.

Joplin's family, joined by Manny Fox, a New York producer who owns the rights to make a film and play based on her life, asserted that the Seattle theater company could not stage the play *Janis* without permission of the estate, which claimed "the exclusive right to exploit stage productions, theatrical films and television productions based on the life and times of Janis Joplin."

The central legal issue concerned the "right of publicity," which grants an estate control over a dead celebrity's name and style. Only a handful of states have enacted such laws, and they are usually limited to such things as T-shirts and souvenirs, not artistic expression. In the Joplin case, the judge cited California's law, which applies only to merchandise, advertising and endorsements. When a celebrity's name is used in a play, it is a protected form of speech, he wrote.

The decision left open the issue of copyright infringement for two songs that were used in the play. The estate said the producers did not have full permission for their use.

Civil liberties groups had warned that if upheld the Joplin estate's claims would have a chilling effect on any artistic production that used a celebrity's name. "The estate's claim violates the freedom of expression protections of both the United States and Washington State Constitutions," said Julia Hampton of the ACLU, which filed a brief on behalf of playwright Susan Ross. "It would be like saying that the estate of Richard Nixon could someday control all artistic portrayals of him."

Ross, a first-time playwright, said she hoped to revive the play, which was closed after the suit was filed. Fox said the judge's decision would be appealed. Reported in: *New York Times*, December 18. □

(IFC . . . from page 33)

Laws are being written in such sweeping language that they would encompass much mainstream material, including sex education, medical, and art books. One such bill is S. 1521, the Pornography Victims Compensation Act. On July 23, Judith Krug presented testimony to the Senate Judiciary Committee on an earlier version of this bill and its companion, the Pornography Victims Protection Act. At this Meeting, the IFC reviewed a legal analysis of the still serious flaws in the current bill. According to that analysis, the legislation would provide a civil cause of action for victims of sexual assaults against producers and distributors of materials the victim contends inspired the crime against them. The bill thus shifts responsibility from the shoulders of the perpetrators themselves to innocent third party publishers and distributors. The latter could even include libraries.

Although the new version of the bill has been narrowed substantially, it still poses the threat of a tremendous chilling effect against publishers and distributors of sexually explicit material. We are continuing our efforts with other organizations interested in First Amendment rights to educate legislators on the dangers of this bill, and of the faulty premises on which it is based. i.e., that there is a causal connection between expressive material and anti-social behavior.

The IFC received a report from the Legislation Committee and the Washington Office on other pending federal legislation, including the seemingly endless debate over the Paperwork Reduction Act. Currently, there appears to be some wrangling going on over sections of the Act which certain interested groups wish to excise and have stand as separate legislation. Further information on this and other proposed federal legislation, including proposals to expand the availability of government information in electronic formats and to revise the Freedom of Information Act to cover Executive and Congressional offices now exempted, will be brought to Council by the Legislation Committee. It should be reported that the Intellectual Freedom Committee endorsed the Committee on Legislation's resolutions on the Improvement of the Freedom of Information Act and, with some suggestions for editorial changes, the Resolution on the Improvement of Information Access Act of 1991.

With regard to a bill designed to bring unpublished material within the scope of the "fair use" copyright doctrine, we understand that the bill continues to languish because of objections by producers of computer software. Recent court interpretations of fair use have substantially curtailed what were generally regarded as mainstream scholarly techniques used in connection with history and biography in particular. We will continue to monitor the progress of legislation designed to make "fair use" truly fair.

Many of you are aware that, following the Supreme Court's very distressing decision in *Rust v. Sullivan*, upholding the prohibition on speech about abortion at federal-

ly funded clinics, Congress was unable to override President Bush's veto of Legislation abolishing this so-call "gag rule." We are continuing to monitor any potential extension of the doctrine of *Rust* to other areas of free expression, including the linkage of ideological restrictions to federal funding of the arts and information services. While there appeared to be initial enthusiasm by the federal government for applying this rule across the board, it may be that the several First Amendment organizations which made their concerns known to federal agencies immediately following the decision have had some effect. We have yet to hear of a successful new attempt to impose such ideological restrictions on funding. In fact, Stanford University won the first round of a lawsuit challenging rules which placed prior restraints on the publication of information about federally funded research. The court in that case specifically distinguished the *Rust* decision on the grounds that university campuses, in particular, as noted by the Court in *Rust*, should be areas of less restriction on free expression. You heard more on that from Freedom to Read Foundation President C. James Schmidt. The Foundation extended an invitation to the ALA Executive Board to add ALA's name to an *amicus* brief being prepared by a coalition of organizations with First Amendment interests, including the Foundation. The IFC strongly recommended to the Executive Board that it accept that invitation, which it did on Tuesday, January 28.

Should new legislative efforts arise in this area, we will certainly keep the membership informed through the *OIF Memorandum* and the *Newsletter on Intellectual Freedom*.

This fall, some members of the OIF staff traveled to Phoenix to the joint conference of the Arizona State Library Association, Mountain Plains Library Association, and Arizona Educational Media Association to conduct the second field test of the IFC's Modular Education Program on confidentiality in libraries. The field test was a tremendous success. Now in our third year of the development of this special program, we will be concentrating on production and marketing. In connection with those plans, OIF and the IFC will present a program at the AASL National Conference in Baltimore on "training trainers" to use the Modular Education Program.

IFC member Molly Raphael is on the planning committee for the second Computers, Freedom & Privacy Conference. Intellectual freedom in the technology arena is a pressing issue, and by maintaining active contact with computer professionals and others concerned about First Amendment rights and privacy, the IFC is taking a proactive stance to identify and meet concerns for intellectual freedom applicability to the electronic library environment. The IFC recommended to ALA's Executive Board that it consent to add ALA's name as a co-sponsor of the conference; LITA has already done so. Because we view the issues to be dealt with at the conference as encompassing a very broad scope of library concerns, the IFC strongly believes that ALA,

itself, should be listed as a co-sponsor. The Executive Board approved this request.

At the 1991 Annual Conference, the IFC completed its major work on revisions and amendments to Interpretations of the *Library Bill of Rights*. The impetus for this activity was a Minority Concerns Committee request that the *Library Bill of Rights* reflect free access to library materials without regard to language or economic status. We have now begun work on a new Interpretation which will specifically address the question of fees for library service. We anticipate work on this Interpretation to be arduous and painstaking. The issue is a contentious one, particularly in times of catastrophic budget cuts for many libraries. We hope to present a draft document for circulation and comment in the early spring, for further consideration at the Annual Conference in San Francisco.

The last step in this process is to once again review the *Library Bill of Rights*, itself. The sentiment of the Committee was that since we are still working on an Interpretation on fees, it would be premature to take up discussion of the basic document until that task is complete.

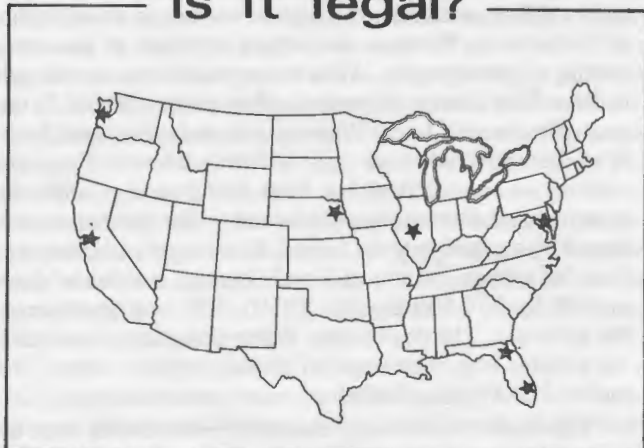
This year's celebration of Banned Books Week will take place September 26 - October 3. The theme is still being negotiated with our co-sponsors, but will call attention to intellectual freedom issues related to emerging democracies in Eastern Europe, the new frontier of global electronic communication and information retrieval, as well as the Columbus quinquennial.

At the request of C. James Schmidt, President of the Freedom to Read Foundation, the Intellectual Freedom Committee will be an active partner in implementing strategies identified by the Foundation at its strategy planning colloquium this past November. The IFC, through the Office for Intellectual Freedom, will undertake communication with State Library Association Intellectual Freedom Committees to involve the nationwide library community in new tactics for coping with the challenges to intellectual freedom we anticipate in this decade. We're excited about this joint strategic effort to continue to promote and support an understanding of First Amendment principles and intellectual freedom in libraries.

As always in the intellectual freedom arena, I look forward to a busy year meeting the challenges which face us in providing support and assistance to our professional colleagues as they defend free access to library materials for all. □

**DEFEND THE
FREEDOM
TO READ**

is it legal?



libraries

San Francisco, California

A group of Potrero Hill neighborhood parents vowed January 14 to disrupt the next meeting of the North American Man-Boy Love Association (NAMBLA) in their neighborhood library. But community relations librarian Marcia Schneider said the group's application to use the branch library's public meeting room was "no longer valid" because some of the phone numbers it listed had been disconnected.

A representative of the group said that its members intended to continue meeting at the library. "It is our right to ask that our meetings not be disrupted," he said. He contended that the "whole implication we are an organization that advocates molesting children is completely false," and said 12 to 15 people had been attending meetings at the library. "It's a chance to get together for mutual support," he said.

NAMBLA says its organizational purpose is to "support those with alternative sexualities and to educate the public of the existence and legitimacy of the same." Among the group's activities are efforts to "change the age of consent law." According to San Francisco police, the group's membership includes at least thirteen men arrested for felony child molesting, but NAMBLA denied advocating anything but legal conduct.

The parents discovered that the group had been meeting monthly in the library since 1989 only after a local television station reported on the meetings. According to Schneider, when the group applied to use the library's meeting room its request "stated very clearly" that the organization did not participate in illegal activities. Library

policy guidelines governing the use of meeting rooms permit any group to meet "if they are not engaging in any unlawful activity," Schneider said. "It's a First Amendment issue."

Late last year, NAMBLA held a national conference in San Francisco at the Women's Building. After the conference, the executive director of the Women's Building issued a statement saying that her organization had erred in renting to the group. "In upholding the First Amendment, the Women's Building made a very serious error with consequences impacting on the rights and protection of children," the statement said. "We didn't know the breadth of who they were." Police said that leaflets informing members of the group "where and how" to meet young boys were distributed at the conference.

Claims by the organization that attacks on its meetings were attacks on the gay rights movement drew mixed reactions from prominent gay activists. Kerrington Osborne, co-chair of Lesbians and Gays of African Descent for Democratic Action, said he had "deep moral problems with what they stand for." Still, Osborne defended the group's right to meet in the library and agreed with their contention that news coverage had been sensational. Reported in: *San Francisco Chronicle*, January 14, 15, 21.

Edwardsville, Illinois

A university library supervisor removed political cartoons from the wall of a student employee's work space only a few feet from a university display lauding freedom of speech. "They were all destroyed," said Gina Goodwin, a student library worker at Southern Illinois University at Edwardsville.

Goodwin said when she arrived for work November 21 all of the satirical cartoons she had taped on the wall above her desk were gone. "Political and religious cartoons/signs can be hung up at home or in a private office, not here!" read a note left by Paul Anthony, head of the library's circulation department. One cartoon satirized the appointment of Supreme Court Justice Clarence Thomas. Another satirized President Bush.

Anthony admitted taking down the cartoons and throwing them in the trash. "That's within our prerogative," he said. "If they put up a cat picture or something, we have no problem with that." He said it is an unwritten library policy not to allow political or religious symbols to be displayed on library walls by workers. "She works in a big, wide-open area" that the public can see, he said. In addition, Goodwin shares work space with other student workers, although Anthony said no one had complained about the cartoons. Goodwin said her desk is behind the circulation counter and not in public view.

Goodwin and other student workers had recently filed a grievance over a secret tape recording made of a personnel meeting where workers were encouraged to speak freely to supervisors about work-related problems. She said the com-

plaints might have sparked retaliation. "One of my main concerns is that this is a library and one of the last bastions of free speech," she added. Reported in: *Belleville News-Democrat*, December 16.

obscenity

Washington, D.C.

Citing the use of illegal and unconstitutional tactics, the American Civil Liberties Union's Art Censorship Project, joined by prominent artists and First Amendment attorneys, called for the abolition of the U.S. Department of Justice's Child Exploitation and Obscenity Section. Releasing a report entitled *Above the Law: The Justice Department's War Against the First Amendment* at a December 9 press conference, the ACLU described the section's activities and prosecutions as religiously motivated attempts to drive producers and distributors of constitutionally protected, sexually oriented materials out of business.

Although for six months the Justice Department refused to respond substantively to ACLU Freedom of Information Act requests, the ACLU said enough was known about the Obscenity Section to call for its abolition. The ACLU said it had begun steps to file a lawsuit under the FOIA to learn additional information.

"FBI agents have testified in sworn depositions that this is a hit squad of zealots traveling around the country in an attempt to wipe out an entire category of constitutionally protected material," said Marjorie Heins, director of the ACLU's Art Censorship Project. "We will continue to investigate this agency, but we know enough to issue an immediate call to President Bush that he disband this renegade unit and to call on Congress to begin immediate oversight hearings on the Justice Department's illegal activities."

In the summer of 1990, the Obscenity Section began multiple prosecutions against Hollywood producers of adult videos. By January, 1992, 35 of approximately 80 producers of sexually explicit materials in the country had been raided by federal agents, with nine of the raids resulting in indictments. To insure that the companies would not be tried in Los Angeles or similar urban areas, where more liberal juries might acquit them, the section set up phony video stores in conservative communities in Arkansas, Utah, Oklahoma, North Carolina and elsewhere and ordered tapes from the California companies.

As yet there have been few convictions, but armed with a 1988 anti-pornography law, prosecutors can threaten to seize all the assets of distributors even if just a few of their videotapes are found obscene. In one case, tried in Dallas, the Justice Department has sought — unsuccessfully, so far — the liquidation of the assets of a California company convicted of sending two obscene videotapes — valued at \$9.90 — to Texas (see page 55). Several operators of small companies have already agreed to cease operations in return for light sentences and fines.

In addition to going after producers and distributors of sexually explicit materials, the section has begun prosecutions of performers, directors and others involved in the actual making of pornography. While these prosecutions are thought to have little chance of success, they do intimidate. In one case, film director James Wasson, who under the name James West has directed more than a dozen all-male films and videos, was arrested at his West Hollywood, California, apartment on four counts of obscenity. The indictment was issued by a grand jury in Oxford, Mississippi, and stemmed from his role as director of *Lewd Conduct*, a video he made in 1989 for Vivid Video, Inc. (VVI). VVI was also indicted the same day. The day before, Video Company of America, the nation's largest producer of sexually explicit videos, was indicted in Mobile, Alabama, on obscenity charges.

"I have not seen so many obscenity prosecutions since the early '70s," said Louis Sirkin, a lawyer for Wasson and VVI. "This is a direct result of the Reagan years and the rise of the fundamentalist right."

"Evidence supports the conclusion that the Justice Department is out to ban all sexual expression," said Bruce Ennis, an attorney representing Adam and Eve, a multimillion-dollar North Carolina mail order company under federal indictment in Salt Lake City. According to Ennis, the Obscenity Section, which has a staff of twelve attorneys, double the number during the days of Edwin Meese, is "basically staffed by true believers who have little interest in freedom of expression."

To back up his charge, Ennis pointed to a suit filed against the department by his firm on behalf of Adam and Eve. In July, 1990, a U.S. district court judge issued a temporary restraining order barring the section from obtaining indictments against a single company in more than one municipality at a time. During the discovery period of the suit, Ennis obtained sworn depositions from several FBI agents critical of the Obscenity Section.

In one deposition, Robert Marinaro, a supervisory agent of the FBI who was in charge of investigating the interstate distribution of obscenity from 1985 to 1989, accused the section of "bad judgement" for indiscriminately prosecuting producers of sexually explicit material. "I think [the Obscenity Section] had the vision that if they prosecuted enough people, they could eventually shut down the adult pornography industry," he said. "I had very good reason to believe at that time — and I still do today — that much of the material is protected by the First Amendment." Another agent called the section's director, Patrick Trueman, a "religious zealot."

But Doug Tillett, deputy director of public affairs for the Justice Department, said the FBI "is made up of individual agents who have their own opinions. A careful examination of the facts will show that we are simply enforcing the law. We go after pornography the way we go after narcotics or terrorism. And yes, [Trueman] is a Catholic, but it's ridiculous to call him a religious zealot."

One of the tactics the FBI agents were particularly critical of is known as "venue shopping," which entails filing multiple suits in socially conservative areas of the country, taking advantage of the Supreme Court's 1973 ruling in *Miller v. California*, which defined obscenity as a violation of locally determined community standards. The most popular venues include Salt Lake City, Oxford, Mississippi, and Broken Arrow, Oklahoma. As district court Judge Joyce Hens said in granting the temporary injunction against multiple prosecutions, "the enormous disparity between the plaintiffs' resources and the resources of the government means that plaintiffs could be swiftly driven out of business before they ever set foot inside a courtroom."

The Obscenity Section's efforts could get a boost from a bill that is under consideration in the Senate Judiciary Committee. Introduced by Sens. Mitch McConnell (R-KY) and Charles Grassley (R-IA), the bill would allow victims of sex crimes and their families to sue the producers of sexually explicit material on the grounds that the material contributed to the crime.

Local efforts to ban sexually explicit materials have also risen. In the past year, more than a dozen adult bookstores and video stores across the country have been raided by local police departments. According to the ACLU's Heins, the Obscenity Section encourages such assaults by working closely with local religiously-based groups. "The Justice Department is setting the tone," she said. "It works closely with bizarre antiporn groups that talk about satanism and child pornography. It's really just a vocal minority, but video stores usually acquiesce."

"The prosecutions have definitely had a chilling effect on the [adult film and video] industry," concluded Paul Fishbein, publisher of the trade magazine *Adult Video News*. "But they are wasting taxpayer dollars. Sexually explicit material is not going to go away, because there is a demand for it. If it has to, it will simply go underground like alcohol did during prohibition." Reported in: *The Advocate*, January 14.

Omaha, Nebraska

A criminal obscenity charge was filed November 8 against one of Omaha's mainstream bookstores, one of the few times such a bookstore has been prosecuted anywhere in the country. Omaha City Prosecutor Gary Bucchino charged Read All About It with selling two obscene books and an obscene magazine in one of its five Omaha-area stores.

Bucchino charged that the books — *Stud Hunters* and *Seafood Tales* — and the magazine *Black & Busty* offend the "peace and dignity" of the state by describing repeated acts of oral, anal and group sex, homosexual activity and masturbation.

Few mainstream U.S. bookstores have been charged with obscenity, according to Oren Teicher, president of the American Booksellers Foundation for Free Expression in New York, which defends the First Amendment rights of booksellers. In most instances, he said, bookstores volun-

tarily remove material that is questioned by a prosecutor.

Members of Omaha for Decency, a group seeking to rid the city of what it deems obscene, have been monitoring a number of Omaha bookstores, according to Don Kohls, the group's leader. Kohls said a woman who has since become a member of the group called authorities to complain about books for sale at Read All About It.

"They've been doing it for quite some time, and nobody has complained about it," said Kohls. "Waldenbooks and B. Dalton also are being monitored." Reported in: *Omaha World-Herald*, December 15.

television

London, England

An Emmy-award-winning British television documentary about artistic censorship in the United States is facing problems getting shown in America because of a \$2 million lawsuit filed against its producers by the Rev. Donald Wildmon, founder and head of the American Family Association.

"It's using the legal system as a means of influencing what is shown to the public," complained British filmmaker Paul Yule, who directed and produced the documentary, *Damned in the USA*. "It's a tactic just like a boycott."

Wildmon appears in the film discussing his philosophical views and operational tactics. Although he consented to appear, he charges that the producers violated an agreement not to screen the film in the U.S. without his permission. The producers deny such an agreement was ever made.

Wildmon filed suit for breach of contract after *Damned* was shown last September at the Margaret Mead Film Festival at the American Museum of Natural History in New York, its only public screening in this country. The film went on to win an international Emmy Award on November 26 in New York.

As a result of the pending litigation, said Yule, "others who might show the film in the States are reluctant." One of those involved in selling the film in this country noted that while "the scale of money for purchasing rights is quite small, the threat of legal action is considerable."

"It's so ironic," Yule said. "The American public is not being allowed to make up its own mind about a film which is about the American public not being allowed to make up its own mind." Reported in: *Los Angeles Times*, January 2.

computers

Seattle, Washington

The University of Washington has removed pornographic and other picture files from a widely used computer on campus, citing a shortage of disk space. A number of users of

the computer system complained through an electronic bulletin board about the decision to end storage of the pictures. They said university officials were guilty of censorship and had caved in to controversy after a report on the files appeared in the press.

The *Seattle Post-Intelligencer* had reported that pornographic pictures and stories were available on the system, even though a state auditor had declared that similar material on a Central Washington University computer bulletin board was an illegal use of state property.

But Steven Noyd Jones of the UW computing services unit said removal of the pictures wasn't related to concerns about content or the demands of state auditors. He said the files had been removed because the computer was "saturated" and bogged down. He noted that all picture files, pornographic and non-pornographic, had been removed and that pornographic text files were still in the system. Jones estimated that of 7,800 authorized computer users, fewer than a hundred had ever looked at the picture files. Reported in: *Seattle Post-Intelligencer*, October 17.

rap music

Coral Gables, Florida

Controversial rapper Luther Campbell of 2 Live Crew has gone to court in an effort to retaliate against one of his critics, Coral Gables attorney Jack Thompson. In a civil suit filed in Dade County Circuit Court in November, Campbell sought an injunction to stop Thompson from communicating with Campbell's record distributor, Atlantic Records, and to stop making public and written statements about the rap group. Thompson played an initiating role in an unsuccessful effort to convict 2 Live Crew members of obscenity charges last year.

Campbell's suit cites several letters that Thompson wrote to Atlantic Records president Doug Morris urging him to stop "mentally molesting children for a buck." The suit also asked the court to stop Thompson from speaking or sending letters or faxes about Campbell and his record company, Luke Records, to anyone. Reported in: *Miami Herald*, November 16.

out of the past

Tallahassee, Florida

For nine years, in cities across Florida, at three state universities and in many public school systems, Florida state officials ran an undercover operation which sought to uncover and trap homosexual men and drive them out of state employment and state educational institutions. More than a hundred teachers lost their jobs. An unknown number of

students were forced from school, blackmailed into withdrawing. As a sideline, the state officials went after civil rights leaders and textbooks, anyone whose views differed from theirs.

"It was a witch hunt, a purge, a flagrant violation of civil rights a decade after U.S. Sen. Joe McCarthy's attempt to run roughshod over American civil liberties had been discredited," a major article in the *Miami Herald* reported in December. "To this day, no one has ever been held accountable. Very likely, no one ever will be." The records of the search have been sealed until 2028.

The anti-gay purge was an outgrowth of efforts in the late 1950s and 1960s by the Florida Legislative Investigative Committee to uncover Communist influence in the civil rights movement. Somehow the purge extended to gays, who at the time were virtually defenseless. At the height of the campaign, the committee employed a network of spies and informants who, traveling undercover, went to parties, parks and public restrooms seeking to add to the committee's list of suspected homosexuals.

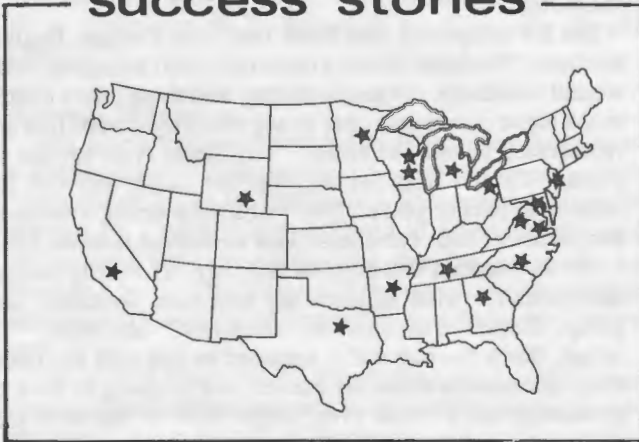
Informants lured people to places where the committee's staff waited, hidden, with cameras. Then they would initiate sexual contact and a picture would be taken. In Gainesville and Tampa, committee members hired hotel rooms near campus. In Tallahassee, Florida State University faculty and students were lured to parties, thrown by an informant, where conversations were bugged. After the parties, people were summoned by campus security, questioned, and expelled.

In 1959, the committee forced 16 faculty and staff out of the University of Florida. By April, 1963, 71 teachers had had their teaching certificates revoked. In addition, 39 deans and professors had been removed from the universities. By 1964, the numbers get murky, but investigators questioned as many as 250 teachers.

In 1963, the committee launched a probe of the University of South Florida in Tampa. Three incidents of homosexuality were discovered and two professors ousted. But the committee also uncovered discussion of "beatnik literature" in classes, singling out a J.D. Salinger short story as offensive for its use of the word "goddamn." For distributing an essay on beat literature by Norman Podhoretz, Professor Sheldon Grebstein, now president of the State University of New York campus at Purchase, was suspended. That incident won the censure of the American Association of University Professors.

In 1964, the committee issued a report on "Homosexuality and Citizenship in Florida." The report recommended, among other actions, the establishment of a "central records repository for information on homosexuals." But to illustrate its thesis that homosexuality was a threat to the security of Floridians, the report included pictures of men kissing and of boys in underwear. That was too much. The report itself became a novelty item in adult bookstores and was banned in Dade County. The committee eventually ended its operations in 1965. Reported in: *Miami Herald*, December 8. □

success stories



libraries

Charlottesville, Virginia

A group of parents concerned about the content of five magazines in school libraries lost an appeal to have the periodicals removed when the Albemarle County School Board voted 4-2 November 11 to uphold the district superintendent's October 4 decision to keep them. Superintendent Robert Paskel said subscriptions to *Rolling Stone*, *Seventeen*, and *Young Modern* would continue at all three county high schools. Subscriptions to *Thrasher*, available at one high school and one middle school, and to *Mother Jones*, available at one high school, were ended, however, primarily for budgetary reasons, but back issues will remain on the shelves.

The complaining parents had charged that advertisements and articles in the five periodicals were inappropriate for students. They also asked for a requirement that all curricular and library materials be screened by parents before their use in school is permitted (see *Newsletter*, November 1991, p. 195). Reported in: *Charlottesville Daily Progress*, November 12.

Cornell, Wisconsin

A request that a children's book be removed from the Cornell Elementary School library was withdrawn after the school's Media Advisory Committee and concerned parent Mary Mandigo agreed that Mandigo's children would not be allowed to check out *The Unicorn That Had No Horn*, by Margaret Holland and Craig B. McKee, but that it would remain available to all other children.

"As much as I'd like children not to be exposed to this book, I realize that it is the parent's responsibility to monitor what their children are reading, and not the school's. Thus, I made the difficult decision to withdraw my request," Mandigo said in a letter to the editor to a local newspaper.

Mandigo originally requested that the book be permanently removed from the library because it promoted "New Age religion" (see *Newsletter*, January 1992, p. 6). In response to the request, the school board formed the committee, but after negotiation Mandigo agreed to withdraw her request if her own children were denied access to the book.

"I have exposed this book for what it is, the New Age Philosophy," Mandigo concluded, "now it's up to the parents to decide, is this what I want my child to read and maybe one day believe in."

Superintendent of Schools Frank Harrington stressed that there was no animosity between the district and Mandigo. "We are going to work with people on their concerns, and not establish an adversarial relationship, and that I think is how this was handled from beginning to end," he said. Reported in: *Cornell and Lake Holcombe Courier*, November 21.

schools

Fayette County, Georgia

At a December 10 hearing, the Fayette County Board of Education ruled that *A Wizard of Earthsea*, a novel which is excerpted in a state and locally approved textbook called *Elements of Literature*, is not a novel of religious instruction and should remain as part of the seventh grade curriculum. "The book meets all criteria that have been set for the system, and the board feels it should remain as part of the text," said board chair Bruce Thoman.

The parents who opposed the book said they were not seeking to ban it from the school system, but were asking that the school district provide alternative reading material. That request was denied by principal Con Chaplin, which led to the parents' appeal to the board.

"I just wanted to exclude my daughter from one story that I don't agree with, and I've been made to go through this process," said parent Terry Poll.

"Couldn't the teacher just have given my child something else to read," echoed Jan Boal. "It makes me very nervous that my children are in a school system where I have no input."

Poll, Boal and as many as four other parents objected to references to magic and wizardry in the novel, which talks about calling spirits from the dead, teaches new age religious theology, and goes against their religious beliefs. However, reading coordinator Ann Riggins said the book was selected for its literary structure, its strong moral lessons, and its captivating adventure. "It is a novel of wisdom compatible with the moral and religious beliefs of this community," she said.

The board decision upheld previous findings by school and system appeal committees, which found *A Wizard of Earthsea* suitable for use in classroom reading assignments. Reported in: *Fayette Neighbor*, December 11.

Carroll County, Maryland

Objections raised last June by two school board members to five books on high school or middle school reading lists were rejected by a curriculum review committee of school district staff and parents. The books will remain available for both library and classroom use.

The novel *Welcome Home, Jellybean*, by Marlene Fanta Shyer, about a 13-year-old girl who returns home after living much of her life in a mental institution, was called depressing by the board members. The committee disagreed, concluding that the book would foster positive discussion of disabilities among middle school readers.

The committee also approved Barbara Smucker's *Runaway to Freedom*, a tale of the slave-era underground railroad, despite its allegedly coarse language, and *Alan and Naomi*, by Myron Levoy, a novel of the Holocaust which was criticized for its "sad ending" and "poor" portrayal of Jews. Both books had been on middle school reading lists.

Board members had expressed concern about the coarse language and dialect in Nobel Prize winner William Faulkner's classic *As I Lay Dying*, but the committee found the language neither excessive nor gratuitous. The board members had also challenged use of Henrik Ibsen's play "Ghosts," which is not taught in the schools but is available to students in *Four Great Plays by Ibsen*, which deals with venereal disease, incest and suicide. The committee decided that the play is not lurid and the book was retained. Reported in: *NEA Human and Civil Rights*, October 1991.

Portage, Michigan

The Adventures of Huckleberry Finn, by Mark Twain, was put back in the hands of high school students in Portage almost as quickly as it was taken away. Administrators in early December lifted a temporary ban on the classic but still controversial novel after talking to teachers about how they present the story, which repeatedly uses the term "nigger." The book was pulled from classrooms November 22 after some black parents complained that their children were uncomfortable with the book's portrayal of blacks.

Director of Curriculum Eugene Parsons said that he and another administrator received calls from two black parents concerned that their children had been made uncomfortable by the reading assignment. "They felt the other students were looking at them, waiting for a reaction," said Parsons.

Parsons said he told the parents the district assigns the book because it provides a positive image, but agreed to suspend use of the book in order to work with the English department on a plan for responding to the issue of sensitivity. "Our purpose was to find a way to address the issue," he said.

"Our intent was never to remove this novel from instruction."

But the temporary ban drew fire from Portage English teachers. "We have shown a concerted effort to express what we call sensitivity, not just in dealing with those issues related to the black community, but in any minority groups that are represented in our literature," said Kathy Von Moltke of Portage Central High School, who has taught the book for more than twenty years. "We feel a very strong kinship to this particular book because of what we believe it stands for."

"If we respond this time, in this way, by simply pulling the literature, what happens the next time someone, any group, chooses to question our sensitivity?" she asked. "If, in fact, this is the way we're supposed to deal with any questions or concerns raised by parents, we're going to have to go through and pull out every single piece of literature that deals with any ethnic group, any special interest group, any religious group that is not exactly the same as the teachers." Reported in: *Ann Arbor News*, December 6; *Kalamazoo Gazette*, November 26.

Jacksboro, Tennessee

The Campbell County school board on October 10 rejected a petition to ban Nobel Prize winner John Steinbeck's *Of Mice and Men* from the high school. Parent Jannie Saunders had presented the board with a petition containing more than 1,000 names objecting to the novel. She said passages read to her daughter in a tenth grade English class contained "blasphemous" language, excessive cursing, and sexual overtones. The board voted 6-1 to retain the book. Reported in: *San Diego Tribune*, December 23.

Buckingham County, Virginia

The parents of a high school student in October asked the Buckingham County School Board to cease requiring tenth grade English students to read John Steinbeck's novel *Of Mice and Men*, but while some school officials and board members questioned how the school could address the issue of students reading profanity aloud in class, the book was retained.

"We have promised God that we would raise our child in a Christian home. This goes completely against what we have promised God," the father told the board. "I don't believe in censorship, I fought in Vietnam for the Bill of Rights. But I do believe that a book like this should not be required reading. If they want to have it in the library that's fine, but it shouldn't be required."

A review committee studied the complaint and concluded that parents could restrict their own children from reading the novel. But the committee concluded that the book should not be withdrawn from the curriculum. "There are some people who would object if we had them reading the Bible," said School Superintendent Jack Gold. "Administratively I see no problem with sending a list of the major required

reading material home at the beginning of the semester," offered Gold. But, he added, "a general censorship would be a great tragedy." Reported in: *Farmville Herald*, October 23.

Altoona, Wisconsin

The Altoona school board decided December 3 to uphold a district review committee decision to keep *James and the Giant Peach*, by Roald Dahl, on a school reading list despite protests by a parent. Teresa Root had asked that the book be removed from the reading list after her 9-year-old son brought it home. The book was being read aloud by a reading specialist to her son's third-grade class at Pederson Elementary School.

The book is about a boy's adventures when he spills magic crystals onto a peach tree and is taken into another world. Root objected to the use of the word "ass" and to parts of the book that dealt with wine, tobacco and snuff and to certain other words, including a reference to a female spider that she said "can be taken two ways, but I feel it's implied to be sexual."

"I couldn't believe my son was reading this to me," she said. "He looked at me and told me that if he used words like this around the house, I'd send him to his room. I'm not asking that the book be taken off the library shelves," she continued. "Parents can monitor what their children take out of the library. I just want children and their parents to have a choice of what kind of books they read."

Root's request was reviewed by the district's nine-member reconsideration committee, which voted unanimously to retain the book. The board's decision to uphold the recommendation was also unanimous.

"I told the board that, according to its policy, any parent has the right to review any material used by students and can request through the principal that their child be given other reading material," said Superintendent of Schools Jon Lamberson. "According to board policy no parent has the right to exclude material from other students in the district and I think that's a very fair standard." Reported in: *Milwaukee Sentinel*, November 23, December 4; *Eau Claire Leader-Telegram*, December 4.

student press

San Ramon, California

Journalism students at California High School won the right in December to have Michael Jackson grab his crotch in the school newspaper. The school principal had planned to ban a cartoon that poked fun at Jackson's "Black and White" video. But students, armed with a California law guaranteeing scholastic journalists greater rights than those conceded by the U.S. Supreme Court under the 1988

Hazelwood decision, challenged the ban and won.

"You just can't come in here and say the community's not going to agree with it and pull it," said Mike Nelson, the sports editor who thought up the cartoon. "I mean, we have rights. We were just shocked."

The cartoon depicted Jackson grabbing his crotch with a censor bar over it. Below read the caption: "How does this grab you?" Public outcry led Jackson to edit the controversial crotch-grabbing scene from his video.

Principal Joe Rancatore labeled the cartoon obscene. "I do not approve of it," he said. "I don't think it's something that's appropriate for a high school newspaper." Rancatore backed down, however, after school district attorneys told him he could not legally censor it. Reported in: *Tri-Valley Herald*, December 11.

colleges and universities

Mankato, Minnesota

After a tie vote by the Bookstore Advisory Committee, the Mankato State Student Association senate voted 25-4 November 20 to keep adult publications on the University Bookstore shelves. The Mankato State University Coalition Against Pornography (CAP) had requested the removal of all allegedly pornographic materials from the store.

Three years earlier, the Bookstore Advisory Committee had unanimously rejected the request. The next year the rejection was renewed, but no longer unanimously. Then, last November, the committee deadlocked 3-3 on the issue and referred the matter to the senate.

CAP charged that the magazines create "a climate of fear that interferes with our academic performance." But most senators agreed with Senate Speaker Dan Ostlund who said the claim that sexual violence and pornography are linked cannot be proven. "Real people who will commit violent crimes are people who are sick to begin with," he said.

"Free expression is the fundamental right in this country," Ostlund added. "All other rights stem from that. The feminist movement does itself a disservice by going after pornography. They're attacking the instrument that has been allowing them to make advances throughout history."

We need to change our views on violence through education, added Student Affairs Coordinator Leroy McClelland. "As an African-American man, I cannot abolish the very principle that my people have strived and stood on," he said. "The fundamental right that protects me also protects the Nazi Party." Reported in: *Mankato State University Reporter*, November 19, 21.

New Brunswick, New Jersey

A bookstore serving Cook and Douglass colleges will continue to sell *Playboy*, *Playgirl*, and *Penthouse* magazines, the store's board of directors decided November 1. Cook-

Douglass Coop Bookstore trustees rejected requests from student leaders asking for a ban on the publications.

The Douglass College Governing Association had endorsed a petition asking for the removal, but the directors "pretty much decided it was a First Amendment issue," said store manager Blossom Lowen. But the directors did agree to conduct an in-store poll asking shareholders whether they should reconsider the decision. Shareholders include participating students, private individuals and college groups. Douglass College is a women's college that is part of Rutgers, the state university. Reported in: *Bridgewater Courier-News*, November 2.

Cheyenne, Wyoming

On the heels of a threatened lawsuit, the trustees of Laramie County Community College unanimously repealed the school's anti-"hate speech" policy. The Board of Trustees voted November 20 to withdraw the policy, which barred students, faculty and staff from engaging in speech or actions "intended to frighten, harass, intimidate or humiliate an individual or group because of race, ethnicity, national origin, sexual orientation, religion, veterans status, marital status or employment position."

Earlier, the ACLU Rocky Mountain Regional Office in Denver threatened to sue the school because the policy served to "chill" the exercise of free speech by members of the college community. ACLU attorneys said, for example, that the policy was so broad as to allow disciplinary action against someone who made the statement "Republicans are conservative."

College attorney Jack Gage told the board that a federal court's rejection of a similar policy at the University of Wisconsin demonstrated the courts' unwillingness to regulate speech "no matter how well intentioned a policy is" (see *Newsletter*, January 1992, p. 17). "If our policy were tested the result would be the same," he said.

ACLU attorney Dorothy Davidson said her organization "applauds the wisdom of the trustees' decision," which "will spare the hard-pressed taxpayers the cost of defending an expensive and unwinnable case." Davidson said the ACLU supports efforts to address campus racism and sexism "but that shouldn't be accomplished at the expense of First Amendment rights. I would urge the school to address the underlying causes of racism through education and by promoting diversity within the faculty and student body." Reported in: *Casper Star-Tribune*, November 22.

art

Los Angeles, California

A federal official agreed December 13 to reinstall two nude female sculptures that he had abruptly removed from in front of a new downtown federal office building after a member

of Congress and a federal judge complained that they were "obscene." The sculpture, by Tom Otterness, shows a woman squatting and a baby girl lying on her back, legs open, holding a globe. Both figures show genitals. The figures were the centerpiece of a \$266,000 work depicting the creation of life.

Edwin Thomas, regional administrator of the U.S. General Services Administration (GSA), who ordered removal of the bronze pieces December 2, agreed to return them after a telephone conference with Otterness and his lawyer. Thomas explained that the GSA was concerned that the pieces would attract vandals, and Otterness agreed to permit installation of equipment to prevent vandalism.

Thomas had ordered the removal of the pieces from in front of the new Edward R. Roybal Federal Building and Center only hours after the 75-year-old Roybal, a veteran Democratic Congressman from Los Angeles for whom the building is named, called the GSA to ask that the pieces be "modified or removed."

Roybal, who chairs a Congressional committee that controls the GSA budget, said he thought the sculptures were "obscene," inappropriate for a public plaza, and "would attract the homeless that come in, perverts, graffiti artists, everything. I don't like it because I think they're obscene."

Several federal judges who work in the building also grumbled about the art, especially U.S. District Court Judge Dickran Tevzian, who sent a letter to Roybal on November 26 calling the pieces a waste of taxpayer money and "a shrine to pedophiles." When the removal was first announced, Tevzian welcomed the decision. "It's not censorship. That is bad taste art. I don't want to go to work and see a crotch staring me in the face every day," he said.

The original decision to remove the two pieces was criticized by Henry Hopkins, chair of the Art Department at UCLA, who served on the citizens panel that, with the GSA, approved the installation. "When do federal judges and congressmen start dictating the art life of Los Angeles?" he asked. "It is a very great disappointment that the piece is being looked at in fragments."

The removal probably violated the Visual Artists Rights Act of 1990, which gives artists the right to prevent the "intentional distortion, mutilation, or other modification of that work which would be prejudicial to his or her honor or reputation." Because the GSA removed only two pieces of Otterness's three-part work called "The New World," the removal could be defined as a modification or mutilation.

According to constitutional lawyer Greg Victoroff, a specialist in copyright protection, the law gives artists rights to protect their art even if the work is owned by a collector or commissioned by the government.

"The wonderful thing about this law is that it is sort of contrary to all Western concepts of property law," Victoroff said. "Even if the artist gives up ownership, it gives the artist the rights of attribution and integrity."

The law does allow the owner of a building to remove an

entire work of art if the removal can be accomplished without destroying the work and if the owner sends a registered letter to the artist and gives the artist ninety days to remove the artwork." But the GSA did not notify Otterness because its lawyers said the law exempted the federal government. "I know of nothing in the law that exempts the federal government," commented Victoroff.

In a joint statement, Otterness and the GSA said they would "be exploring potential site enhancements for the two bronze components of the work to minimize the possibility of vandalism. Both parties are confident that the installation will be completed shortly." Reported in: *Los Angeles Daily Journal*, December 5; *San Francisco Daily Journal*, December 4, 16; *Orange County Register*, December 5.

Charlotte, North Carolina

Despite complaints from community residents, officials at the University of North Carolina at Charlotte refused in November to remove a piece of student artwork that depicted a penis nailed to a cross. The work, which was displayed in a campus art gallery, was created by student Winnie Newton and entitled "Sexuality as the Sacrificial Lamb."

Rev. Joseph R. Chambers led approximately twenty people in a rally opposing the piece. He claimed free expression on campuses had opened the door to sacrilege and called the work "absolutely blasphemous." But a university representative defended the exhibit: "A university should be a place where free expression is protected and differing opinions can be expressed." Reported in: *Middlebury Campus*, November 14.

Cleveland, Ohio

An American flag placed on the floor near the entrance of the Cleveland State University Art Gallery angered some university employees and veterans. The work, "Welcome Mat," was created for the university's eighth annual People's Art Show. Viewers are encouraged to walk across the flag when they enter the gallery.

Richard Graham, a maintenance technician at the university, wrote a letter to the gallery saying the flag should not be stepped on. "I respect people's right to express themselves," he wrote, "but I felt that the use of the flag as a doormat was in very poor taste." Gallery director Robert Thurmer hung Graham's letter next to the flag on a gallery wall. He said he did not move the work from its original position because that would have amounted to censorship of the artists, who asked that the flag be near the door. Reported in: *Chronicle of Higher Education*, November 27.

film

Dallas, Texas

Teenagers under 16 will be able to see the movie *Kuffs* without their parents after the Dallas Motion Picture

Classification Board reversed a decision rating the film unsuitable for young people. The January 6 reversal meant that Dallas would drop a lawsuit filed in late December against Universal City Studios. The city had also asked a federal judge to prohibit the film's release without a warning that it is unsuitable for those under 16 years of age. *Kuffs* is rated PG-13 by the Motion Picture Association of America.

"The board had a couple of weeks to think about it and look at all the ramifications," said chair Fred Aurbach. He said the law had "too many gray areas" to continue with litigation.

The board voted 8-5 December 18 to classify the film, which stars Christian Slater and depicts gang wars in San Francisco, as unsuitable. Aurbach said board members were offended by scenes in which people were shot with automatic weapons and a scene in which a police officer is killed while praying in a church.

Under a city ordinance passed in 1966, the film board views all movies rated G, PG or PG-13 by the Motion Picture Association of America. The board, appointed by the City Council, uses local standards to determine whether a film is appropriate for those under 16. If a board rates a film unsuitable, a young person may not see it in Dallas unless accompanied by an adult. Dallas is the only American city with such a censorship board. Reported in: *Dallas Morning News*, January 7.

book

Little Rock, Arkansas

There were no book-signing parties when Daisy Bates' *The Long Shadow of Little Rock* was first published in 1962. Southern bookstores wouldn't carry it. "It was banned throughout the South," Bates, now 77, said of her memoir of the 1957 Little Rock integration crisis and her role in leading nine black students into Central High School. "The publisher was told by salesman that they wouldn't take anything with Daisy Bates' name on it."

Twenty-nine years later, a chance to buy autographed copies of the book drew about 65 people to a September 21 reception for Bates at the Little Rock Club. The book was reprinted by the University of Arkansas Press in 1987, with the influence, Bates said, of Rep. Ray Thornton (D-AR), then university president. Reported in: *Arkansas Democrat*, September 22.

greeting cards

Los Angeles, California

At first it looked like a case of corporate censorship, but sometimes even a big company can admit a mistake. Charlotte Innes, who works with the Los Angeles branch

of the Gay & Lesbian Alliance Against Defamation, tried to send co-workers a congratulatory card last summer with Hallmark's new "Personalize it!" system. "Personalize it!" lets customers print their own message on cards with an in-store computer.

Innes wrote: "Thank you, GLAAD, for being the best gay and lesbian organization around!" The computer screen responded: "Sorry, your information cannot be printed."

After several more rejections, a helpful sales clerk noted that Hallmark maintains a list of "bad words" that it prohibits, though she admitted she couldn't see anything objectionable in Innes' message. "So she called Hallmark," Innes recalled. "And I saw her face fall. She came back and said that 'lesbian' was on the list."

Innes immediately called Hallmark. She said a representative explained that "lesbian" was proscribed because it could be used in an "insulting manner." "Gay," however, was acceptable because it can mean "happy" or "carefree." The representative suggested Innes write Hallmark's Director of Consumer Affairs Don Freburg.

"Not only are you censoring us out of existence," Innes wrote in her letter, "but you're also saying that to be a lesbian is a bad thing."

Freburg promptly responded. "We agree," he wrote, "that this word should not have been included in the restricted word list. It was an oversight."

Hallmark representative Meg Townsend said the firm received about fifty complaints from all over the West Coast, where "Personalize it" is available. "Obviously," she said "that word can be used in a positive way, so we took it out." Townsend would not reveal what other words remain on the proscribed list, however. That, she said is "proprietary information." Reported in: *Detroit News*, October 28.

foreign

London, England

After five years and millions of dollars in legal fees, Britain's battle to prevent publication of a former intelligence agent's memoirs ended November 26 in a victory for press freedom: The European Court of Human Rights said the government violated the rights of three newspapers by forbidding them to print extracts of *Spycatcher*, by Peter Wright. It ordered the government to pay about \$180,000 each to *The Guardian*, *The Observer*, and *The Sunday Times* to cover legal costs.

The book was already on sale in forty other countries in 1987, including the United States, when the government imposed injunctions on the three newspapers. By then, *Spycatcher* was routinely brought into the country by travelers and was commonly available in bookshops.

"The ruling will lead to a reassessment of the use of gagging injunctions in Britain to inhibit the press," said

Andrew Neil, editor of *The Sunday Times*. "It is a good day for press freedom, with implications far beyond *Spycatcher*." Reported in: *Mattoon (IL) Journal Gazette*, November 27.

New Delhi, India

The Indian government backed down on its attempt to suppress the international Maoist journal *A World to Win*. Previously, customs authorities had impounded the English edition of the June, 1991, issue of the periodical, which is published in India by the Revolutionary Internationalist Movement, a coalition that includes the Revolutionary Communist Party, U.S.A. (see *Newsletter*, January 1992, p. 16). After receiving protest from, among others, the PEN American Center, the decision was overturned on appeal. Reported in: *Revolutionary Worker*, November 10. □

poll ends anti-porn campaign

Officials in the Cleveland, Ohio, suburb of Lakewood dropped an anti-pornography campaign last summer, citing a poll that found most residents thought X-rated videotapes should be available to adults who want them. The survey of about two hundred adults, conducted by Ohio State University researcher Joseph E. Scott and Survey Research, Inc., found 67 percent of the respondents said pornographic videos should not be banned. In addition, 78 percent said they should be able to legally obtain sex films, while 88 percent said they did not believe watching close-ups of sex acts would "appeal to any unhealthy lust or shameful interest in sex." Sixty percent of the respondents said the same detailed sex films would not bring out unhealthy tendencies in their neighbors. Reported in: *New York Post*, September 3. □

Mapplethorpe defender wins Downs Award

Dennis Barrie and the Cincinnati Contemporary Arts Center were selected by the University of Illinois Graduate School of Library and Information Science faculty as the recipients of the 1991 Robert B. Downs Intellectual Freedom Award. The Center and its director, Dennis Barrie, exhibited the controversial Robert Mapplethorpe photographs in 1990 and were acquitted of obscenity charges filed against seven of the photographs.

The Robert B. Downs Intellectual Freedom Award was established in 1969 by the faculty of the University of Illinois Graduate School of Library and Information Science in recognition of Dean Emeritus Downs on the occasion of his 25th anniversary as director of the School. The award is given annually to further the cause of intellectual freedom, particularly as it has an impact on libraries and information centers and the dissemination of ideas. □

(Rushdie . . . from page 29)

professionals and the mercenaries, the soldiers of fortune, out of the picture. A few people who did not accept that the decree was revoked might see me as a target. I can deal with that. But I cannot deal with terrorism on my own. I need help.”

One theme of Rushdie’s public talk, adapted by the author from a forthcoming essay entitled “One Thousand Days in a Balloon,” was the writer’s refusal to give in to despair. He informed his audience that, in 1990, he had been assured by British officials that the Iranian government had secretly agreed to abandon the death sentence, but noted bitterly that in the next year “the bounty money had been doubled, the book’s Italian translator severely wounded, its Japanese translator stabbed to death; there was news of an attempt to find and kill me by contract killers working directly for the Iranian government.”

“Let me be clear,” he said firmly. “*There is nothing I can do to break this impasse.* The fatwa was politically motivated to begin with, it remains a breach of international law, and it can only be solved at the political level. To effect the release of the Western hostages in Lebanon, great levers were moved. . . . What, then, is a novelist under terrorist attack worth? Despair murmurs, once again: ‘Not a plugged nickel.’ But I refuse to give in to despair.”

Rushdie also spoke at length about his ongoing and problematic relationship with Islam. “Sometimes I think that one day, Muslims will be ashamed of what Muslims did in these times, will find the ‘Rushdie Affair’ as improbable as the West now finds martyr-burning,” he told his listeners. “One day they may agree that — as the European Enlightenment demonstrated — freedom of thought is precisely freedom from religious control, freedom from accusations of blasphemy. Maybe they’ll agree, too, that the row over *The Satanic Verses* was at bottom an argument about who should have power over the grand narrative, the Story of Islam, and that the power must belong equally to everyone.”

Rushdie explained that his much-publicized December 1990 “reconversion” to Islam had been motivated by a desire to bridge the cultural gaps that his travail had come to symbolize and to deal with the despair that continually threatens to consume him. “Dispirited and demoralized, I faced my deepest grief, my sorrow at having been torn away from the cultures and societies from which I’d always drawn my inspiration. . . . I determined to make my peace with Islam, even at the cost of my pride. Those who were surprised and displeased by what I did perhaps failed to see that I wanted to make peace between the warring halves of the world, which were also the warring halves of my soul.”

“I reminded myself that I had always argued that it was necessary to develop the nascent concept of the ‘secular Muslim,’ who, like the secular Jew, affirmed his membership of the culture, while being separate from theology,”

he continued. “But my fantasy of joining the fight for the modernization of Muslim thought was stillborn. It never really had a chance. Too many people had spent too long demonizing or totemizing me to listen seriously to what I had to say. . . . I reluctantly concluded that there was no way for me to help bring into being the Muslim culture I’d dreamed of, the progressive, irreverent, skeptical, argumentative, playful and unafraid culture which is what I’ve always understood as freedom.”

“Throughout the Muslim world today, progressive ideas are in retreat,” he reported. “Actually Existing Islam reigns supreme, and just as the recently destroyed ‘Actually Existing Socialism’ of the Soviet terror-state was horrifically unlike the utopia of peace and equality of which democratic socialists have dreamed, so also is Actually Existing Islam a force to which I have never given in, to which I cannot submit.”

Addressing those who criticized him for, in fact, submitting, if not entirely capitulating to his tormentors a year earlier, Rushdie acknowledged that “there is a point beyond which conciliation looks like capitulation. I do not believe I passed that point,” he concluded, but admitted that “others have thought otherwise.”

“I have never disowned my book, nor regretted writing it,” Rushdie told the assembled crowd. “I said I was sorry to have offended people, because I had not set out to do so, and so I am. I explained that writers do not agree with every word spoken by every character they create — a truism in the world of books, but a continuing mystery to *The Satanic Verses*’ opponents.”

Rushdie explained that after several meetings and long discussions he had been promised by six leading Islamic scholars that they would explain his views to their co-religionists and would work for reconciliation. “‘In Islam, it is a man’s intention that counts,’ I was told. ‘Now we will launch a worldwide campaign on your behalf.’ . . . It was in this context that I agreed to suspend — not cancel — a paperback edition.”

But, Rushdie admitted, he had “overestimated these men,” noting ruefully that within days they had all cynically resumed attacks on him. “The suspension of the paperback began at once to look like a surrender. In the aftermath of the attacks on my translators, it looks even more craven. . . . I accept that I was wrong to have given way on this point. *The Satanic Verses* must be freely available and easily affordable, if only because if it is not read and studied, then these years will have no meaning.”

“‘Our lives teach us who we are,’” Rushdie mused. “I have learned the hard way that when you permit anyone else’s description of reality to supplant your own . . . then you might as well be dead. Obviously, a rigid, blinkered, absolutist world view is the easiest to keep hold of, whereas the fluid, uncertain, metamorphic picture I’ve always carried about is rather more vulnerable.”

"Free speech is a non-starter," says one of my Islamic opponents. No, sir, it is not. Free speech is the whole thing, the whole ball game. Free speech is life itself." Reported in: *New York Times*, December 12. □

(censorship dateline . . . from page 52)

While "sexual material is always regarded with suspicion by printers," Dowd said gay publishers faced new difficulties in getting books printed in 1991.

Alyson's Adrien Saks also complained that the situation worsened markedly over the past year, but he attributed the change not only to reluctance among printers but also to a new boldness among the publishers. "There's been a general change in atmosphere in the gay publishing business this year," he said. "If last year was tough for gay publishers, it's because we were more brave about what we published." Reported in: *Equal Time*, November 8-22; *Advocate*, January 14.

video

Detroit, Michigan

A national Arab-American organization called in December for the removal of an animated Christmas program, *The Little Drummer Boy*, from video stores and television programming. The half-hour children's show, produced in 1968, portrays Arabs as money-grubbing, fat, ugly, hook-nosed kidnappers, the American Arab Anti-Discrimination Committee said. "How would this look if you had a little Arab drummer and the bad guys were money-grubbing Jewish men?" asked Zana Macki, director of the group's Detroit office. Reported in: *Memphis Commercial Appeal*, December 14.

foreign

San Jose, Costa Rica

The Costa Rican government announced October 27 that it was forbidding the celebration of Halloween in public schools to preserve Costa Rican traditions. The Education

Ministry said the celebration of Halloween was an imitation of a U.S. custom that could "silently undermine" national traditions. Reported in: *St. Petersburg Times*, October 30.

Cairo, Egypt

A security court in December convicted a novelist of blasphemy and sentenced him to eight years in prison, the first time in this century that an Egyptian author has been jailed for his writing. The court ordered similar terms January 2 for the publisher of Alaa Hamid's *The Distance in a Man's Mind* and for the owner of the press where the book was printed.

"I never thought it would result in this," said Hamid. "I thought maybe it would be banned, but not see us all go to prison."

Published in May, 1990, *The Distance in a Man's Mind* comprises dream sequences in which the main character meets prophets of the Koran in comic situations. The blasphemy charges grew out of a report by the Islamic Research Group of Al-Azhar, Cairo's Muslim educational complex considered an intellectual center of Islam. The group banned the book and recommended that Hamid be tried on charges of heresy and blasphemy.

Writers, artists, and journalists, including PEN International and PEN American Center, condemned the sentence meted out to a man sometimes referred to as "Egypt's Salman Rushdie."

"The novel is mediocre," said Gama al-Ghitani, culture editor of the newspaper *Al Akbar* and a novelist himself. "But that is not the issue. This is the first time an Egyptian court has delivered a verdict like this, and it sets a terrible precedent. We cannot allow religious authorities to censor our creative and intellectual work. I am not defending Mr. Hamid now; I am defending myself."

The sentences were handed down by a state security emergency court, established under laws imposed in 1981 after the assassination of President Anwar el-Sadat by militant Muslims. A government court heard the case last spring and dismissed the charges. But the first court referred the case to the special security court in May.

The new judge reopened the case December 25. He allowed the defense thirty minutes to contest the jurisdiction of the court, recessed for an hour, and came back with a guilty verdict. Many believe the hasty verdict was meant to appease religious fundamentalists. "The government tries very hard to appear Islamic," Ghitani said, "and that's why they have done this."

Buoyed by the harsh verdict, the Islamic Studies Institute impounded six more books, which were being exhibited at Egypt's annual international book fair and were described as religious works. In addition, one book contained explicit sex. Sheik Mahdi Abdel-Hamid, an institute representative, said the books were impounded "because they transgressed against religion." Reported in: *Chicago Tribune*, January 8; *New York Times*, January 13. □

(FTRF . . . from page 34)

ride President Bush's veto of the legislation. The Foundation is, however, monitoring efforts by governmental entities to extend the principles of the *Rust* decision to link ideological restrictions to the funding of speech activities.

One piece of good news in the wake of the *Rust* decision was a recent district court decision in favor of Stanford University. The ruling declared unconstitutional a contract clause which required a Stanford researcher who received a government grant for heart research to secure prior approval from his grant officer at the NIH before publishing or discussing the preliminary research. In rendering its decision, the District of Columbia Federal District Court specifically distinguished most of the reasoning of *Rust*, pointing out that language in *Rust* left the University as one arena of great protection for free speech. At this Midwinter Meeting, the Board discussed the matter with its legal counsel and agreed to join a broad coalition from the publishing and higher education community in an *amicus* brief in the appeal. Pursuant to the FTRF/ALA operating agreement, the Foundation has invited the ALA Executive Board to join this effort.

Shortly after the 1991 Annual Conference, the Foundation and the Association of American Publishers jointly filed an *amicus* brief in the troubling case of *In Re: R.A.V.*, a challenge to a St. Paul, Minnesota, hate symbol ordinance. The brief limits itself to a defense of the overbreadth doctrine, which has been a friend to the First Amendment for many years. The Supreme Court's recent decision in the so-called "Son of Sam" case, striking down as overbroad New York State's law impounding the proceeds of speech about criminal activity, was a ray of hope that the Court will not abandon the overbreadth doctrine and will continue to recognize its viability for First Amendment analysis.

In the area of federal legislation, the Foundation received a report on the progress of a bill defining fair use of unpublished materials. The 1991 version of this bill has encountered unexpected opposition from producers of computer software.

Judith Krug presented testimony on July 23, 1991, regarding the Pornography Victims Compensation Act, S.1521. This bill would allow victims of sexual assaults to sue the producers and distributors of sexually explicit materials which the victim contends inspired the crime. The bill thus

shifts responsibility for criminal acts from the perpetrators to third parties, e.g. publishers and distributors. Several organizations with First Amendment concerns have strenuously opposed the bill and we are continuing our efforts to educate legislators on the extraordinary chilling effects such legislation would have.

The assumption upon which the bill is based, that there is a causal connection between expressive material and anti-social conduct, is successfully discredited in a new report by Marcia Pally entitled *Sense and Censorship: The Vanity of Bonfires*, made available by the Foundation and Americans for Constitutional Freedom. The report reviews and refutes claims made by censorship groups that sexually explicit material inspires violence against women. As a service to libraries and librarians, the Foundation is making multiple copies of Pally's report available free of charge (except postage) to all state library association intellectual freedom committees for distribution to libraries in their states.

On November 7-9, 1991, the Foundation held a Strategy Planning Colloquium, made possible through the generosity of the J. Roderick MacArthur Foundation. The purpose of the Colloquium was to bring together First Amendment attorneys, members of the library community and other First Amendment leaders to discuss this decade's perceived new threats to freedom of expression and to develop strategies for dealing with these new threats. Following this Midwinter Meeting, I will be writing to state library association intellectual freedom committees enlisting their assistance in carrying out many of the strategies which were identified as urgent priorities at the colloquium.

We expect another active year in 1992. We plan to stress cooperation with state library association intellectual freedom committees and other First Amendment coalitions in combatting threats to the freedom to read. We also plan to undertake proactive educational efforts to engender better understanding and greater support for First Amendment freedoms.

Finally, the Board received draft reports from two ad hoc committees appointed to 1) revise the criteria used to determine the cases in which the Foundation will become a plaintiff or file an *amicus* brief and 2) develop a statement of policies for the Foundation's investments. Final action on these two documents is expected at the 1992 Annual Conference in San Francisco. □

intellectual freedom bibliography

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

- Ackerman, Bruce. *We the People, Volume I: Foundations*. Harvard University Press, 1991.
- Adams, January. "A Year of Living Dangerously: Implementation of a No Fine Policy at Somerville Free Library." *Public Libraries*, Vol. 30, No. 6, November/December 1991, p. 346.
- Alderman, Ellen and Caroline Kennedy. *In Our Defense: The Bill of Rights in Action*. Morrow, 1991.
- Berlet, Chip. "Activists Face Increased Harassment." *The Utne Reader*, January/February, 1992, p. 85.
- Berman, Paul, ed. *Debating PC: The Controversy Over Political Correctness on College Campuses*. Laurel, 1992.
- Best, William. "The Clarence Thomas Hearings: Why Everyone — Left, Right & Center — Found the Press Guilty as Charged." *CJR*, January/February, 1992, p. 25.
- Burns, James MacGregor and Stewart. *A People's Charter: The Pursuit of Rights in America*. Knopf, 1991.
- The CQ Researcher*, Vol. 1, No. 31, December 20, 1991. [Special issue on "The Obscenity Debate."]
- Dellinger, Walter. "Gag Me With a Rule." *The New Republic*, Vol. 205, Nos. 28 & 29, January 6 & 13, 1992, p. 14.
- Ellis, John M. "The Origins of PC." *The Chronicle of Higher Education*, Vol. 381, No. 19, January 15, 1992, p. B1.
- EXTRA*, Vol. 5, No. 1, January/February 1992.
- Fish, Stanley. "There's No Such Thing as Free Speech and It's a Good Thing, Too." *Boston Review*, Vol. 17, No. 1, February 1992, p. 3.
- Gless, Darryl J. and Barbara Heinstien Smith, eds. *The Politics of Liberal Education*. Duke University Press, 1991.
- Glasser, Ira. *Visions of Liberty: The Bill of Rights for All Americans*. Arcade, 1991.
- Hafner, Arthur W. "In Defense of Great Books." *American Libraries*, December 1991, p. 1062.
- Hentoff, Nat. "Francisco Jose de Goya Convicted of Sexual Harassment." *The Village Voice*, Vol. 37, No. 2, January 14, 1992, p. 24.
- _____. "What Really Happened at Bette's Ocean View Diner." *The Village Voice*, Vol. 37, No. 1, January 7, 1992, p. 24.
- Jaschik, Scott. "Philosophy Professor Portrays Her Feminist Colleagues as Out of Touch and 'Relentlessly Hostile to the Family.'" *The Chronicle of Higher Education*, Vol. 38, No. 19, January 15, 1992, p. 1.
- Jaschik, Scott. "Row Over an Unpublished Article Illustrates the Enmity in the 'Political Correctness' War." *The Chronicle of Higher Education*, Vol. 38, No. 19, January 15, 1992, p. A16.
- Kayyem, Juliette. "The New Censors." *The New Republic*, Vol. 206, No. 4, January 27, 1992, p. 18.
- Kohl, Herbert. "Censorship Within the Family: An Interview With Judy Blume." *Hungry Mind Review*, No. 1, Winter 1991-92, p. C17.
- Lewis, Anthony. *Make No Law: The Sullivan Case and the First Amendment*. Random House, 1991.
- Marden, Jeffrey H. "Mainliners Should Take to the Airwaves." *The Christian Ministry*, Vol. 23, No. 1, January/February 1992, p. 13.
- Monaghan, Peter. "New Debates Rage Over Symbols That Offend Many American Indians." *The Chronicle of Higher Education*, Vol. 38, No. 18, January 8, 1992, p. A39.
- Neuborne, Burt. "Cycles of Censorship." *Constitution*, Vol. 4, No. 1, Winter 1992, p. 22.
- 1,000 Days of Censorship: Fiction, Fact and the Fatwa*. Article XIX, 1991.
- Prager, Karston. "Free Speech is Life Itself." [interview with Salman Rushdie] *Time*, Vol. 138, No. 25, December 23, 1991, p. 50.
- Scott, Joan. "Political Correctness." *Change*, Vol. 23, No. 6, November/December 1991, p. 30.
- Stoller, Robert J. *Porn: Myths for the Twentieth Century*. Yale University Press, 1992.
- Student Press Law Center Report*, Vol. 13, No. 1, Winter 1991-92.
- Trudeau, Gary. "The Outlaw Existence of a Political Cartoonist." *The Washington Post National Weekly Edition*, Vol. 9, No. 8, December 23-29, 1991, p. 24.
- Winkler, Karen J. "How Should Scholars Respond to Assertions That the Holocaust Never Happened?" *The Chronicle of Higher Education*, Vol. 38, No. 16, December 25, 1991, p. A8.
- Winkler, Karen J. "Literary Scholars Mount a Counteroffensive Against a Board President, Conservative Critics." *The Chronicle of Higher Education*, Vol. 38, No. 19, January 15, 1992, p. A9.
- Winkler, Karen J. "Scholars Examine Issues of Rights in America." *The Chronicle of Higher Education*, Vol. 38, No. 13, November 20, 1991, p. A9.
- Wood, Gordon S. *The Radicalism of the American Revolution*. Knopf, 1991.
- Zanger, Mark. "The Intelligent Forty Year Old's Guide to Rap." *The Boston Review*, Vol. 17, No. 1, February 1992, p. 5. □

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