

newsletter
on
intellectual
freedom



IFC ALA

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ALA wins round one in Internet “decency” suit

It was an intensive and hardfought struggle, but the American Library Association (ALA) won the first skirmish in the legal battle to protect intellectual freedom on the Internet. The association is the lead plaintiff in a suit filed by the Citizens Internet Empowerment Coalition (CIEC), a coalition of 47 organizations that includes the ALA, the Freedom to Read Foundation, online providers, publishers, parents and other groups (see *Newsletter*, July 1996, p. 113; May 1996, p. 71, 73; March 1996, p. 35). The suit challenged the new Communications Decency Act (CDA) on the grounds that it is overly broad and so vaguely worded that it would subject librarians and other members of the public to criminal prosecution for posting materials online that are otherwise constitutionally protected.

The suit, filed in Philadelphia, was consolidated with a similar suit brought earlier by the American Civil Liberties Union. On June 12, the special three-judge appellate panel named to hear the case announced their unanimous decision that the main provisions of the act were unconstitutional. When Congress approved the CDA, it set up the special judicial panel as part of an accelerated appeals schedule for evaluating the telecommunications law's constitutionality. The case is on the way to the U.S. Supreme Court, however, after the U.S. Department of Justice announced June 28 that it would appeal.

“The judges’ ruling is a tremendous victory for librarians and everyone who uses libraries and cares about free speech,” said ALA’s 1995-96 President Betty J. Turock. “It means that librarians can do their jobs without fear of landing in jail. It means all Americans will enjoy the same access to information in cyberspace that we have on library and bookstore shelves.”

“We are ecstatic. The decision was everything we could have wished,” added Judith Krug, director of ALA’s Office for Intellectual Freedom, which is playing a key role in managing the suit. “This decision was a total victory for the First Amendment. The decision not only reflects the unique nature of the Internet and its value as a pathway of information and ideas, but also that the medium deserves the highest level of protection the United States Constitution provides.”

Other plaintiffs included America Online, the American Booksellers Association, American Society of Newspaper Editors, Apple Computer, Association of American

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

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building coalitions allies on the local level

The following are edited texts of remarks presented by Cecile Richards, Executive Director of the Texas Freedom Network, and Deborah Jacobs, Director of the Corvallis-Benton (OR) Public Library. The speeches were delivered at a program at ALA's 1996 Annual Conference in New York entitled "Allies on the Local Level: How to Build Coalitions to Support Intellectual Freedom," cosponsored by the ALA Intellectual Freedom Committee and the Association of American Publishers Freedom to Read Committee.

remarks by Cecile Richards

I want to thank the American Library Association for having this session. Taking on the important issue of intellectual freedom as you have over the years is critical. What we're seeing today with the Religious Right is the serious challenge to many of the values we hold dear in this country—everything from the free expression of ideas to critical thought and thinking, and the celebration of diversity.

So you know something about me, I'm the mother of three young children—which is, for any of you who are moms and dads, your main identity until they get bigger—who love going to what is already a family friendly library in Austin, Texas. I didn't realize that was the new term being used but I found out the Religious Right has now decided that public libraries are a danger, too.

I could tell you a lot more about myself but I guess I'd like to think I'm an example of what can happen if you read Maya Angelou's book, *I Know Why The Caged Bird Sings*, in junior high school. We deal with that book a lot in Texas. It was given to me by my sort of surrogate mother, my mother's best friend who is a public school librarian. It introduced me to a life that was so different from my own, and led me to read some of the books that I think were most influential to me as a young person—*Man Child in the Promised Land*, *The Autobiography of Malcolm X*, and lots of other dangerous things.

That's why I feel so strongly about some of the issues we deal with in Texas. I think what's happening is that we're living in a time in which national leaders and the Religious Right are basically trying to determine for the rest of us what family values are and what it means to be a good Christian and a good person. Rev. Pat Robertson and Dr. James Dobson and others about whom I'll talk, have created a litmus test for pretty much every issue, thought or belief. I think the larger danger is that they have really begun to mount a national attack on everything that is public.

What we've proven in Texas this year, I think, is that this assault by the right really does feed into what I think is a broad discontent and insecurity a lot of people in this country are facing. It is not supported by the majority of people in any state. I come from Texas where we've got as many problems, I think, as they do in Oregon. I think it is always dangerous that we're silent in the face of the attack. What I hope we can do some today is equip ourselves and also educate our supporters about the dangers to public institutions and to intellectual freedom.

What I'd like to cover today are three areas. One is a little bit of background on the Religious Right. I assume some of you have already had some skirmishes, but I will give you a little bit of background on what you might expect if you haven't seen them yet. Second, I'll cover a little bit about our experience in Texas in forming an alternative state-wide organization to the Religious Right. And the third is some lessons we've learned that I hope can be helpful in some way in your own state. In the middle, I'll show a video that we developed in Texas last year in response to the growing phenomena of the Religious Right taking over school boards in our state.

In terms of the background of the Religious Right, I'd like to give you my definition. I believe that the far right, the Religious Right, is misusing religion in order to promote a political agenda. It has nothing to do with religion except that some of the motivation for membership and leadership comes from fundamentalist Christianity. But their agenda is really to achieve political power.

Ten years ago, the Religious Right was dominated by the tele-evangelistic personalities such as Jim and Tammy Faye Baker and Jerry Fallwell, who built empires through television. It was a fairly limited movement and pretty much focused on a few social hot button issues, for instance, gays and abortion. The fortunes of this movement rose or fell with individual leaders.

But even then it was interesting. Jerry Fallwell, who has continued to be active, had his eye on public education. His book, *American Can Be Saved*, described his vision of the future. This is a quote from the Reverend Fallwell: "I hope I live to see the day when we won't have any public schools. The churches will have taken them over again. And Christians will be running them. What a happy day that will be."

Now, ten years later, we see that the Religious Right has grown dramatically and has changed in several significant ways. I want to mention some of them to you because I think in terms of figuring out how to deal with them at a local level, it's important to know the type of organizations you're dealing with.

The first is that they are no longer leadership dependent. The days of it just being a tele-evangelist, a preacher on the air, have gone. The classic example of that

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Information or indoctrination: libraries caught in the cultural crossfire

The following are edited texts of remarks delivered at a program sponsored by the Intellectual Freedom Round Table at ALA's 1996 Annual Conference in New York. Titled Information or Indoctrination: Libraries Caught in the Cultural Crossfire, the program featured William Damon, Herb Kohl, and Lawrence Magid.

William Damon is the Mittleman Family Director of the Center for the Study of Human Development and Professor of Education at Brown University. He is the author of The Social World of the Child, Self Understanding in Childhood and Adolescence, and Greater Expectations, which won the Parents' Choice Book Award in 1995. Herb Kohl is director of the Coastal Ridge Research and Education Center in Point Arena, California, and has been a teacher for over thirty-five years. He has published more than thirty books on education, mathematics, language, computers, and social activism. His most recent publications are Should We Burn Babar? and, with Colin Greer, Call to Character. Lawrence Magid is an author and syndicated columnist in the area of computing and online information. His work appears in the Los Angeles Times, Washington Post, and San Francisco Examiner. He is also heard on CNN, National Public Radio, and many other radio and television talk shows.

remarks by William Damon

I'm delighted to be here talking about this issue. I start with something everybody in this room, I'm sure, is not only aware of but appalled by, namely, that pressures to restrict information to young people are great and increasing in virtually every channel of information available. Pressures to change textbooks, water them down, and delete things from them; pressures to get books of all kinds out of their hands; pressures to regulate television; pressures to regulate the Internet; and so on. I do want to talk about the nature of the pressures and what we can do about them in a constructive way.

The first thing we have to do is recognize them and realize their nature, the substance of them, and in a sense sympathize with them a bit by saying, "If there is a pressure for something, it is coming from somewhere." If we can do something to avert the pressure in and of itself, it becomes possible to deter the kinds of solutions such as censorship that we are all trying to avoid.

The first line of attack against restriction of information in our society has been constitutional lines of attack, such as the ones that have been celebrated at this meeting by awards. These, of course, are wonderful efforts. They are essential. They need to be supported. But I worry that

in and of themselves, in the long run, they are not going to be sufficient because they are pitted against a societal interest that's widely shared and perceived as being essential in and of itself, in this case specifically, the best interests of the child. In the long run constitutional barriers will be chipped away, will be worn down. There may be victories, there may be battles—but it is going to be very difficult to win the war in the long run. I get nervous when I hear, as I heard this afternoon, about a victory being won on the grounds that "well, this is just somebody's personal belief, but really if you could have demonstrated that it was of educational value to pull these materials off the shelves, then perhaps the librarian would have had a sustainable point."

The point I am going to make, the case I am going to present, in a sense the ammunition I want to give you, is that it is never in the best interest of the child, it is never of educational value, to censor. Everything we know about child development, everything we know about intellectual development, everything we know about moral development, says that censorship, restricting information, is counter-productive. It has the opposite effect—it is either powerless or it has the opposite effect of what is intended, and even more ironic, it wastes an opportunity for providing the child with guidance around exactly the issues that you are most concerned about. That is the moral of my story and that's what I am going to talk about.

I want to start with a metaphor. In fact, I am going to use two different metaphors during this talk. The first metaphor I'll use comes from the old practice of blood letting and leeching, which, before modern medicine, as I'm sure all of you know, people thought was the way of purifying the blood against infectious diseases. It turned out that this ended up weakening a lot of people who succumbed all the more readily to the infectious diseases. The only thing that, in the long run, was effective against stopping this medical practice, which was based on the wrong idea, was when finally something more accurate was understood about the germ theory, about sanitation, about the kinds of things that prevented the original cause for this practice, namely, the spread of infections.

I want to argue that the causes of the pressures to restrict information are, in fact, real. And we are mistaken to deny them. What are people concerned about as far as young people go in our society. What are adults concerned about? There are three great issues of the day that are shared among a lot of responsible, concerned adults. There's been a rise in violent crime among young people. It's undeniable. In fact, we're beginning to live in a society where most of the violent crime is committed by younger and younger people. There has been a rise

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IFC report to ALA Council

The following is the text of the Intellectual Freedom Committee's report to the ALA Council delivered by IFC Chair Candace Morgan at ALA's 1996 Annual Conference in New York on July 10.

As chair of the Intellectual Freedom Committee, I am pleased to report on the Committee's activities at this Annual Conference.

Resolution to Affirm Intellectual Freedom as ALA's Core Value

Intellectual freedom has long been one of the highest priorities for ALA membership, governing bodies, and staff. Our Mission Statement emphasizes the Association's commitment to ensuring access to information. As ALA continues to grow and thrive, it is inevitable that we will experience cycles of financial growth and decline. However, the threats to intellectual freedom are always present. If we are to remain vigilant in our advocacy for, and defense of, intellectual freedom, the Intellectual Freedom Committee believes it is important that Council, ALA's governing body, formally affirm that this core value, intellectual freedom, should be clearly evident in all aspects of ALA's budget development and fiscal management.

I recommend the adoption of Resolution to Affirm Intellectual Freedom as ALA's Core Value. [Council returned the resolution to the Intellectual Freedom Committee for further study.]

Resolution of Commendation

ALA's leadership role in *American Library Association v. The United States Department of Justice* is a shining example of quick and effective action in defense of intellectual freedom. The American Library Association and the Freedom to Read Foundation worked closely with our attorneys, Jenner & Block, on the factual background for this case. With the invaluable assistance of Judith Krug and the staff of the Office for Intellectual Freedom, Jenner & Block presented a compelling case to the judges about the effects of the Communications Decency Act on libraries. In reaching their 3 - 0 decision finding the CDA unconstitutional, the judicial panel relied heavily on the factual evidence provided by the plaintiffs. The strength of the Pennsylvania Court's decision puts us in the best position possible for its hearing before the U.S. Supreme Court.

This victory for the First Amendment and libraries would not have been possible without the timely and decisive leadership provided by ALA President Betty Turock, Executive Director Elizabeth Martinez, and members of the Executive Board in committing significant funding from the American Library Association Library Future Fund for the cost of this litigation.

I present to you a Resolution of Commendation already adopted by the Intellectual Freedom Committee and the Intellectual Freedom Round Table and endorsed by the Committee on Legislation, and ask that you join us in expressing gratitude and appreciation to Betty Turock, Elizabeth Martinez, and members of the Executive Board for their leadership in this historic litigation.

Questions and Answers about Access to Electronic Resources

As the Committee promised when Council adopted the Interpretation of the *Library Bill of Rights* on Access to Electronic Information, Services, and Networks at the 1996 Midwinter meeting, the IFC and Division representatives met in Chicago in March to work on a Questions and Answers document to assist librarians in applying the Interpretation to the specific situations faced in different types of libraries. For a variety of reasons, the draft document we prepared was not circulated widely enough prior to this conference. We have incorporated a few suggestions that we received and will circulate a new version immediately after this conference. The committee will discuss this document again at the 1997 Midwinter Meeting.

The Freedom to View

The American Film and Video Association, the sponsoring organization for The Freedom to View statement, went out of existence several years ago. This anti-censorship statement applies to the freedom to view film, video and other audiovisual materials. The statement was endorsed by the ALA Council in 1990 and has been adopted by many libraries. Dr. Ron Sigler, the developer of the statement, has asked the IFC to review it with the goal of adding it to the ALA intellectual freedom policies. The Intellectual Freedom Committee agrees with Dr. Sigler and will circulate the document to the ALA Council and all divisions, committees and round tables for review. If there is general agreement that the statement should be added to ALA intellectual freedom policies, the committee will bring it to Council at the 1997 Midwinter meeting.

Leadership Development Training

In 1994, OIF held a national Leadership Development Institute (LDI) for 75 librarians and library administrators. The institute updated participants in intellectual freedom principles and prepared them to train others in their states and regions. The goal was to train librarians across the country in these important principles. To accomplish that goal, OIF sought outside funding from the Nathan Cummings Foundation for ten regional leadership development sessions. In early 1995, the Foundation provided \$52,000 for this endeavor. These regional

sessions would take place from mid 1995 through early 1997 and participants from the original LDI would assist in coordinating and facilitating these institutes. As of this date, seven sessions have been held and over 500 librarians and library administrators across the country have participated in these institutes.

To further the scope of this exciting program, in early 1996, OIF again sought funding assistance from the Nathan Cummings Foundation. After the completion of the regional sessions, the Foundation provided another \$50,000 for state and local leadership LDI's. The goal of this grant, which will run from June 1996 to June 1997, is to train at least one librarian in every congressional district in the United States. As of this date, several state LDI's have already been held and four additional sessions are planned before the end of 1996 including a program encompassing the state of Texas.

Judith Krug, OIF Director, presented information on these state and local LDI's to Chapter Relations at this conference to encourage states to participate in these training institutes. OIF will be providing some funding assistance for speakers and assistance in program planning for the state LDI's.

Lawyers for Libraries

To dovetail with the LDI training, OIF proposed a national training session for lawyers to update and train them in intellectual freedom principles and library policies and procedures. Many lawyers have some background in First Amendment law, but have no background in how the First Amendment applies to library policies and procedures. Therefore, when libraries face challenges and have to seek legal assistance, lawyers are sometimes ill equipped to face this task. Accordingly, the goal of this \$50,000 grant from the Albert A. List Foundation is to train 100 lawyers from around the country, preferably at least one from each state. Extensive materials on the First Amendment and intellectual freedom, particularly those produced by ALA/OIF, will be provided to participants, as well as ALA contacts in each state for follow-up.

After this training session is held, librarians who contact OIF regarding challenges to materials can then be put in touch with the closest specially trained lawyer. Besides assisting the particular librarian/library, this grant will further the national visibility of ALA/OIF and its important work in the area of intellectual freedom.

A planning session for the program will be held August 21, 1996 in Washington, D.C. The planning committee is chaired by Robert Peck, Vice-President of the Freedom to Read Foundation, and consists of Candace Morgan and other members of the IFC, as well as a representative of the American Bar Association. The training institute will be held in the spring of 1997. Further publicity will be forthcoming on this exciting program after the planning session is held.

Membership discussion of intellectual freedom principles and issues

The Membership Committee scheduled a discussion of intellectual freedom issues at Membership I at this conference. A quorum was not reached and not much time was available for the IF discussion. Members who spoke expressed a desire for more information on managing intellectual freedom and the practical application of intellectual freedom principles. The Intellectual Freedom Committee will work with the OIF staff to develop short informational pieces to assist members in applying ALA's intellectual freedom policies in the two areas specifically mentioned at the membership meeting, internet software filters and internet acceptable use policies. In addition, the IFC has asked the help of the Intellectual Freedom Round Table to schedule an intellectual freedom forum at the 1997 Midwinter Meeting.

Miscellaneous

The First Freedom Op-ed Project is now one year old and the editorials have been run in hundreds of newspapers. We continue to urge members to report to the OIF when these editorials appear in local newspapers.

The Fifth Edition of the *Intellectual Freedom Manual* was published in January, 1996, and is selling well.

Banned Books Week 1996 will take place on September 28-October 5. The materials this year are very exciting: the theme is "Exercise your Right to Read." Despite the controversy of Banned Books Week 1995, we look forward to another successful celebration of the freedom to read.

This is my fourth and final year as Chair of the Intellectual Freedom Committee. It has been my pleasure to serve in this capacity during the exciting and challenging time in which the Committee drafted and Council adopted Interpretations of the *Library Bill of Rights* relating to Economic Access and Access to Electronic Information. The Committee also developed several sets of guidelines to assist librarians and library governing bodies in the development of policies and procedures in accordance with First Amendment principles. I also have felt very privileged to serve as Chair of the IFC during the first stage of ALA's challenge to the Communications Decency Act of 1996. I would like to take this opportunity to thank Council, each ALA President under whom I have served, present and past members of the Intellectual Freedom Committee, Judith Krug and the OIF staff, ALA staff in general and the ALA membership for continuing and passionate support for the Right to Read for all persons in this great country of ours. □

Resolution to Affirm Intellectual Freedom as ALA's Core Value

WHEREAS intellectual freedom is the core value that undergirds all library programs and services; and

WHEREAS the American Library Association's mission statement (policy #1.2) includes the Association's commitment to ensuring access to information; and

WHEREAS without intellectual freedom, access to information is meaningless; and

WHEREAS ALA members consistently rate intellectual freedom as a top priority of the Association; and

WHEREAS effective response to intellectual freedom concerns in an evolving electronic environment, censorship challenges in libraries, and state and local legislative initiatives seeking to obstruct access to information and ideas requires sufficient Association resources and services; and

WHEREAS ALA has an obligation to manage its resources in accordance with the priorities established by the membership; now therefore be it

RESOLVED that this Council, ALA's governing body, affirms that this core value intellectual freedom should be clearly evident in all aspects of ALA's budget development and fiscal management.

Adopted by the ALA Council, July 10, 1996. □

rap attack back on track

The crusade against "obscene" music lyrics resumed May 30 when William Bennett of Empower America joined a Washington press conference with Sens. Joseph Lieberman (D-CT) and Sam Nunn (D-GA) and C. DeLores Tucker, head of the National Political Congress of Black Women, to announce a national campaign calling on five of the six major recording distributors "to stop participating in the production and distribution of . . . vicious, violent and vulgar music."

Specifically castigated were Time Warner, Sony, Thorn EMI, Bertelsmann Music Group (BMG) and PolyGram,

which account for seventy percent of U.S. sales, for selling rap and rock music laced with "degrading and indefensible" lyrics.

According to Bennett, the campaign's goal is not to eliminate offensive music but to "move it to the periphery . . . Put this stuff back in the red-light district. Let the low-ball guys do it. What [the major distributors] do is legitimize it."

At the press conference, Bennett, author of the bestselling *Book of Virtues*, unveiled what some pundits dubbed "The List of Vices," explicit lyrics from 48 songs by twenty acts (all but two of them rap). All of the albums from which the songs were taken voluntarily display the Recording Industry Association of America's "Parental Advisory — Explicit Lyrics" sticker.

Bennett told reporters that the frequent use of offensive, sexually explicit words was "leading society down the wrong road." He described saucy lyrics as "a great big cultural cancer" that helps foster a climate of violence among young people.

"These companies have the blood of our children on their hands," added Tucker. "We protect owls. We protect whales. We must protect children."

Bennett announced that Empower America would bankroll a \$25,000 radio ad campaign to collect petitions from listeners who want the record companies to "stop spreading this vicious, vulgar music."

Empower America's letter to Time Warner acknowledged the company had made progress since it was targeted in summer, 1995, by Bennett, Tucker and Bob Dole. Last fall, the company sold its fifty percent stake in the controversial Interscope Records. Curiously, MCA, the distributor that subsequently acquired a fifty percent interest in Interscope, was exempted from Bennett's current campaign.

Bennett explained that Edgar Bronfman, chair of MCA's parent company Seagrams, had personally promised him that the label would not market offensive music. Under the terms of the MCA/Interscope deal signed in February, MCA can choose not to release any music it deems objectionable. Interscope can, however, then release the music through third parties and as part-owner of the label, MCA would still receive a share of the profits from such recordings.

Recording Industry Association of America president Hilary Rosen responded to the press conference by saying the industry "has responded to the legitimate concerns of parents" with parental warning labels on explicit albums. "I challenge today's lyric vigilantes to become true youth advocates by empowering them economically, socially and politically," Rosen said. "By allowing the voices of a few self-appointed moral guardians to impose their musical tastes on all Americans, we're simply finding scapegoats instead of solutions." Reported in: *Washington Post*, June 9; *Daily Variety*, May 31. □

FTRF report to ALA Council

The following is the text of the Freedom to Read Foundation's report to the ALA Council, delivered by FTRF President June Pinnell-Stephens at ALA's 1996 Annual Conference in New York on July 9.

As President of the Freedom to Read Foundation, I am pleased to report on the Foundation's activities at this Annual Conference.

Litigation

In a tremendous victory for the First Amendment, on June 12, a special three judge federal panel in Pennsylvania declared the Communications Decency Act—an attempt by Congress to ban indecent materials on the Internet—unconstitutional. We discussed the implications of this decision and the fallout for libraries extensively at this conference.

On June 28, the Justice Department indicated that it would appeal the lower court's decision. Because of the expedited review provision of the Act, we anticipate this case will be argued in the United States Supreme Court in January or February, 1997, with a decision before the court adjourns in the summer of 1997. Now, on to victory in the Supreme Court!

Legal expenses in this case are expected to exceed \$1 million, toward which the Freedom to Read Foundation contributed \$100,000. As part of its discussion, the Board heard a presentation by Robert Croneberger, Director of the Carnegie Library of Pittsburgh, who testified on behalf of the library profession in *ALA v. DOJ*. Mr. Croneberger's testimony was so effective, he was cited three times in the judges' decision.

In other matters, the Foundation scored a wonderful victory in *Playboy v. Deters*, a case in which a prosecutor overstepped his authority when he issued a letter to a Barnes & Noble bookstore in Cincinnati, Ohio, informing it that several publications, including *Playboy*, violated that state's harmful to juveniles statute. The Freedom to Read Foundation and eleven other organizations filed suit against the prosecutor, alleging prior restraint, challenging both the statute and the actions of the prosecutor on First Amendment grounds, and requesting injunctive relief.

On May 2, Judge Herman Weber of the United States District Court, Southern District of Ohio, ruled in favor of the plaintiffs, finding that the letter did not indicate why the listed materials were harmful to juveniles. The judge declared the letter null and void, ordered it to be withdrawn, and assessed costs incurred by the 12 companies that initiated the lawsuit in 1995. The judge, however, did not strike down the statute, indicating that such an action would be premature because the state courts have not reviewed it.

On May 15, Prosecutor Deters filed a motion for reconsideration or a new trial in this matter. As of this date, this motion has not been heard. The Foundation will continue to monitor this case in the event of further litigation.

The Foundation also scored a victory in *Alliance for Community Media v. FCC*. On June 28, the United States Supreme Court addressed the issue of "offensive" materials on public access cable programs and ruled that two key provisions of the 1992 Cable Television Act are unconstitutional restrictions on free speech. One provision, which requires cable system operators to place "patently offensive" programming on a separate channel and to block the channel unless a subscriber makes a written request for access, was held to be too restrictive, by a vote of 6-3. The court also struck down, by a 5-4 vote, a provision allowing cable owners to veto programming on public access channels that serve as public forums for local educational and government programming. A third provision, designed to protect children from exposure to "patently offensive sex-related materials," was upheld as "a sufficiently tailored response to an extraordinarily important problem involving a balance of interests."

Our legal counsel is assessing the impact of the decision in light of the appeal of *ALA v. DOJ* to the Supreme Court.

Since the Midwinter Meeting, the Foundation has become involved in two important court cases. First, the Foundation filed an *amicus* brief in *Playboy Entertainment Group v. United States*. This case challenges another portion of the Telecommunications Reform Act of 1996. Section 505 of the Act attempts to restrict "indecent" programming on certain cable access channels by blocking or scrambling the programming. In March, the United States District Court in Delaware issued a temporary restraining order, which prevents the United States from enforcing Section 505. The order noted that serious questions existed as to whether the time and blocking requirements mandated by the Act for cable access programs constituted the last restrictive means of achieving the government's interest in regulating the accessibility of adult programming on these channels to minors.

Echoing the arguments in *ALA v. DOJ*, the Foundation and 12 other organizations argued in the *amicus* brief (filed in May) that this section violated the First Amendment in that it is vague and overbroad and attempts to set a standard which is unconstitutional under the guise of "protecting children."

In an unusual move, the Foundation, joining a coalition of groups, filed an *amicus* brief in a case at the trial court level. In *Rice v. Paladin Press*, the family of a murder victim is suing Paladin Press for publishing a book that discusses methods of assassination after it was discovered that the man convicted of the crime had pur-

chased the book some fourteen months earlier. The lawsuit seeks to hold Paladin Press accountable for damages for publishing this book, labeled by the plaintiffs' attorneys as a "murder manual." Due to the potential impact on First Amendment law if a trial is held on this matter—the specter of ruinous civil liability simply for publishing words that someone else may act upon—the Foundation joined this case in April. The *amicus* brief emphasized the First Amendment arguments in an attempt to persuade the court to dismiss the lawsuit and place the case in a more constitutional context.

If Paladin Press is held liable, it would set a dangerous legal precedent for libraries, as well as publishers. What if a library patron checked out a novel and committed a crime based on a fictionalized account? Would the library be liable for these actions and be forced to pay damages to the victim of the crime? If so, libraries as we know them could cease to function.

Unfortunately, in June, the trial court did not accept our *amicus* brief. There are two possible explanations—one positive and one negative. The court may have already decided that, under existing law, Paladin Press cannot be held liable in this matter. Or, the court may be inclined to rule against Paladin Press and view the book as an aberrational publication to which the norms and analogies of the mainstream publishing and program-

ming worlds do not apply. Either way, as of this date, the motion to dismiss this case is still pending. Due to its importance, the Foundation will be watching this case closely and will report on developments in it at the Midwinter Meeting.

Other Business

I am pleased to announce that the Foundation is once again participating in the Independent Charities of America (ICA) campaign. ICA was founded by employees of the Internal Revenue Service to offer federal employees alternative opportunities for charitable giving in the workplace. We are participating in the 1996 national and state fundraising campaigns.

Finally, the Foundation was pleased to present its Roll of Honor Award to a very deserving colleague—Gordon M. Conable—at the Opening General Session of this conference. Gordon has devoted literally decades to the pursuit of intellectual freedom, and particularly the Freedom to Read Foundation, and has provided invaluable guidance to the Foundation in fulfilling its mission to protect the freedom to read in libraries.

The Foundation looks forward to another challenging and busy year dealing with First Amendment issues critical to libraries. □

in review

The Scandal of Pleasure: Art in an Age of Fundamentalism. Wendy Steiner. The University of Chicago Press, 1995. 251 p. \$24.95.

What a breath of fresh air! This book counters the rise of fundamentalist thinking about the arts with a liberal aesthetic for our times. Steiner's calm and rational style results in a work that is intelligible to the nonspecialized reader. She explains the value of the aesthetic experience within the culture wars raging between extremists of the right and of the left. She is very candid in showing the relationship between art and life amid fear and outrage about vilified art and discredited orthodoxies.

Steiner addresses contemporary cultural conflicts and brings out their subtler meanings. Covering such sensitive topics as the Mapplethorpe/Serrano photographs, Salman Rushdie's death sentence imposed by the Ayatollah, the disparity between the scholarly and political activities of Anthony Blunt, Martin Heidegger, and Paul de Man, and political correctness, she is shrewd, far-ranging, and reasonable in her perceptions. This reader especially liked her commentary on reading for pleasure rather than criticism.

She is almost profound in talking about the division between reality and fabrication as viewed by a number of individuals and groups she discusses. She shows ". . . the more practiced we are in fantasy the better we will master its difference from the real." She argues that artworks are thought-experiments and always open to personal interpretations. Therefore, works of art cannot be obscene.

The author reminds us that aesthetic experience requires the ability to distinguish fiction from nonfiction and the figurative from the literal but for many people, such distinctions are meaningless and a picture is no different from what it represents. She also covers the MacKinnon/Dworkin crusade to equate pornography with rape and explains the problems involving multiculturalism on college campuses. She castigates militant feminism as an "unholy alliance between the far left and the far right."

This reader found her book to be a genuine guide to understanding the current crisis in the arts. She does this with wit and patience. She says we should participate in what she calls "enlightened beguilement" and not be embarrassed to gain pleasure in the experience. I found exactly that as I eagerly read each essay.

Her very appropriate twenty-seven illustrations add to the text. The photographs by Mapplethorpe, Warhol, and Sally Mann especially make the text more vivid. Wendy Steiner has written for the *New York Times*, *Independent*, *Times Literary Supplement*, *London Review of Books*, *Guardian*, and *Art in America*. She is also Richard L. Fisher Professor of English and Chair of the English Department at the University of Pennsylvania—*Reviewed by Gene D. Lanier, Professor, Department of Library Studies and Educational Technology, East Carolina University, Greenville, North Carolina.* □

Danger Zones: What Parents Should Know About the Internet. By Bill Biggar and Joe Myers. Andrews and McMeel, 1995. 129 p. \$10.95.

The authors of this book show their bias quite clearly in the title of the publication. The emphasis appears to be to cash in on the publicity surrounding the Communications Decency Act and to alert parents to the danger of the Internet. And that danger is a three letter word: SEX.

The book is uneven and, in some respects, a hodge-podge. While the chapter discussing the World Wide Web is a mere seven pages long, the chapter devoted to “chatrooms” runs some twenty-three pages. In this chapter, the emphasis is, of course, on sex via the internet and on the dangers which lurk behind every electronic encounter.

In the first chapter, intended to be an overview of the Internet, the authors manage to reduce the history of this electronic wonder to less than two pages. It is also here that there are some rather strange statements. For instance, the authors present “gophers” as a major research tool without ever mentioning that most institutions are allowing their gophers to fade away in light of the possibilities of the WWW. It is also here that FTP is mentioned the only time in the book with this explanation: “The acronym FTP identifies on-line libraries that can be accessed to download a wide variety of free software and games.”

In the second chapter, the authors discuss the “problem of anonymity”. The next chapter, titled “It’s NOT America Online’s Internet,” is a mishmash of disconnected statements. It includes the following: “Although most GIFs available on-line are smutty;” a bold statement with little information provided to support the assumption. It is in this chapter, however, that is found the best sentence in the entire book: “Ultimately the best strategy for good on-line parenting is the same strategy for good parenting, period.”

The next chapter is the one devoted to “chatrooms,” which the authors appear to consider the most dangerous

areas of the Internet. In chapter five, Biggar and Myers share with the reader the exchange between an imaginary 13-year-old which they created and some dirty old men. The intent is to show how easy it is for an older person to “seduce” children on the Internet. They devote the next chapter to a discussion of the differences between the Internet and USENET. The need to include such a chapter in this book was lost on the reviewer. Chapter seven is the brief piece on the World Wide Web for which they hold great hope because the web is more structured and with a less “no holds barred” attitude than the Internet!

The last third of the book is strange. It includes a chapter on “netiquette for kids,” a rather good chapter on “Parenting Strategies and Suggestions,” and a long chapter listing 181 great sites for kids. It is somewhat incongruous that the authors can spend so little time discussing the WWW and then provide this extensive list of web sites. Although the list appears to be quite good, the authors never share the criteria used in selecting these particular sites as opposed to another 181 sites. This reviewer suspects that the sites were chosen on personal whim rather than based on any substantive criteria.

There is no doubt that many parents can use some advice and guidance in the area of the Internet and how their children can use it. This is not the book for them.— *Reviewed by Joseph A. Boisse, University Librarian, University of California, Santa Barbara, California.* □

creationism fight reviving

Seventy years after John Scopes was convicted of teaching evolution in Dayton, Tennessee, and less than a decade after a U.S. Supreme Court decision held unconstitutional laws requiring the teaching of so-called “creationism,” Tennessee’s legislature was considering permitting school boards to dismiss teachers who present evolution as fact rather than a theory of human origin. And around the country, the issues that Clarence Darrow and William Jennings Bryan fought out in Dayton are being replayed in classrooms, school board meetings and state legislatures, and religious fundamentalists become increasingly assertive.

The most concerted activity has been in the South. In addition to Tennessee, a district in Georgia endorsed the teaching of creationism and Alabama approved a disclaimer, to be inserted in biology textbooks, calling evolution only “a controversial theory.” But teaching creationism has reemerged as an issue in places as far flung as Friendly, Nevada; Paradise, California; Moon, Pennsylvania; and Merrimack, New Hampshire.

(continued on page 168)

— censorship dateline —



libraries

Fresno, California

A photography exhibit of nude women at California State University caused Fresno's Madden Library to come under fire from some in the university community who charged the exhibit was inappropriate. Maricela Magana, a 24-year-old food science major, was most visible in objecting to the photographs by Scott Shaver.

"I agree that everyone has their freedoms, but they have crossed over onto mine," Magana said. She called the thirty black-and-white photos demeaning to women and said they could encourage rapists. She also charged they improperly were placed in a corridor leading to the library's juvenile literature collection.

Dean of Library Services Michael Gorman said five other people also had complained. "It is patently ridiculous to demand the removal of something you find offensive, but [the exhibit] is not illegal or indecent," he said. "This is a university, a place where ideas are presented and thought about. It is not a kindergarten." Gorman said he had received no pressure from administrators to remove the photographs.

Magana said she would keep trying to find someone in Fresno State's administration to support her. "The world is losing all its morals, and nobody cares," she lamented. Reported in: *Fresno Bee*, May 23.

Monroe, Louisiana

Ouachita Parish's School Board gave West Monroe Principal Buddy Reed and Superintendent Lanny Johnson a vote of confidence June 4 for their decision to pull books from the school library because of sexual content. Board member Greg Manley's motion of sup-

port for Reed and Johnson preceded a second motion to form a committee of parents, teachers, librarians, school supervisors and principals to write a "clear and coherent policy" for selecting books for school libraries.

But Jan McGee, president-elect of the Ouachita Association of School Librarians, said pulling the books was wrong. "When you start limiting and censoring material, where do you stop?" McGee asked. "This week it's books on sex. Next week it's books on racism, people of different colors. If we start pulling everything because we think it is inappropriate we're going to have a watered-down collection. We're going to have a lot of suits."

Reed told librarian Doloris Wilson to pull the four books from library shelves May 2. On May 3, he asked her to remove all books relating to "sex." The second request included more than two hundred books. All the books, except the original four, were returned to shelves. Wilson filed a grievance against Reed that was being reviewed by Johnson and a complaint with the ACLU.

The four books pulled were: *Heartbreak and Roses: Real Life Stories of Troubled Love*, by Janet Bode and Stan Mack; *Gays In or Out of the Military*, by Ron Ray; *Everything You Need to Know About Abstinence*, by Barbara Moe; and *Everything You Need to Know About Incest*, by Karen Spies.

Reed said the books were ordered and placed in the library within the past two years by the library staff. He said he didn't sign the purchase order to buy the books and didn't know about them until a member of his staff told him.

"There are statements in these books that should not be for review by young children. It is questionable literature," Reed said. "The books are off the shelf. They will not go back on the shelf."

"I concur with the principal," said Johnson. "It's inappropriate material. Legally, I don't know if a judge will say we have the right, but I believe we have the right if we think they are inappropriate. The worst that can happen is a lawsuit against us, but we have those all the time."

Reed told the board there is a policy for selecting library books but that it was not being followed. Asked whether he followed policy in removing the four books, Reed said he did. But librarians in the audience mumbled "no." They said Reed had not filled out appropriate cards before removing the books. He said he was given the cards two days later and that before pulling the books he consulted with Johnson and his assistant principals.

McGee said there is a selection policy that she and other librarians have followed for at least sixteen years, but she didn't know if it had been approved by the board. McGee told board members the state library association suggests such a policy, and her organization was about to start

rewriting one in their policy manual to present to the board when the controversy erupted. Reported in: *Monroe News-Star*, May 23, June 5.

Wellesley, Massachusetts

The Wellesley Public Library has decided to let lapse one of the more controversial subscriptions in town history: *Playboy*. Nearly two years ago, a nine-year-old boy requested and received a copy of the magazine from the periodicals desk, touching off a debate about censorship. That winter, the Board of Library Trustees twice voted on whether *Playboy* belonged in the library. Both times the board overwhelmingly decided it did.

Despite the fact that few youngsters request it, and in spite of the library's stated opposition to censorship, *Playboy* will disappear from the shelves at year's end, said acting library director Janice Bures. She said the decision not to renew the subscription was based on "collection development," not controversy. The magazine will remain available on microfilm and through interlibrary loan.

"There are a lot of reasons why we would discontinue something," Bures said. "If something got stolen a lot, we might not replace it. We might not buy something back because of lack of interest, and we might not purchase it because something comes along that we feel would better serve the community."

Library trustees Carol Gleason and Sara Johnson both recently won seats on the board after campaigning heavily against *Playboy*. Some residents said library officials pulled the publication after caving in to political pressure. Bures, however, denied that the library was influenced by the election. Reported in: *Boston Sunday Globe*, June 9.

Provo, Utah

A Provo Library Board member has deemed a book on sexuality too racy for its intended audience of young readers and wants it banned from the children's section. John Chamberlain was so offended by *It's Perfectly Normal*, by Robie H. Harris, that he threatened to resign, but later changed his mind.

"As far as I can tell, the majority of the board disagreed with the book," he said. "But my frustration was that no one appeared to be willing to take the bull by the horns and get the problem solved."

An irate caller brought the book to Mayor George Stewart's attention in March. Stewart informed the board, but Chamberlain was dismayed when library staff took the position that they could not legally remove the book, which had been on the shelves since February. Library Director Julie Farnsworth insisted that removal for political, social or moral reasons was not permitted. She did, however, temporarily remove it from the children's section for internal review.

Chamberlain said he was particularly incensed by the book's graphic, anatomically correct illustrations of a couple having sexual intercourse, nude men and women, female sex organs, and children masturbating. He also objected to discussions of intercourse, masturbation, and homosexuality.

A board subcommittee was studying the issue. Reported in: *Provo Herald*, June 21; *Salt Lake Tribune*, June 22.

Clover Park, Washington

A children's book on sex education will be removed from Clover Park School District library shelves. A district-appointed committee of teachers, parents and administrators voted 8-1 May 8 to restrict use of *It's Perfectly Normal*, an illustrated book on puberty, sex and pregnancy, to teachers, counselors and nurses. Students can review the book only with written parental permission.

"I think we always have to make sure we look at age-appropriateness of materials," said Kathy Lemmer, the district's curriculum director and facilitator for the Instructional Review Committee. "What's available in public libraries is not necessarily the same as in school libraries."

It's Perfectly Normal contains cartoon-like illustrations of naked men and women, masturbation and intercourse. The text also discusses birth control and homosexuality. Parents charged that it was too graphic and could foster more questions than it answers.

Nearly thirty people attended a committee meeting on the book and only two spoke in favor of retaining it. Among those speaking for removal of the book was state Rep. Gigi Talcott (R-Tacoma).

"The odds were against us, but I knew we had the support of the parents," said Tammy Dearth, a mother who filed the first request for a review of the book. "They crossed the line with a book that was so explicit." After Dearth and several other parents complained in April, they held two public viewings outside the Lakewood Library to gather signatures against the book. They collected almost two hundred. Reported in: *Tacoma News Tribune*, May 9.

schools

Moulton, Alabama

The "Caged Bird" is still not free. After being turned down by a school media committee, parent George Thomas appealed his request to get poet Maya Angelou's autobiography removed from a school's optional reading list to a system-wide committee (see *Newsletter*, July 1996, p. 120). Dissatisfied with that committee's ruling, he said

he would appeal again to the Lawrence County School Board.

The twelve-member media panel decided that *I Know Why the Caged Bird Sings* may be assigned by any teacher in grades nine through twelve. But if the teacher assigns the book, another of comparable literary value must be available to students whose parents object. In the past, some parents have objected to the book. They also objected when the word "banned" was used, saying they only wanted to keep students from being required to read it. Thomas, however, said he wants the book banned completely from the schools.

Lawrence County school superintendent Patrick Graham placed himself at the center of the controversy when he went into East Lawrence teacher Ernestine Robinson's English class and told her "this book is not to be used, period." Robinson asked for a public apology from Graham for "questioning her ethics" and for violating board policy. Graham said he asked East Lawrence principal K.C. Thomaskutty to pull the Angelou book after parents brought some "pornographic" sections to his attention in November. Reported in: *Decatur Daily*, July 5.

Tempe, Arizona

The mother of a McClintock High School freshman is suing the Tempe Union High School District and four district board members, charging that they violated the Civil Rights Act and the Fourteenth Amendment to the Constitution by requiring students to read books containing racial slurs. Kathy Monteiro, president of Parents for Equal Education, filed a class-action lawsuit May 21 in U.S. District Court in Phoenix, alleging that the district has deprived minority students of educational opportunities by requiring them to read racially offensive literature or allowing them to go to the library if they objected.

The suit was the latest development in an ongoing battle over the teaching of Mark Twain's *The Adventures of Huckleberry Finn* (see *Newsletter*, July 1996, p. 120; May 1996, p. 98). Monteiro, a Phoenix school teacher, began her campaign after her daughter objected to the use of the word "nigger" in a William Faulkner story and the Twain book. McClintock Principal Mike Gemma and the school's curriculum committee both decided to keep the books on required reading lists. An appeal to the five-member school board was rejected.

Monteiro attracted support from the Phoenix Urban League, the Arizona NAACP, and, more recently, the Nation of Islam. The organizations held several demonstrations outside the high school.

School board member Dan Perkins said he was "very disappointed that we're now adversaries" because of the lawsuit. Board member and attorney Steve Rich called the suit "legally defective" and said he would seek sanc-

tions against attorney Stephen Montoya for filing a frivolous action. Reported in: *Phoenix Gazette*, May 22; *Scottsdale Progress Tribune*, May 10, 24.

Fairfield, California

For the second year in a row, the novel *Jack* appeared on a list of books to be approved for use in Fairfield-Suisun schools. And for the second year in a row, teachers and staff removed the book from the list just before school board members voted on it.

Though pleased with the withdrawal of the book, board member Susan Heumphreus expressed her dismay at seeing it appear on the list for a second year after she rallied against it last time. She objected to the "rampant" profanity and the negative portrayals of all adult characters in the book.

Jack is about a teenager who learns about tolerance after finding out his father is homosexual, although the teen does not approve. It was to be included in a list of books that high honors students can choose to read during the summer. Reported in: *Fairfield Daily Republic*, May 11.

West Hartford, Connecticut

An award-winning painting by a Hall High School student, removed from a school hallway because it contains an obscenity, provoked spirited debate at the school over censorship and the First Amendment rights of students. The painting, a dark portrait by senior Ariana Owlia of the late rock singer Jim Morrison, was removed in May after two staff members complained of its content and use of a vulgar word. The painting was redisplayed later in the month at a schoolwide art exhibit, a piece of white paper concealing the word.

The issue created a debate in the school, with Owlia, an honor roll student, and the school's principal visiting classrooms to talk about the controversy. Students, who voted the painting "Best in Show," and administrators disagreed.

Principal Ellen Bessette said the painting, one of four works by Owlia originally hung near the school's main entrance, was removed because "it did not meet the criteria of what we find acceptable in a public school. We have people of various religions and walks of life at this school who wouldn't be offended and some who would. When it's up there and in your face, you can't avoid it."

"This wasn't looked at as art, it was just looked at as profanity," Owlia said. "They didn't care that it was a piece of art. I just don't see how it can be considered vulgar or in poor taste."

"I thought the project was cool and it was dumb our school would be petty enough to censor it," said junior Danielle Caastaldi-Micca. "And you can walk down the hallway in the school and hear that word fifty times."

Senior Emily Shu said, "By taking it down, the administrators created an emphasis on what they were trying to avoid." Reported in: *Hartford Courant*, May 31.

Kennesaw, Georgia

A Cobb County parent, complaining that the "evolution theories" in one chapter of a proposed fourth grade textbook go against his family's religious convictions, succeeded in having the chapter deleted. The Cobb County School Board, in approving a host of recommendations for new science books May 1, voted to ask Macmillan/McGraw Hill to print the *Changing Earth* textbook without pages 72-85.

A written critique of those pages from Jeffrey K. Wright, father of two children at Hayes Elementary School in Kennesaw, prompted the elementary science textbook committee to question whether the chapter, "The Birth of the Earth," was necessary. It was not, said Carol Mudd, Cobb's science and math supervisor. The state requires no coverage of theories of how the earth or the universe began. And the publisher said the price would be the same without the chapter.

A Cobb policy excludes lessons about "human origin" from elementary and middle schools, and does not compel high school students to learn them, out of respect for "the family teachings of a significant number of Cobb County citizens." Reported in: *Atlanta Constitution*, May 22; *Marietta Daily Journal*, May 24, 31.

Thibodaux, Louisiana

The Lafourche Parish School Board rejected the recommendation of its textbook selection committee June 5, refusing to approve the book *Perspectives on Health* for use in classrooms. The book for seventh- through tenth-grade health classes had come under fire from parents opposed to a paragraph they said advocated abortion. They also said the readability level was too high for seventh- and eighth-grade students and that it cost more than other books.

The textbook committee — nine teachers, one principal, a parent, and a doctor — voted 9-2, with one absence, to recommend *Perspectives on Health*. The doctor and the parent were the dissenting votes. By a vote of 9-6, the school board voted to reject the book and approve the committee's second choice, a series of books entitled *Teen Health Course I*, *Teen Health Course II*, and *A Guide to Wellness*.

Sharon Gauthé, a parent and an employee of the state Office of Public Health, serves on the parental review committee which reviews all sex education materials to be certain they do not violate state law. Her committee unanimously approved the book.

"I reviewed all the books," she said, "and the *Perspectives* book was so much better than the others. It had

more on every issue and was more complete overall. Do many books get rejected for readability when nine teachers voted for it?" she asked. Reported in: *Thibodaux Daily Comet*, June 6.

Carroll County, Maryland

The Carroll County Curriculum Council declined to approve two of some of two hundred books submitted by teachers to be approved for use next year. The Council's recommendation was to be submitted to the Board of Education, which has never approved a book rejected by the Council, although it has voted down some books the council approved.

The two books are *Something Upstairs*, by Avi, for seventh grade, and *Buried in Ice*, by Owen Beattie and John Geiger, for fourth grade language and history. Some parents were concerned about the depiction of a killing a boy character has to plan, partly in self-defense, in *Something Upstairs*. Parents were concerned about using *Buried in Ice* because of a photograph that had a disturbing image of the victims of a doomed expedition.

The Council approved most of the requested books at its May 16 meeting. But nine books aroused enough concern that they were pulled for a second mail-in vote. Of the nine books, three were elementary school picture books related to Halloween — *Harriet's Halloween Candy*, *It's Pumpkin Time*, and *Joey the Jack-O-Lantern*. Two Christian parents objected to the books and to any curricular references to Halloween.

Another parent questioned whether Rosemary Wells's *Max's Chocolate Chicken*, which is about Easter, was appropriate for first grade. *America: Pathways to the Present*, a history textbook proposed for tenth grade, was questioned by a parent who said the book focused too much on slavery and other minority issues to the detriment of other subjects, such as the early presidents. A few parents thought *Tiger Eyes*, by Judy Blume, was inappropriate for eighth grade because it includes an implied attempted rape and the issue of suicide. Finally, *Young Squanto*, by Andrew Woods, was questioned for use in third grade because it left the impression that the first Thanksgiving was in thanks only to Squanto. Reported in: *Baltimore Sun*, May 17, June 11.

Jaffrey, New Hampshire

A high school student's art work was censored after complaints from residents and ministers. Conant High School officials removed some of junior Sarah Picucci's photographs from the annual Young People's Exhibit at the Jaffrey Civic Center, after complaints that the images were anti-Christian. Other students later removed their own artwork from the exhibit, protesting what they called repression of artistic freedom. In place of their work they hung 44 photocopied sheets that read: "This artist has removed their artwork in protest of the removal

of Sarah Picucci's photographs."

The censored photos included a series of six depicting the metamorphosis of Jesus into Satan. The others pictured a decapitated statue of the Virgin Mary and a Bible with a gargoye on top.

Linda Cramb of Jaffrey thought the pictures were blasphemous and complained to Principal Thomas Brennan Jr. Brennan said he was not offended by Sarah's work but could see how some people might be. "It was a tough call," Brennan said. "I wasn't a happy camper." Reported in: *Boston Globe*, May 31.

Clifton, New Jersey

A Clifton High School senior's refusal to listen to her principal and modify a speech she read during the school's graduation ceremony June 26 cost her the diploma she earned — at least temporarily. Maria Dal Pan, senior class president, roused many who attended the commencement exercises by refusing to compromise with the request to alter her talk, which she later referred to as "censorship."

"Education is for standing up for what you believe, and I refuse to be someone's puppet," she said before reading her controversial speech. While school officials stood silent, her remarks did not go unpunished. When she went to pick up her diploma the next day, she discovered it was not there. She later learned she would not receive her diploma until her parents meet with the school principal Frank Melia.

Jean Dal Pan, Maria's mother, said she would not meet with Melia. "My daughter said nothing wrong, and my husband and I support her," she said. "We request that the school mail Maria's diploma to our home. If they choose not to, then we'll cross that road when we come to it."

Maria wrote the speech a week before graduation, but did not learn until the night before commencement that Melia wanted it changed. "I was upset," she said. "They [her teachers] said I could write whatever I wanted as long as I didn't insult anyone or make rude remarks and I did that. And then they waited until twenty-four hours before graduation to tell me it was no good."

Before graduation, she gave school officials a copy of a revised speech, which praised her high school life. She read the original speech instead, including a reference to "our four-year sentence at Clifton High School." The speech also referred to her favorite moments in school, which were "those five minutes in between classes," "those 45 minutes a day spent gossiping at lunch tables," and the "last days of school." Reported in: *North Jersey Herald & News*, June 28.

Hillsborough, New Jersey

A Hillsborough resident who thinks a popular crime novel has too much profanity and violence to be used in

a sixth grade class is fighting to have it removed from the curriculum. Laura Burshnic will take her campaign to replace *The Client*, by John Grisham, with another book to the school board. The book is part of the curriculum in a gifted and talented class.

Although Burshnic admitted that she had not read the entire book, she said, "I think it's a poor choice for an educator. If there's profanity in it, it's not appropriate." Reported in: *Newark Star-Ledger*, July 17.

Lawrence, New Jersey

An administrative sweep of the Lawrence Middle School June 20 infuriated students as the principal confiscated hundreds of yearbooks after learning some students penned sexually explicit and profane messages to their friends.

Principal Walter C. Woolley snatched up the yearbooks after receiving complaints from parents who read vulgar messages handwritten by their children's peers. "I tried to deal with it as a one-student issue, but it was shown to be a problem that was widespread."

Threatened with suspensions, students were ordered to hand over their yearbooks after a teacher witnessed a student crafting a crude message to a friend. Woolley held the books until students' parents personally signed for them.

"I think this is totally ridiculous to make me come here to pick up this book," said Roslyn Sherman, mother of a 14-year-old. "They should have dealt with them individually. We have things to do here. It's just a big waste."

Students felt victimized. "I have curse words in my yearbook," said 13-year-old Jessica Getz. "I don't care, it's our property. We paid for this. They have no right to take it away from us."

One boy refused to give up his book. "I had it in my backpack," he said. "I'm not going to give it to them. I bought it. It's my book." Reported in: *Trentonian*, June 21.

Buffalo, New York

A 17-year-old Lancaster High School student, upset that the school board temporarily pulled *Ordinary People*, by Judith Guest, from the high school curriculum, took the matter to the New York Civil Liberties Union. Chris Palistrant attended the May school board meeting where the parents of a ninth-grade student asked the board to remove the book from the curriculum, contending it contained foul language, graphic references to sex and inappropriate handling of the subject of suicide. That night, the board voted 6-1 to pull the book until a committee reviews it and makes a recommendation.

The book had been read by Lancaster students in some ninth- and eleventh-grade English classes for more than

twelve years. This year, students in a ninth-grade English honors class, which apparently had the choice of reading *Ordinary People* or *Moby Dick*, read the former, sparking the parents' complaint.

Palistrant thought the decision was wrong. He checked the book out of the library and read it, then sought teachers' opinions, researched the book-banning issue and decided to make a formal complaint to the NYCLU.

"I just think it's completely ridiculous. I don't think it is justified at all," said Palistrant. "The whole process by which it was handled was wrong."

After receiving Palistrant's complaint, NYCLU officials sent a letter to the school board saying they are "greatly dismayed" the board temporarily removed the book based solely on the objections of two parents. "The manner in which the School Board acted raises First Amendment due process concerns," wrote Jeanne-Noel Mahoney, executive director of the western regional office of the NYCLU. "Such action should not have been taken without there having been opportunity for full and open discussion of the issue with input from educators as well as the community." Reported in: *Buffalo News*, June 13.

Marysville, Ohio

Marysville School Superintendent Jerry Stackhouse and Assistant Superintendent Larry Zimmerman said in late June that they were withdrawing a controversial video shown in high school health classes. The decision came in response to a May 28 school board meeting at which Rev. Dick Douglass and his wife told board members they were upset by the video shown in their daughter's freshman health class. Called *More Than Friends*, the video was made by HBO and deals with lesbianism as an alternative lifestyle.

"I was extremely upset when I saw it," Douglass told the board. He said the video portrayed lesbianism in a positive light, depicted heterosexuals as fearful of and violent toward lesbians, and indicated that lesbianism is a disposition someone is born with. "I don't want that video shown in the high school. I don't want any video promoting homosexuality or lesbianism from a biased viewpoint. That has no place in our curriculum."

The school administration said it would conduct a thorough review of its health education curriculum, at which time staff members, with assistance and advice from the community and the clergy, will review local, state and national issues. Reported in: *This Week in Union County*, June 2, 30.

Dublin, Ohio

Instead of starting the year's season with a successful production, the Dublin Community Youth Theatre began it with a bust. The Dublin City Schools pulled the plug June 24 on a production of *Biloxi Blues*, objecting to the

play's content. "We have a very set guideline for what we will use as far as school performances," said Associate Superintendent Kathy Lowery.

Biloxi Blues is the second in a Neil Simon trilogy depicting the coming of age of character Eugene Jerome. In the play, Eugene joins the army where he comes in contact with foul language and prostitutes. The Dublin group did the first of the trilogy, *Brighton Beach Memoirs*, the previous summer.

The trouble started after a parent called to complain about the content of *Biloxi Blues*. "She read us passages from the play," Lowery said. "That play didn't match the board-approved policy. It's not appropriate for high school students in our opinion."

The play was canceled and drama teacher Larry Coleman was instructed to tell cast members, who had spent three weeks rehearsing and doing publicity. The theatre was founded seven years ago by Coleman as an acting outlet for young adults under 21. This was the first year the group was affiliated with the Dublin City Schools' summer school program.

Coleman said he did not know that the group's plays would be considered part of the school curriculum. He thought going through the program would simply provide access to the performing arts center at Coffman High School.

"I saw this as an avenue [to the arts center]," he said. "We didn't expect this to happen. We cannot proceed. It's that simple." Reported in: *Dublin News*, June 26.

Hudson, Ohio

An American history textbook was rejected by the Hudson Board of Education because of the amount of coverage devoted to minority groups and its treatment of social issues, such as slavery and civil rights. The school board voted against the recommendations of history teachers and administrators who had selected the book as the best choice for an honors class at Hudson High School.

Board member Kenneth Claypoole and several residents denounced the book, *The American People*, by UCLA historian Gary Nash and five other leading scholars, as too multicultural. Two board members voted in favor of the book, Claypoole voted against it, and two members abstained. Three yes votes were required for approval.

"There is an overabundant supply of material on women, African-Americans, and Native Americans" and many "details on the difficulties experienced by slaves, indentured servants, immigrants, farmers and industrial workers," said Robert Lattimer, a resident and leader of the Hudson chapter of Christians for Excellence in Education, a national conservative group.

Claypoole, who had recently pushed unsuccessfully to get prayer back into Hudson graduation ceremonies,

agreed with Lattimer and voted against adopting the book, in its third edition after twelve years in print. The college-level text is one of the best-selling texts in the country and is recommended by the college board that oversees high school honors class curricula.

"We are extremely disappointed," said Patty Picard, Hudson schools' social studies and language arts coordinator. "The staff carefully selects textbooks. We were very impressed with this book, which we felt would give students an advantage in taking the advanced placement test."

"This is not an introductory history class where students memorize names and dates," said Hudson curriculum director Rhea Gaunt. She said the class was designed to take students beyond basic history classes. Gaunt said she didn't think the board had ever denied the staff's request for a textbook. "We're not sure what will happen now. We're meeting to decide what to do." Reported in: *Cleveland Plain Dealer*, June 26; *Portland Oregonian*, June 27.

Muskogee, Oklahoma

An American Indian who hung an eagle feather from her mortarboard and two blacks who wore a multicolored African tribal cloth with their graduation gowns were denied their Muskogee High School diplomas in May. The school district said they had violated a policy against wearing ethnic symbols at graduation.

The school board approved the dress code May 14 to restore dignity to a ceremony that had taken on "a carnival quality." Students participating in the ceremony were required to sign a statement that they understood the dress code. Reported in: *Home News & Tribune*, May 24.

Monroeville, Pennsylvania

Gateway School Board members split June 17 over censorship of a high school literature text. The advanced placement textbook, *Literature: Structure, Sound and Sense*, was selected by the curriculum committee to replace an outdated volume. The new book contains a short story, "Rape Fantasies of Young Women," by Margaret Atwood, that the committee judged inappropriate.

Gateway High School English teacher Doreen Varuolo told the board, "We're concerned about the story, actually just the title, but this is the best AP English book we were able to find. Another one contained seventeen pieces of objectionable material. So we thought we'd just buy the text and rip out the story."

Varuolo said that in 1970 the English department ripped Allen Ginsberg's poem "Howl" from the pages of a textbook. "'Howl' is extremely vulgar," she said. "I had no problem with removing it."

School board member Elizabeth Perlman said she was

troubled by that idea. "Personally, I found another story in the book to be objectionable. Can I remove it, too? Where do we stop?"

Board member Carol Larson agreed. "We have to be very careful when we do any censoring of anything," she said. "The concept of literature is to expose students to all facets. This is college-level material. Do we want to expose our students to college-level material?"

Board member Larry Gresh did not want the story included. "The greatest literary work of all time is the Bible," he said. "Why don't we teach it?"

Board member Judith Murray said she did not want the pages deleted but did not want the story assigned, although she acknowledged there was nothing harmful in the story after its title. "There is nothing in this story to deal with. There is no rape; there is no sex, either explicit or implicit." Nevertheless, she said, "I think we have to be sensitive to community values. The title is very objectionable to people." Reported in: *Monroeville Times-Express*, June 19.

Upper Dublin, Pennsylvania

School board directors failed to decide June 27 whether *The Adventures of Huckleberry Finn* will be removed from the ninth grade required reading list. Superintendent Clair G. Brown recommended that the district remove the book from the required reading list at the ninth-grade level and place it in the eleventh-grade English curriculum. He became involved after a committee of parents, teachers and staff could not reach a consensus.

Many parents who spoke during the board meeting said they objected to the book's being used at any level. They cited its allegedly insensitive and offensive language, racial stereotypes, and inappropriate portrayal of African-Americans.

The racial epithets are offensive, said Greg Hodges, "whether it's used in ninth grade, eleventh grade or read as an adult."

"It's a racial issue, an emotional issue, and a personal issue," said Gloria Richardson. "It's not about great literature."

"I remember to this day reading this book," said Anita Hester, a committee member. "I didn't take away any literary value. It hurt when I had to read it then, and it hurts today." Reported in: *Philadelphia Inquirer*, July 1.

Bedford, Virginia

A federal judge refused June 3 to lift a ban keeping fourth-grade student Jason Gardner from silently reading Rush Limbaugh's conservative tome *The Way Things Ought to Be* in class. U.S. District Court Judge James Turk denied a request by Jason's father for a preliminary injunction against the school after the nine-year-old boy stumbled over a passage he tried to read aloud in court. Judge Turk said because only four days remained in the

school year, continuing the ban would do no harm.

Montvale Elementary School teacher Bruce Bays confiscated the book during an independent reading period on May 16. Bays said he took the book after noticing a chapter titled "Condom-Bungee Jumping, the New Diploma." The boy's father, Thomas Gardner, said the school violated Jason's First Amendment rights and interfered with his own right as a parent to determine what his child may read. Limbaugh accused the school of censorship on his nationally syndicated program.

Gardner testified that Montvale's principal told him that most teachers dislike Limbaugh's views. But the principal and the school superintendent said the teacher's action had nothing to do with politics. The book had no jacket and Bays did not know at first that it had been written by Limbaugh. He only knew that Jason was reading what appeared to be an inappropriate adult book.

"The evidence has been that the book in question is above the reading level of Jason," Judge Turk said. "If the teacher held up a book and said anything this author writes is trash and I disagree with his political beliefs, then you have a strong case."

Limbaugh opened his radio show May 21 with a fifteen-minute conversation about the incident and returned to the topic on his syndicated television show that night. After hearing his comments, listeners deluged the school with calls of protest. One told the principal's beleaguered secretary that she now knew what it's like to talk to a communist.

Limbaugh conceded that "if you took it out of context" it might seem odd for him to be defending a nine-year-old's right to read about condoms. But he pointed out that the chapter in his book was a parody attacking schools that "consider the condom the most important educational tool."

"I'm not embarrassed that a fourth-grader was reading that," Limbaugh said. "The school system down there ought to be flattered that it has educated fourth-graders to the point that they can read an adult book."

But Gardner said he didn't think the chapter had much meaning to his son, who knows only that condoms "are a way to keep from getting AIDS."

"The book is probably over his head," he said. "But the point is, how can it be appalling for him to read the word on paper and then in four years be handed them and told how to use them?" Gardner added that he wasn't sure whether Bedford schools distribute condoms. School officials said they do not. Reported in: *Washington Post*, May 23; *Washington Times*, June 4.

Walla Walla, Washington

"There's plenty of room at the Hotel California," goes the 1970s hit by the Eagles. But there's no room for the song at Walla Walla High School. School administrators barred a student group from performing the song

February 8 at the school's annual Conspiracy of Hope Concert, a fund raiser for Amnesty International. Principal Abe Roberts said community members he consulted about the song said it deals with "devil worship and satanism." Reported in: *Walla Walla Union-Bulletin*, February 12.

West Allis, Wisconsin

Would you have sex with a stranger for \$10,000? Would you kill an innocent person if it would increase the chances of saving your own life? Those are among the questions in a book used by a West Allis Central High School English teacher to encourage her students to come up with ideas for their daily journals. After receiving a complaint from a parent, school officials said *The Book of Questions* was inappropriate and ordered teacher Heather Panovich to stop using it in class.

Parent Michael Jacques complained that the book undercut the role of parents and violated the district's policy against "values clarification" training. School officials agreed. "It was something that should not have been done," said Terry Trotier, instructional services director for the West Allis-West Milwaukee School District. "The book will not appear in the building again."

Panovich said she did not use questions involving sex, drugs or alcohol. "All I was trying to do is get them to start writing," she said, adding that the questions from the book were "better than asking 'What's your favorite color?'"

"This is brainwashing these kids," retorted Jacques. "It is destroying their innocence, and I maintain that values clarification/situation ethics used under any sort of circumstances undermines the parents and the ability of the parents to direct the upbringing of their child. It undermines traditional values."

Trotier said administrators talked with Panovich and that "normal procedures" were followed when the issue arose. "There were some judgment lapses in there and the use of supplemental materials policy wasn't followed," he said. Reported in: *Milwaukee Journal Sentinel*, July 11.

student press

Bakersfield, California

It was a learning experience but one that came the hard way for a group of West High School students who had the latest edition of their student newspaper yanked by the principal May 31. Principal Don Cauthron pulled the senior edition of the *Saga* when he saw it contained several obscene and potentially libelous items. The two thousand copies of the paper contained about sixty senior wills and predictions, some of which Cauthron and others on campus found offensive.

"There were some things I consider derogatory and degrading," he said. "It was more than off color." Some entries contained racial slurs, obscenities, and references to sexuality. "I don't think it's appropriate to put out," Cauthron said. "I have an obligation to students who would be hurt." According to California law, school officials have the right to remove material that is "obscene, libelous or slanderous."

Chris Page, a senior and editor of the paper, met with Cauthron and they decided to reprint the paper and distribute it without any of the wills. Page said Cauthron agreed to use part of the principal's budget to refund money to students who paid to have their notice in the paper.

Page said when he put the paper together, he didn't believe the items were offensive. "This was the kind of stuff you could see on television," he said. About ten of the sixty entries were possibly offensive. Still, he concluded, "I would be hesitant to run this kind of material again. Libel can be a very dangerous thing." Reported in: *Bakersfield Californian*, June 11.

West Hartford, Connecticut

When the year-end issue of the Hall High School student newspaper was published June 7 one story was missing. School administrators forbade student reporters from publishing any information about the investigation of whether an award-winning science teacher at the school improperly coached students before they took a state exam in May.

In place of the story, students ran a front-page editorial in *Hall Highlights* that read: "The board of education, through its lawyer, has invoked the gag rule to forbid reporting of an investigation concerning irregularities in delivering the CAPT (Connecticut Academic Performance Test) because such reporting might interfere with the due process rights of a school employee. *Highlights* is a newspaper devoted to informing students and faculty about issues and events in the Hall community. However, we are funded by the board, which has the power to restrict what we publish."

Principal Elaine Bessette ordered the story killed after meeting with the student editor and faculty adviser. She said the decision was made to protect the rights of the teacher involved. "Whenever we look at an issue with personnel, we have to make certain we give due process rights to the person," she said. "We wanted to be sure in this case that we didn't violate anyone's rights by publishing information students got from other students."

"Interfering with the due process rights of an employee sounds like a ruse from the school to cover up what is really censorship, pure and simple," responded Joe Grabarz, executive director of the Connecticut Civil Liberties Union. "What they are doing is unfortunate.

They are within their legal rights. It is an official school publication, so they have the law on their side. But certainly it's unfair and it's a bad lesson." Reported in: *Hartford Courant*, June 8.

Lake Mary, Florida

Lake Mary High School Principal Ray Gaines removed the school newspaper's faculty adviser after a student writer used mild profanity and sharply criticized "Bible-beating . . . snake-handling, holier-than-thou people." English teacher Dianne Burd had advised *The Rampage* for six years. Journalism students protested and Burd filed a grievance with her union.

Gaines said June 4 that he removed Burd because she did not confer with him about potentially controversial material in the newspaper. Burd said she took great care to monitor what was published and that she was stunned by her removal.

At issue was a farewell message by *Rampage* news editor Christopher Cline. "I would like to take this opportunity to speak out to all the Bible-beating, first-born naming, cardboard-eating, snake-handling, holier-than-thou people who believe I'm going to hell," Cline wrote. "On the surface you preach love and forgiveness. But by the time you've finished washing your hands or sneaking that extra cookie at dinner, you've already shoved your brother back into the closet and stolen your hooker money out of the blind man's March of Dimes cup." Cline also jokingly called another student a "bastard."

"I'm not here to keep kids from discussing something," Gaines said. "But I trust her to use some discretion and scrutiny about what comes out in the paper." Reported in: *Orlando Sentinel*, June 5.

Chicago, Illinois

The principal of Whitney Young High School confiscated all copies of the student newspaper May 21, citing an allegedly slanderous article and a logo containing gang imagery. A gay student group contended, however, that the action was an attempt to censor a letter to the editor from a lesbian student.

Principal Joyce Kenner said she halted circulation of the *Beacon* because one of its articles contained a quote from a student about a teacher that she considered slander, and because the newspaper logo was scripted in a style that resembled gang graffiti.

Kenner's action angered newspaper staffers, who called it censorship. The offending passage was from a story about an assembly in February staged by the African-American Club. It said the sponsor, teacher Michael Johnson, "was very irresponsible and lazy because he did not take charge." The assembly included a performance by club members that some faculty and students considered demeaning to blacks.

Editor La'Veda Gray said the incident was a clear case of censorship. "They have a right to see it before it is printed and object but not after it's printed," she said. Art director Hector Sanchez complained that his masthead had been pulled from the same issue on grounds that it might be taken as gang imagery.

"The last time the administration objected to an article they wrote a letter, and we published it on page two," Sanchez said. "They waited until the end of the year to stick their foot in. It's tainted my image of the school."

Tiffani St. Cloud said she thought the paper had been confiscated because of her letter to the editor, in which she referred to her lesbianism. St. Cloud is president of the school's gay and lesbian organization. While denying that the letter played any role in the confiscation, Kenner confirmed that she sought consent from St. Cloud's mother before approving its publication.

"I did not want the parent to be caught off guard about its possible impact on the student and parent," Kenner said, noting that when the newspaper is reprinted without the reference to the teacher and the logo, it would include St. Cloud's letter. Reported in: *Chicago Tribune*, May 22; *Chicago Sun-Times*, May 22.

colleges and universities

Holland, Michigan

A theater run by conservative Hope College canceled the film *Antonia's Line*, which won the Academy Award as best foreign film. *Antonia's Line* features a lesbian relationship between the lead character's daughter and a schoolteacher, and includes one frank lovemaking scene between the two. Holland's Knickerbocker Theatre is a downtown movie house operated by Hope College. The theater does not offer R-rated movies. *Antonia's Line*, a Dutch film, does not carry a rating. Reported in: *Oakland Press*, June 5.

Philadelphia, Pennsylvania

Citing "logistical concerns," St. Joseph's University, a Catholic institution run by Jesuits, abruptly canceled a scheduled March 18 speech by Dr. Paul Cameron, a pro-family advocate and critic of homosexuality. University representative Joseph Lunardi said Cameron was barred from speaking due to questions about his academic credentials and because his talk "sounded like it was going to be hate speech" as opposed to "academic sharing." He also cited security concerns.

Cameron, director of the Colorado Springs-based Family Research Institute, had already flown to Philadelphia for the speech, which was sponsored by the College Republicans and advertised on campus for several days.

Leading the effort to bar Cameron, Lunardi said, was sociologist and Dean of the College of Arts and Sciences Dan Curran, whose "Statement on Paul Cameron," which circulated among faculty, assailed his "misrepresentation of credentials and his distorted and inflammatory stance on the issue of homosexuality."

Cameron, who had been published widely in peer-reviewed scientific journals, said he was never contacted by Curran nor any official at St. Joseph's. He said that Curran's statement was "clearly libelous."

"Basically they're calling me names, but doing it in a more sophisticated way," Cameron said. "Instead of engaging in a rational, intellectual debate, they will censor. But that's what 'political correctness' is all about, isn't it?"

Curran denied that he led efforts to scuttle Cameron's talk and said the action was prompted mainly by safety concerns. He said administrators were moved by the protests of students and faculty over fliers produced by Cameron and circulated at St. Joseph's. One flier argued that there was a high propensity toward violence in the gay community. The other offered evidence that homosexuality is learned behavior that can be changed. Curran said the fliers were evidence that Cameron's presentation would be "verging on hate speech."

But Gavin Goschinski, a leader of the College Republicans, said it was ironic that critics called Cameron a hatemonger, since he encountered considerable "hate" from pro-gay forces. In one incident at a "candlelight vigil" sponsored by the Committee on Sexuality and Sexual Minorities and held the night Cameron was scheduled to speak, Father Rick Malloy, a demonstration leader, denounced Goschinski, saying, "You are a Brownshirt. People like you put people in ovens," Goschinski charged. Reported in: *Campus Report*, April 1996.

publishing

New York, New York

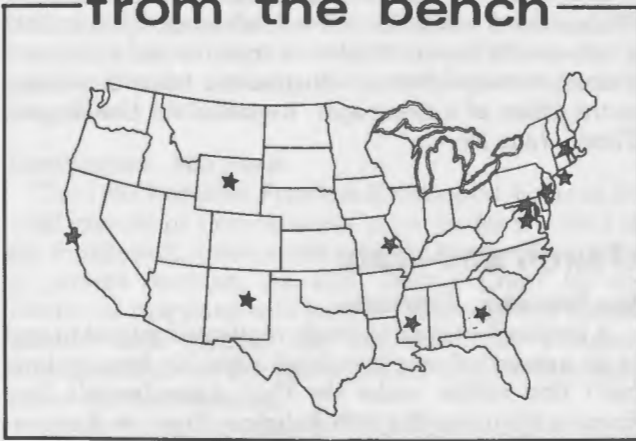
John Wiley & Sons has canceled publication of a book on intelligence after the author made statements to the British news media about the supposedly lower intelligence of blacks. In what Wiley officials called an "extraordinary" move, the publisher decided to withdraw *The G Factor: General Intelligence and its Implications* just two days before its publication date.

The book's author, Chris Brand, a lecturer in psychology at the University of Edinburgh, had been quoted in the London *Independent* describing himself as a "racist in the scientific sense" and saying that black people are less intelligent than whites.

Charles R. Ellis, president and chief executive of Wiley, said the publisher did not want to support Brand's views

(continued on page 184)

—from the bench—



U.S. Supreme Court

In another broad defense of the right to free speech, on June 28 the Supreme Court struck down most of a four-year-old law that required cable television operators to restrict sexually explicit programs on special channels that are open to the public. The court agreed on the “need to protect children from exposure to patently offensive sex-related material” but noted that parents can block sexually oriented channels by calling their local cable company. And it found only a “few borderline examples” of indecent conduct on local public access channels.

For these reasons Congress went too far when it told cable operators to “police” their programming on these special channels, the court said. The splintered decision yielded six opinions covering 118 pages.

“The First Amendment embodies an overarching commitment to protect speech from government regulation,” wrote Justice Stephen G. Breyer for the court. As a practical matter, the court’s rulings in three separate votes left it mostly to parents to supervise what their children watch on television.

The cable television dispute did not concern most of what is seen on cable systems. As a general rule, cable operators can decide whether to carry programs or channels that might be offensive to their viewers. However, Congress in 1984 required cable systems to set aside a few channels that would be open to the public or could be leased by those who would pay to get their message out. What appeared was up to the programmers and performers.

Public access channels became the amateur hour of the air, but lawmakers also heard reports of nudity and lewd talk on these channels. In New York City, the leased channels became a haven for late-night sex programs.

In response, in 1992, Congress amended the law to say that cable operators can forbid “patently offensive” sex shows on leased channels. The law also required them to prohibit “any programming which contains obscene material [or] sexually explicit conduct” on public access channels.

The law was challenged on free speech grounds, not by cable operators but by programmers and public interest groups. Defending the law, Clinton administration lawyers made two arguments. First, cable operators are simply being given “editorial control” over their own systems, which does not violate the First Amendment. Second, the government has a “compelling interest in protecting the well-being of children.”

While the case divided the justices, a majority rejected both arguments. On a 5-4 vote, the court left the public access channels free of regulation by cable operators. It “could radically change present programming” arrangements if cable companies were given the power to oversee what appears on these free-form programs, the court said.

On a 6-3 vote, the justices struck down a second provision that required cable operators to block sexually explicit leased channels unless a subscriber asked for them in writing thirty days in advance. Because a new law essentially reverses that process — requiring cable companies to *block* such programming only when a subscriber requests it — there is no need for the old law, the court held.

On a 7-2 vote, the court upheld the provision that “permits cable operators either to allow or to forbid the transmission of patently sex-related materials on leased channels.” The votes came in the case of *Denver Area Educational Telecommunications Consortium v. FCC*.

The justices seemed adamant on not deciding too much in a world of rapidly changing communications technology. In a “new and changing environment,” Breyer wrote, it is vital not “to declare a rigid single standard, good for now and for all future media and purposes.”

Justices Anthony M. Kennedy and Ruth Bader Ginsburg would have gone further and struck down all the provisions as clear free-speech violations.

Even the three most conservative members of the court — Chief Justice William H. Rehnquist and Justices Antonin Scalia and Clarence Thomas — did not reject the free-speech argument entirely. Rather, they said the claim should be brought by cable operators, not by others who simply offer programming on a cable system. Reported in: *Los Angeles Times*, June 29.

In a decision that could make it harder to limit or prohibit truthful advertisements, notably on tobacco, the Supreme Court on May 13 rejected a Rhode Island ban on advertising of liquor prices. The decision invalidated a state law that banned the advertisement of alcoholic beverage prices and called into question almost a dozen other laws in states from Connecticut to Kansas. All nine justices voted to invalidate the ban, though they gave several different reasons.

Some legal experts said the Rhode Island case would make it harder for the government to justify proposed regulation of tobacco advertising because the court appeared to reject the notion that the government could ban ads if it has the power to ban the product.

At issue in *44 Liquormart, Inc. v. Rhode Island* was whether Rhode Island could ban liquor price ads in an attempt to promote sobriety. State officials argued that banning ads with prices would keep those prices higher and discourage people from drinking. But a majority of justices rejected that rationale, saying the state "failed to carry its heavy burden of justifying its complete ban on price advertising."

Although the court long has allowed greater government intrusion into commercial speech, the First Amendment does not permit a complete ban in this case, Justice John Paul Stevens wrote in his majority opinion.

Stevens got only three justices to support the part of his opinion that specifically rejected the legal holding that state legislatures can ban advertising of products so long as they can ban the sale of the product. However, taking into account a separate concurring opinion by Justice Sandra Day O'Connor, the case suggests that the court is rejecting the doctrine that the greater power to ban the product entirely includes the lesser power to ban the speech.

And, given another separate opinion by Justice Clarence Thomas, the case also suggested that the court will not allow the government to rely on paternalistic reasoning when it tries to ban truthful advertisements about so-called "vice" products. Reported in: *Chicago Tribune*, May 14.

On June 28, the Supreme Court ruled that local officials may not retaliate against independent contractors who criticize them in public nor may they penalize them for contributing money to the officials' political opponents. By a 7-2 margin, the justices said independent contractors have the same rights as government employees not to be punished for their political views.

The case of *O'Hare Truck Service v. Northlake* involved a suburban Chicago towing firm whose owner refused to contribute to the mayor's reelection. He was then allegedly barred from getting towing referrals. The court revived his lawsuit and said the government cannot "retaliate against a contractor [for] the expression of political allegiance."

In the case of *Board of County Commissioners for Wabaunsee County, Kansas v. Umber*, the court upheld a free-speech lawsuit filed by a trash hauler who lost a county contract after he criticized the board in a letter to the editor of a newspaper. Reported in: *Los Angeles Times*, June 29.

church and state

San Francisco, California

A landlord whose religiously motivated refusal to rent to an unmarried couple violated state fair housing laws can't find shelter under the First Amendment's Free Exercise Clause or the 1993 Religious Freedom Restoration Act, the California Supreme Court ruled April 9.

The California Fair Employment and Housing Act prohibits discrimination on the basis of marital status. An unmarried, cohabiting couple complained when a landlord refused to rent to them because of her religious objections to non-marital sex. The landlord sought exemption from compliance, invoking the First Amendment and the RFRA.

The free exercise claim is invalid, the court said, because enforcement of a generally applicable law that is neutral toward religion is constitutional, even if the law has the incidental effect of burdening a particular religious practice.

Without producing a majority opinion, a majority of the court also rejected the landlord's claim under RFRA. Three justices said the landlord failed to show that the fair housing law substantially burdens her religious exercise; she could avoid the law's burden on her religious belief by reinvesting her capital in something other than rental housing. A fourth justice opined that RFRA did not apply because it is unconstitutional. Reported in: *U.S. Law Week*, April 23.

Washington, D.C.

The First Amendment's religion clauses, as well as the 1993 Religious Freedom Restoration Act, preclude a federal job discrimination suit by a member of a religious order who claimed she was denied tenure in a Roman Catholic university's canon law department on the basis of her sex, the U.S. Court of Appeals for the District of Columbia Circuit held May 14.

The Free Exercise Clause prohibits imposing secular standards on a church's employment of persons whose role is vital to the spiritual mission of the religious body, the court said. The canon law department at Catholic University is the only one in the U.S. approved by the Vatican, and the Vatican is ultimately responsible for its tenure decisions.

Judicial review of the nun's claim would also violate the Establishment Clause, the court said. The trial court

found that the religious and secular elements were so inextricably bound that resolving the case would require the type of government entanglement in religion that is prohibited under *Lemon v. Kurtzman*. Reported in: *U.S. Law Week*, May 28.

Cumberland, Maryland

The 1993 Religious Freedom Restoration Act is an invalid exercise of Congressional power under Section 5 of the Fourteenth Amendment and violates the separation of powers doctrine, the U.S. District Court for the District of Maryland held June 10. Although two federal circuits have rejected the argument that Congress exceeded its power in enacting the RFRA, the Maryland court was unpersuaded.

The case involved a church's claim that building restrictions imposed by a historic preservation ordinance violated rights guaranteed by the act. The statute provides that government may substantially burden religious exercise only if it demonstrated that doing so was the least restrictive means of furthering a compelling government interest.

The act offends separation of powers principles by legislating a standard of judicial review for free exercise cases that the U.S. Supreme Court expressly rejected in *Employment Division v. Smith*, the court said. As a practical matter, the statute removes the Free Exercise Clause from judicial consideration, impermissibly usurping the "exclusively judicial power to say what the Constitution means." Reported in: *U.S. Law Week*, June 25.

Black Horse Pike, New Jersey

Student-initiated prayers at public high school graduations violate the Establishment Clause, the en banc U.S. Court of Appeals for the Third Circuit ruled by a 9-4 vote May 24, expressly rejecting a contrary ruling by the Fifth Circuit. The court said such prayers remain under state control, coerce student participation in a religious exercise, lack a secular purpose, endorse religion, and can't be upheld as neutrally accommodating students' free speech or religious rights.

The Black Horse Pike school district argued that its new policy was designed to allow the continuation of graduation prayers in light of the Supreme Court's 1992 decision in *Lee v. Weisman*, which outlawed organized prayer and protected students' free speech. But the court said it only protected religious speech; all other speech at graduation has to be approved.

Any reliance on voting majorities is misplaced, the court said, citing *Lee* as well as *Board of Education v. Barnette*, which declared that "one's fundamental rights may not be submitted to vote; they depend on the outcome of no elections." Delegating the prayer decision to students didn't eliminate the state control or coercion of belief decisive in *Lee*, the court said. Reported in: *U.S. Law Week*, June 4.

Albuquerque, New Mexico

Albuquerque's policy of disallowing use of its senior centers "for sectarian instruction or as a place for religious worship" discriminates against religious expression in violation of the First Amendment, the U.S. Court of Appeals for the Tenth Circuit held May 23. The ruling came after Albuquerque refused a church permission to show a film about Jesus and to distribute New Testaments at a city-run senior center.

Any prohibition on sectarian instruction per se "is inherently non-neutral with respect to viewpoint" because it "favors secularism at the expense of religion," the court said. Reported in: *U.S. Law Week*, June 4.

Roslyn, New York

A student Bible club's requirement that its officers be Christians is probably protected by the federal Equal Access Act from the Roslyn Public School District's non-discrimination policy, the U.S. Court of Appeals for the Second Circuit held May 15. It ordered a preliminary injunction against enforcement of the policy with respect to the club.

The Long Island school district insisted that the "Walking on Water Club" drop its requirement that officers accept Jesus Christ as their savior, in compliance with the district's policy against religious discrimination in extracurricular activities. The district court denied the club an injunction, reasoning that the nondiscrimination policy allowed the club to meet on the same basis as other clubs, and that the Establishment Clause precluded granting an exemption, which would convey "a message of exclusion."

The Second Circuit ruled, however, that the Equal Access Act bars denying the club equal access to school facilities based on the religious content of its speech. A religious club may insist on commitment to its cause in the same way that a secular club can, the court declared. Reported in: *U.S. Law Week*, May 28.

Oxford, Mississippi

A federal judge ruled June 3 that a rural Mississippi public school district violated the Constitution by permitting Bible classes and morning prayers over the intercom system. Lisa Herdahl sued in 1994 to end school prayers in the largely Baptist community of Ecu, saying her five children have a constitutional right not to engage in student-led prayers and should not be taunted for their Lutheran beliefs.

U.S. District Court Judge Neal Biggers said school prayer can exist without violating the Constitution, but teachers must remain neutral and may not promote religious practices.

"Without the benefit of such a document, women in this country have been burned because the majority of

their townspeople believed their religious practices were contrary to the tenets of fundamentalist Christianity," Biggers wrote.

On July 3, the school board voted unanimously not to appeal the decision. Reported in: *Chicago Tribune*, June 4; *Camden Courier-Post*, July 4.

Casper, Wyoming

The National Park Service cannot ban climbers from Devil's Tower in deference to Native American religious beliefs because that amounts to unconstitutional government support of religion, a federal judge ruled in June. Devil's Tower, the sheer 1,300 foot column of basalt featured in *Close Encounters of the Third Kind*, is a popular attraction for rock climbers. But several tribes hold the tower sacred, and some hold religious observances there in June. Reported in: *Orlando Sentinel*, June 11.

school

Amherst, Massachusetts

A federal judge on May 15 refused to halt the showing, to Amherst schoolchildren, of an art exhibit portraying gay and lesbian parents and their children. U.S. District Court Judge Frank H. Freedman said that as long as both sides have the freedom to express themselves — one to see the exhibit and the other to avoid it — he could see no reason to halt its showing. Freedman also said he did not think the case being mounted against the exhibit was likely to prevail in court.

The exhibit, titled "Love Makes a Family," was on display in the library of the Mark's Meadow School and was scheduled to go to three other Amherst elementary schools. Its showing provoked vigorous controversy. A group of Amherst parents challenged the exhibit claiming it would "irreparably harm" their children. Reported in: *Daily Hampshire Gazette*, May 16.

military

Washington, D.C.

The current "Don't Ask, Don't Tell" policy concerning gays in the military was upheld by two U.S. appellate courts. On April 5, the en banc U.S. Court of Appeals for the Fourth Circuit held that the policy does not violate the Fifth Amendment's guarantee of equal protection or the First Amendment. The court reasoned that the policy addresses conduct, not speech, and is rationally related to preserving the military's legitimate interest in unit cohesion.

On July 1, the U.S. Court of Appeals for the Second Circuit held that the policy may be constitutional, reversing a district court ruling that it violates the First

Amendment. The policy, the court ruled, is based on the presumption that a service member who admits to being gay or lesbian engages in homosexual conduct. The fate of the policy hinges on whether the district court determines on remand that homosexual acts may be constitutionally banned.

Assuming that such acts may be banned, the Second Circuit ruled, then the military "has made the reasonable judgment that a declaration of homosexuality is a likely (but rebuttable) indicator of propensity to engage in prohibited conduct." Reported in: *U.S. Law Week*, April 16, July 16.

election law

Atlanta, Georgia; St. Louis, Missouri

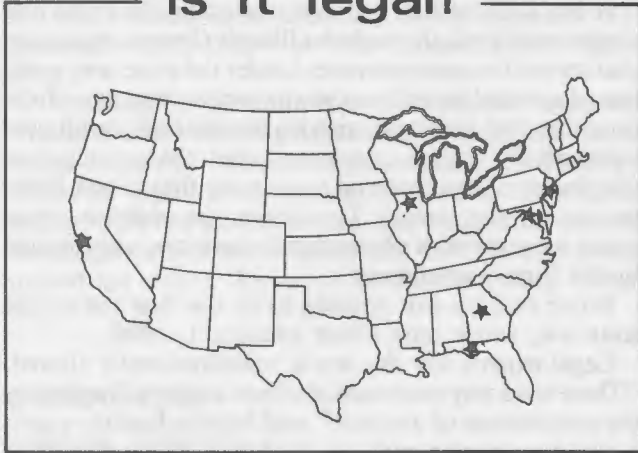
Two state election schemes that bar state legislators from receiving campaign contributions during legislative sessions recently failed to pass federal court muster. A Missouri statute was declared invalid under the First Amendment, while a Georgia statute was found preempted by federal election law as applied to federal office seekers.

The U.S. District Court for the Eastern District of Missouri noted that the Missouri scheme amounts to a four and one-half month "shutdown" on campaign contributions to state legislators. This prevents candidates from accumulating resources needed for effective campaigning and thereby restricts First Amendment free speech and free association rights. The court said the temporal ban on contributions was not narrowly tailored to achieve the state's legitimate interests in preventing corruption. Corruption can take place any time, not just during legislative sessions, the court said.

Georgia's similar temporal restrictions on campaign contributions prohibit fund-raising efforts by state legislators interested in campaigning for federal office and thus are preempted by the Federal Election Campaign Act, the U.S. Court of Appeals for the Eleventh Circuit held. Reported in: *U.S. Law Week*, May 7. □

**SUPPORT
THE
FREEDOM
TO
READ**

is it legal?



school prayer

Tallahassee, Florida

Torn by personal feelings, Gov. Lawton Chiles vetoed a bill May 31 that would have allowed children to pray aloud in Florida public schools. The action killed key education reforms wrapped up in the prayer bill, including an increase in grade-point average required for graduation. But in a decision watched around the nation, Chiles chose to abandon the reforms in order to strike down the prayer provision.

"I believe personally that a prayerful and spiritual life is richly rewarding. I commend it, and I recommend it," the governor wrote in his veto message. "But endorsing such a life is for me to do as an individual. It is different for the state."

Putting children of different faiths in the position of trying to decide which prayer to say would be divisive, Chiles added. "The public schools in our pluralistic society are grounded upon the principle of inclusion," he wrote. "School programs which at their best bring people together in common bonds — at sporting events, school assemblies and commencement exercises — could be turned into events that tear people apart."

"School prayer was an everyday occurrence for me as a student in public school, and as a member of the Christian majority," Chiles wrote. "I had, and still have, feelings that this is something that we should be allowed to do." However, the governor wrote, his view changed when he thought about how a child of a minority religion might feel during prayer. "I do not believe that the right

to petition the divine should be granted or withheld by majority vote," he said. "Praying together is a devout act to be embraced, not an act to which one is to be subjected."

Chiles concluded: "After full and prayerful contemplation of this measure, I reach the conclusion that it is better for us to reverently honor prayer as individuals, in our place of worship, in our homes, and in our hearts."

The governor pointed out that children can still pray silently at school. Current law allows schools to set aside up to two minutes of silence at the beginning of the day for silent prayer or meditation.

The prayer bill, passed by the Legislature on the last day of its session, would have allowed school boards to adopt resolutions allowing student-led prayer at graduation ceremonies, sporting events and non-mandatory assemblies. Students would decide what to say, allegedly without influence from school officials.

The veto was one of the most difficult decisions of Chiles's tenure. Lawyers, public interest groups, religious organizations and citizens put unprecedented pressure on the governor. At least 22,000 letters and phone calls came into his office, with correspondence still arriving when the veto was made public.

The veto decision was communicated by Lt. Gov. Buddy MacKay by telephone to State Rep. Debbie Wasserman Shultz (D-Davie), who had organized a coalition to fight the prayer bill. "I was literally jumping all over the house," she said.

Sen. Howard Forman (D-Pembroke Pines), who met with Chiles to urge a veto, said, "I remember what it was like when we had prayer in the schools. We used to have fistfights over 'my God is better than your God.' It's very divisive."

School prayer advocates were disappointed and angry, however. The bill's sponsor in the House, state Rep. Randy Mackey (D-Lake City) said: "What we say to our children through actions such as this [veto] is we will teach you about sex and alternate sexual preferences, we will teach you about drug abuse, we will tell you the evils of tobacco use and alcohol abuse, yet when you come in great numbers to us as responsible adults and ask us to afford you your freedom of speech and your right to pray, we will not allow that."

John Dowless, head of the Christian Coalition of Florida, charged that Chiles "has been talking out of both sides of his mouth. There are legislators of both parties who voted for this bill because they know the people back home wanted school prayer. The governor has just said to these Floridians: 'I don't care what you want.'"

But the veto was hailed by many Floridians, especially representatives of south Florida's large Jewish population. "Had it become law, the prayer bill would have reaped a harvest of religious controversy and divisiveness in our public schools," said Arthur Teitelbaum, southern regional director for the Anti-Defamation League.

Education Commissioner Frank Brogan, a Republican and a school prayer supporter, said, "I know the governor was under a tremendous amount of pressure on this one, but I think it was a terrible mistake. It's a setback to the whole system of higher standards and accountability."

The prayer bill contained a list of reforms considered by many to be crucial in a state known for education failures: increasing the grade-point average for graduation from 1.5 to 2.0; requiring students to take algebra before they get a diploma; prohibiting the use of the easiest "Level I" courses for graduation credit; and reducing class sizes for Florida's youngest pupils, among other measures.

The governor maintained that local school boards and the state Board of Education could still enact many of the reforms, but Brogan disagreed. House Education Committee chair Cynthia Chestnut (D-Gainesville) promised to file a bill next session that will require the same higher standards. Reported in: *St. Petersburg Times*, June 1; *Orlando Sentinel*, June 1.

liability

Arlington Heights, Illinois

The night had started with what seemed like an innocent invitation, progressed into an evening of drinking and watching a pornographic video, and ended with a sexual assault. Two teenage boys were convicted in Juvenile Court on sex charges for plying their 13-year-old classmate with liquor until she passed out, then attacking her.

But now the girl says the video created an atmosphere that led to the attack, and the producers and distributors of the film should be held responsible. In a lawsuit filed in late June, the girl sought unspecified damages against the producers and distributors of *The Devil in Miss Jones*, a film that has been the subject of numerous obscenity cases dating back to the 1970s.

"The facts of the case suggest that the film played a role in the crime," said Ardwin Boyer, the lawyer who filed the suit. "There was a conscious decision to play the tape, and one of the boys became sexually aroused, which means the tape was a contributing factor."

The suit is grounded in a little-known and little-used state law allowing victims of sex crimes to bring civil cases against the manufacturers and distributors of pornographic materials.

The law is similar to a proposal championed in Congress four years ago by a coalition of conservatives and feminists. The premise of the Pornography Victims Compensation Act was that pornography played a major role in sex crimes and the victims, therefore, should be allowed to seek monetary damages. The proposed law was unable to withstand an onslaught by First Amendment advocates

and was defeated.

A few years earlier, however, state Sen. Ed Petka had shepherded a bill through the Illinois General Assembly that served the same purpose. Under the state law, a victim of a sexual assault can sue to recover damages if she can prove that reading or viewing the material contributed substantially to the attack and that the producer or distributor of the material was aware that it was likely to lead to the attack. The victim, in addition, must prove the material is obscene and, therefore, unprotected by the First Amendment.

Boyer said his suit appears to be the first test of the state law, which took effect January 1, 1990.

Legal experts say the law is constitutionally flawed. "There is no way you could attribute to the pornographer the commission of a crime," said Martin Redish, a constitutional scholar and law professor at Northwestern University. "That is ignoring the notion of individual responsibility. Even the direct advocacy of criminal conduct is protected by the First Amendment, unless you can show that there is a likelihood that it would lead to imminent criminal behavior." Reported in: *Chicago Tribune*, June 28.

Greenbelt, Maryland

Can a book publisher be an accomplice to murder for printing a "how-to" murder manual? Such a book, called *Hit Man: A Technical Manual for Independent Contractors*, may be on trial in U.S. District Court in Greenbelt because a hired killer named James Perry supposedly used it as a guide to carry out a notorious triple murder.

"These manuals were published with the express intention to encourage and facilitate the commission of murder," said Washington lawyer Howard L. Siegel, who represents a family suing the publisher of *Hit Man*, the Boulder, Colorado-based Paladin Press. "Paladin marketed these manuals on a nationwide scale to attract and then assist criminals and murderers in every state."

Siegel contends that Paladin Press, which also publishes books on how to dispose of dead bodies and how to make explosives, "aided and abetted" Perry in killing three people in 1993.

"We're not saying the book should be banned. We're saying that Paladin should be held responsible for what they published," said John Marshall, who, with Siegel, is representing the families of those who were slain.

Peter C. Lund, president of Paladin Enterprises, said in an April 19 court affidavit that works such as *Hit Man* were designed "to tease the reader with ambiguity as to whether they are to be taken seriously."

"The mere fact that one of the 13,000 persons who purchased *Hit Man* employed some of the techniques it describes does not establish the likelihood of imminent unlawful conduct," said Thomas B. Kelley, an attorney

for Paladin. The company files disclaimers on many of its book descriptions in its catalog, describing books "For Academic Study Only" or "For Information Purposes Only."

Troubling for Paladin, however, may be a similar wrongful death case in Alabama, in which the courts found *Soldier of Fortune* magazine liable for running a "Gun for Hire" advertisement that led to the contract killing in 1985 of a businessman. The victim's family sued the magazine for \$4.3 million and the Supreme Court upheld the award. Reported in: *St. Petersburg Times*, July 1.

periodicals

Alameda, California

Seven years ago, this island city across the bay from San Francisco lost a court fight to banish sex publications' sales racks from neighborhoods. Now it's decided to at least try to cover them. City officials have proposed an ordinance to mandate "blinder racks" on adult publication racks around town. Passage of the measure, they admit, could land the city back in court.

The proposal would affect magazines that "display material harmful to children." But the problem is there's considerable ambiguity about what's considered "harmful" on a cover. The blinders are devices designed to cover the lower two-thirds of a sales rack, so that only the title of the publication can be read.

Tabloids which publish sexually oriented stories and pages of graphic adult "personal" and display advertising, such as the *Spectator*, which fought and won in court against the city when officials attempted to pull its racks in the 1980s, would probably be a target, said City Council member Charlie Mannix. But *Spectator* editor Layne Winkelbeck said his publication's cover did not fit the definition of harmful matter and called the proposed law "ambiguous." A recent cover of the *Spectator* featured a scantily clad woman and the main story title, "Feminists for Free Expression: Arts Censorship Foes." Reported in: *Oakland Tribune*, May 7.

nude dancing

Atlanta, Georgia

A Peach County nude dance club filed suit in June over a new law that state officials had hoped would clear Interstate 75 of adult entertainment billboards before the Olympics. The law prohibits nude dance clubs from having outdoor advertising, except on their own property.

Peach County's Cafe Erotica filed suit June 27 in Fulton County Superior Court over the constitutionality of the statute, which passed the Legislature on March 12. The suit alleged that the new law would violate the free speech clauses of both the U.S. and Georgia constitutions. It also alleges that Cafe Erotica would suffer "immediate financial harm" if the establishment were not able to advertise along the interstate.

Earlier this year, the Georgia Supreme Court declared unconstitutional a Peach County adult entertainment ordinance that prohibited nude dance clubs from selling alcoholic beverages. Reported in: *Macon Telegraph*, June 29.

Elizabeth, New Jersey

The owners of an Elizabeth night club have filed a federal lawsuit against the city, claiming their dancers have a constitutional right to perform in the nude. Internationally Hott II filed the suit in U.S. District Court in Newark challenging a city ordinance and state law that prohibit nude entertainment at the club. The suit claims the law violates the club owners' First Amendment right to free expression.

"Nude erotic dancing is an expressive activity protected by the First Amendment to the Constitution," the plaintiffs maintain.

But Mayor J. Christian Bollwage said it was not the kind of activity he wanted in the city. "Having a nude bar denotes something similar to Times Square in New York," Bollwage said. "Why would we want that type of establishment in the city of Elizabeth? It's of no economic benefit. We will take all steps necessary in federal court to work to prohibit the opening of this establishment."

The city ordinance prohibits nudity or any topless or bottomless activity at any establishment to which the public is invited. The state law prohibits nudity or any sexually oriented business within a thousand feet of a house of worship, school, school bus stop, recreation facility, or residential neighborhood.

The suit maintains that any area in the city that meets such requirements is in an industrial zone, in which night clubs are not permitted under zoning ordinances. Reported in: *Home News & Tribune*, July 5. □

(creationism . . . from page 150)

Teaching evolution has become so politicized that many high school teachers report they skip the subject matter rather than risk confrontations.

"It's frightening how widespread this is," said Wayne Carley, head of the National Association of Biology Teachers. "Even here in Fairfax County, Virginia, one of the richest counties in the country, over half the candidates for the school board were creationist fundamentalists. This is not just limited to the South. It's everywhere."

The vast majority of the nation's scientists, including many devoutly religious ones, believe life on earth is the result of billions of years of evolution, an unsupervised, impersonal, unpredictable process of natural development. Creationists, however, believe that life on earth is not the result of the evolution of species over time but the result of a transcendent personal creator. Most also believe the Earth is not billions of years old, but thousands, as inferred from the Bible.

A series of court decisions have held that "creation science" is religion in the guise of science. In 1968, in *Epperson v. Arkansas*, the Supreme Court struck down an Arkansas statute that banned the teaching of evolution but did not explicitly mention the Biblical account of the origins of life. In the 1987 case of *Edwards v. Aguillard*, in a 7-2 ruling the high court held unconstitutional a 1981 Louisiana law that required any public school teaching the theory of evolution to also teach creationism as science. That law also made no mention of God or the Bible, but the court ruled that its intent was clearly to teach religion as science.

The 1987 ruling was viewed at the time as a definitive defeat for the teaching of creationism in the public schools. But spurred by the rise of the Christian right, the issue is percolating again with renewed intensity.

In Georgia, one school district, Hall County north of Atlanta, this year adopted a policy calling for the teaching of creationism along with evolution. Alabama approved a disclaimer to be inserted in biology textbooks calling evolution "a controversial theory some scientists present as a scientific explanation for the origin of living things." It goes on: "No one was present when life first appeared on earth. Therefore, any statement about life's origins should be considered as theory, not fact."

"Many teachers won't teach evolution at all because of the stigma and the controversy," said Wesley Roberts, a high school biology teacher in Nashville. "I do polls of kids in my class. In my last class of thirty kids, three had studied evolution. I taught a course at a local college and maybe one or two had any instruction in evolution. Teachers are uncomfortable with it, so they don't teach it at all."

Some supporters of creationism argue that since the Supreme Court did not explicitly ban its teaching, it still may be introduced. "Louisiana did it wrong, but I believe the Supreme Court in that decision was clearly saying, no, you can't do this, but if you'll do it this way it will be OK," said Doug Calvert, a school board member, computer salesman, and fundamentalist Christian who introduced the policy adopted in Hall County. "The Supreme Court said an attempt to narrow the scope of science class will not fly, but we think to expand the scope of teaching would be OK."

But legal experts say the courts have been definitive, and creationism remains more rooted in faith than in valid science. Many educators fear that, at a time of widespread worries about the nation's scientific literacy, it would be disastrous to undermine the fundamentals of evolution in the classroom.

"I think it is impossible to teach biology without incorporating evolutionary theory; we did evolve," a high school biology teacher in Nashville, Pamela Messick, said. "I see this as a political power play to insert Bible Belt beliefs into our educational system. The other day I went into my classroom and I said, 'Evolution, evolution, evolution, evolution, evolution,' and then told my students that I was saying it now because I might not be able to say it anymore." Reported in: *New York Times*, March 10. □

BANNED

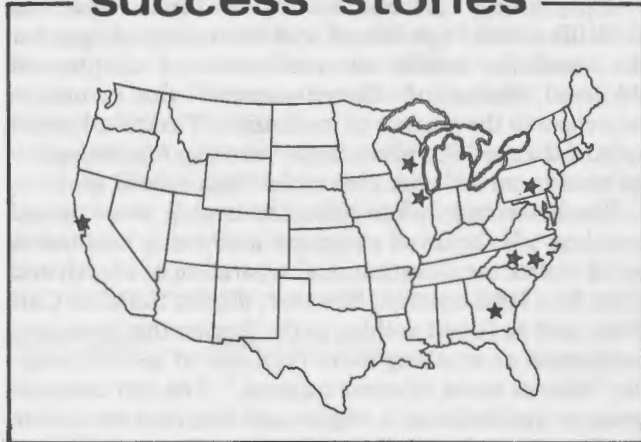
BOOKS

WEEK

September 28 —

October 5

success stories



libraries

Reidsville, North Carolina

Rockingham County School board members voted to keep the Newberry Award winning novel *Sounder*, by William Armstrong, on school library shelves. Elinor Blackwell, a parent of a fifth-grade student at Moss Street School in Reidsville said, following a school board meeting July 11, that she would continue to file complaints about inappropriate books although her bid to have *Sounder* removed failed on a 7-1 vote.

The appeal to the school board was the final step in the process. Committees at Moss Street and at the system level had decided the book was appropriate in the context in which it was used.

Blackwell said she never wanted the book, which is set in the Reconstruction era, banned in its entirety. She said she had problems with the use of the word "nigger" on page 21 and a reference to the main character, a black sharecropper, as "boy."

"It was only those two passages I had trouble with," she told the board. Such negative stereotypes rob individuals of their self-esteem, she said. "I dropped the book when I got to page 21 I was so appalled."

Board member Wink Hoover said he didn't agree with racism, but added, "I have problems if one doesn't treat it and tell it like it was in another era. I think we'd be remiss." A motion by board member Herman Hilnes to ban the book failed to receive a second. A motion to retain the book passed with only Hilnes in opposition. Reported in: *Eden Daily News*, July 12.

Grafton, Wisconsin

Although on June 11 the Grafton library board approved a parental responsibility policy that will restrict young patrons from obtaining R- and PG-13-rated films, the board denied a request to remove the Demi Moore-Michael Douglas film *Disclosure* from the library collection. The board also rejected a motion to make the video selection policy more stringent. The board had decided earlier to retain R-rated films in its collection.

The film selection and circulation policy came under fire after a petition calling for the removal of *Disclosure* was circulated by Sue Olson, a member of the library staff and the person who filed the removal request. The petition also asked that R-rated films not be part of the collection.

An ad hoc committee of library board members and citizens was formed to study the issue. It recommended that parents be required to sign a permission form to allow children under 18 to borrow films rated R. Permission to borrow PG-13 films must be given by parents of children under 13.

Two board members voted to remove *Disclosure* from the library. One board member, Carl Jette, cast the only vote against the parental permission policy and led the defense of *Disclosure* and other R-rated films. "As an adult I don't think certain members of the community should be allowed to determine what I see. This argument is not logical, it is an appeal to ignorance," he said.

Board President Larry Tutewohl also objected to the proposed removal. "Taking *Disclosure* off the shelves would only be the first step," he said. "If we remove that film, then another one becomes the worst. Where do we stop?" Reported in: *Ozaukee Press*, June 13.

schools

Watkinsville, Georgia

The Oconee County school board on May 6 approved a new science curriculum in spite of some public sentiment that the board should include creationism in addition to evolutionary biology in middle school and high school biology courses.

"We don't need to be teaching creationism. We need to be teaching about the Creator — that's who we have to stand before in the end," said board member James Hunter, who voted against the curriculum.

Hunter was the only school board member who opposed the curriculum, but he and board member Kay Shepard voted against accepting the recommended textbooks. Shepard said she could not accept the biology text because in its preface the author stated that the entire book and the entire science of biology is rooted in evolutionary theory. Board chair Harry Thomas broke the 2-2 tie by voting to accept the science textbooks. Reported in: *Athens Daily News*, May 7.

Buffalo Grove, Illinois

Six new novels were approved for the curriculum at Ivy Hall Middle School in Buffalo Grove despite objections by a school board member that one of them "might be offensive to some parents." Although she said June 4 that she had no personal objection to *Skinnybones*, by Barbara Park, Buffalo Grove-Long Grove Elementary District 96 board member Andrea Freier said some parents "may find it objectionable" that the main character "negotiates with God."

"I would prefer to find a book that has a better message for kids," she said. Other board members countered that to reject the book would be tantamount to censorship.

"What one board member finds offensive, another may not," said board member Bob Pinzur. "When you start down this slippery slope, I'm not sure when you stop on censorship." But board President Marc Spivak said he strongly disagreed that it was a censorship issue, because the book would remain available for children in school libraries. The question, he said, was simply whether it should be adopted into the standard fifth-grade reading curriculum. Spivak joined Freier in voting against the book, but it still passed on a 5-2 vote.

Skinnybones is a light-hearted novel about a prepubescent boy coping with self-esteem issues in school and on his baseball team. Ivy Hall Principal John Mason said it helps fifth-graders address their own conflicts with self-esteem. Reported in: *Daily Herald*, June 5.

Eden, North Carolina

A review committee voted 4-1 July 12 to keep Nobel Prize winner John Steinbeck's *The Red Pony* on the recommended reading list at Holmes Middle School. Parent Debra Hinton, who challenged the book's use, said she was not happy with the decision but would not appeal to the school board.

"I would have liked to see the book not required reading," she said. "We just want an alternative for our child. We don't want to ban the book."

Hinton said that on ten different pages of the book, "there are curse words that are totally inappropriate." The couple said that because the writer "thinks it's acceptable to use this language, it will be in [the students'] minds."

"Students are not allowed to use this language but must read it," said Hinton. "This is not right! Would students be allowed to read a book cursing or condemning Martin Luther King?"

"[The language] seems within the context of the book and the way the character uses it was consistent," said Dr. Larry Bennett, a member of the review board and pastor of First Baptist Church. Reported in: *Eden Daily News*, July 9, 12.

Halifax, Pennsylvania

A psychology textbook was cleared for use in a class at Halifax Area High School with the understanding that the instructor would not teach from a chapter on "Altered States of Consciousness" that contains references to the practice of meditation. The school board voted 7-2 June 10 to allow *Understanding Psychology* to be used in an 18-week course for high school seniors.

The book had raised concerns among some board members who believed a segment addressing meditation could violate the Constitutional separation of church and state. In a legal opinion, however, district Solicitor Carl Waas said he found nothing in the chapter that presented meditation as anything more than one of several possible "altered states of consciousness." The text does not promote meditation as a religion and thus does not violate the First Amendment. Board President Barbara Williard said the instructor did not intend to teach out of the chapter at all.

Carol Eppley, one of two board members who voted against the book, said she remained uncomfortable with the fact that students will have access to the material in the chapter even if it's not taught. "I felt that there was enough basic information [about meditation] in the chapter for students to practice it themselves if they were interested," she said.

Understanding Psychology was not the first book the board's Education Committee considered for the psychology class. Another book was rejected because of its treatment of homosexuality and it was felt that another book was beyond a high school reading level. Editorials in the high school newspaper had been critical of what the students thought was too long a delay in picking a book. Reported in: *Upper Dauphin Sentinel*, June 18.

art

Mill Valley, California

After months of debate over hanging nude art at City Hall, including a public forum that drew 150 people, the Mill Valley City Council June 3 approved a public policy allowing the art. Mill Valley artist Juliana Jensen, whose exhibit of nude sketches sparked the ban last year, was invited by the city to show her work, including nudes, at City Hall in November.

The new policy guidelines to be used by the Mill Valley Arts Commission in picking art for the monthly City Hall shows spell out that works must be selected based on artistic merit and that they should be picked with an understanding that the building is a business office.

"Although the city encourages artistic expression, the city also wishes to ensure that city buildings are places where citizens, employees and visitors of various ages and diverse views feel welcome and comfortable," the policy reads.

Workers' complaints about nudes in a show last year led City Manager Doug Dawson to urge the commission to stop hanging nudes. The debate simmered until December, when Jensen's works collided with Dawson's request. The commission canceled the show, and the debate left the walls bare.

Dawson dropped his objection in March after City Attorney Craig Labadie advised that a ban was on shaky legal ground. Reported in: *Marin Independent Journal*, June 4. □

(local allies . . . from page 143)

change is the Christian Coalition. It used to be Rev. Pat Robertson on the 700 Club; now it's Ralph Reed, the Executive Director. He can go on nationally syndicated talk shows and be a rational Christian voice as the Christian Coalition. You still have Pat Robertson saying the most hateful and unbelievable rhetoric on the 700 Club. But they have shown that you can diversify this movement and don't need one leader that everyone follows.

The second thing is there are many more organizations today than there were ten years ago. There are six major national organizations. Each of them has its own independent organization, but they work in coalition in a way that they never have in the past. They write initiatives to take on a number of matters in public education, as a coalition.

The third thing is that, obviously, their political agenda has diversified. Everything now is a Christian issue: eliminating the federal Department of Education and supporting the federal Balanced Budget Amendment have become Christian issues.

The fourth thing is that they are exclusively focused on electoral politics. This is a complete change from ten years ago. They have taken over the Republican Party in my state of Texas. I'm sure they've taken over the party in some of the states you're from. Clearly, their influence at the national level in the Republican Party was demonstrated when the Christian Coalition had every major national candidate for the President of the United States come to its convention for support last September.

The fifth thing is that they are politically sophisticated. These are not rogues out there peddling crazy ideas, whatever fundamentalist line they used to have. In fact, now they do focus groups. They do polling. They do direct mail. And if anyone thinks that the term "family friendly" in a library came out of thin air, I would caution you to think again. I am sure that a lot of research and money went into developing that term as a way of putting a good face on their agenda.

The sixth, from years ago, is that they are financially sound. All of them have several million dollar annual budgets. They have a direct mail program. They raise money over the phone. I'm on the Christian Coalition list for a variety of reasons and I get calls all the time for money. If I just pay a little bit, Pat Robertson will actually pray for me on the 700 Club. I haven't felt that desperate yet, but I'm sure there will be a day when I need that, too.

The seventh thing, and this is the last, but really the most important thing about the Religious Right is that they now are completely grass roots in focus. They have redefined what grass roots politics are in this country. I really encourage those of you who are interested in the local level, to develop your own grass roots organizations, to take as many lessons from the Religious Right and from Ralph Reed as you can. He really understands the power of local politics and constituent contacts, which is why they targeted local school board races. They understand that you can make a lot of noise with a very small but well organized minority.

There are six organizations I think you need to know about. The first is the Christian Coalition. Ralph Reed, the Executive Director, describes it as the McDonalds of American politics, which I think is absolutely right. Headed by the Rev. Pat Robertson, it has about a forty million dollar annual budget. It is the largest organization and certainly the most effective lobby within the Republican Party today.

The second group is the Citizens For Excellence In Education, headed by Dr. Robert Simonds. This is what Dr. Simonds says:

"There are 15,700 local school boards in this country. And it's our intent to take them over one by one. All we need is a majority and then we will determine what is taught. We will determine who's hired and who is fired. We will be the stealth candidates. And you must carry out our mission in such a way that the public won't know what we're about until we've won control. I'm a fundamentalist Christian and as far as I'm concerned that's the only type of Christian that there is."

He does sound kind of wacky, but in fact his group has been very effective in taking over school boards.

The third group is Concerned Women For America. This is a formidable organization. It is the largest women's organization in this country. I just hope you are never in their sights. They have about ten million dollars in their annual budget. They're headed by Beverly LaHaye. They are obsessed with issues that I'm sure come up again and again in your lives. They are against sex education. They're against anything that has to do with promoting a gay lifestyle, as they describe it. They are against reproductive choice. And they are very active in public education issues.

The fourth organization is the Eagle Forum, headed

by Phyllis Schafley. I don't know if you remember her. I thought that after the Equal Rights Amendment she had gone away but, in fact, the Eagle Forum is very active in Texas and in several other states in public education, particularly in censorship issues. They were very active in censoring health textbooks in Texas just last year.

The fifth group is Focus On The Family, out of Colorado Springs. I think this is the most insidious and disturbing organization, headed by Dr. James Dobson. They have a ninety million dollar annual budget. They oppose separation of church and state. They oppose sex education. They oppose reproductive choice. They oppose gay rights. They have a national radio call in program carried by over 2,000 stations. They have eleven magazines and produce videos on how to parent and how to raise your children. They are training the people who are raising the children of tomorrow.

The sixth group is the American Family Association, which is already interested in public libraries. Rev. Don Wildman out of Mississippi heads this organization. They have been very active in trying to destroy NEA and the Corporation For Public Broadcasting. They also have about a ten million dollar annual budget and are obsessed with censorship and anything that has to do with sex and gay issues. Again, they claim that they are a group who wants to get more Christians involved in public policy issues. But all I can see that they ever do is talk about homosexuality and people's private lives.

I'll talk a minute here about what we did in Texas because all of these organizations that I've described were very active in Texas. What I discovered was that we knew a lot about them. A lot of people were talking about them, but we really weren't doing much to take them on.

The belief was that there were a lot more people in the middle and on the progressive end of things than there were on the far right. We simply weren't organized. We weren't working together. And our mission as an organization was to create a state-wide, non-partisan alliance of religious and community leaders, dedicated to providing mainstream alternatives to religious, political extremists. We mobilized grass roots citizens to support public education and individual liberties.

We set out to do four things. One was to become a resource in the state on the Religious Right and on alternative organizations that were working to make a difference in their communities.

The second was to provide training to local activists around the state of Texas and to provide them with the skills they needed to take on the Religious Right in their communities. This included people who were active on school boards and in public education issues.

The third was to try to create an alternative voice in the media. I don't know what it's like in Ohio or elsewhere, but in Texas, Pat Robertson was the defining voice on what it meant to be a Christian. He was con-

stantly quoted by other religious right leaders on issues of faith and values. We found that it was very important that the media have other people to call, whether it was me or a local rabbi or a minister or a librarian or a teacher, who could give at least some balance. So the people sitting at home could realize they weren't the only people who thought these folks were nuts.

The fourth area was advocacy. Not only did we need to educate people about the issues, we needed to actually mobilize our own membership to take on the Religious Right on several issues that were coming up. Primarily, we chose to focus on public education because of the national agenda, and the attempt by the Religious Right to take over school boards and state boards of education. We also focused on individual and religious liberty issues.

The idea was that we didn't, technically, create a coalition. We created an alliance of organizations which are all concerned at some level about the Religious Right. But we didn't always agree about everything. The Texas Medical Association was helpful to us on some issues, but isn't going to agree with us on other issues. The idea of the alliance was simply to work together on those areas on which we could. In that way, we broadened the net, making it as wide as possible. We put together a network of over a hundred organizations in the state that we could notify on issues of concern and mobilize their membership.

We held public forums and training in Dallas and Houston, San Antonio and Austin. The idea was to provide people with information about how to mobilize people to support public education, and to fight things like book censorship and other things that were happening in the public school system.

We had a panel of religious leaders at every session to talk about how people of faith could respond and stand up to the Religious Right. Texas is a very, very religious state. And it was very important that people were not afraid; that we empowered people to stand up to a movement that described itself as Christian.

These forums and public workshops allowed us to get a message out and to identify leaders around the state who really were motivated on all these issues.

In February, we had a big state-wide conference to train leadership from all over the state of Texas. We had 250 religious and community leaders from all of the 33 counties in Texas. And we learned everything from how to produce your own voters guide, to physical self defense against fundamentalism. It was led by several ministers and we're going to go on the road with it. We're also producing a video on it. It was great!

It was really a tremendous opportunity to train people, to have good discussions. But the most important thing is that people left feeling they were part of something. They were not going back to where they felt

like they were the only ones. They had some connection with other people out there. I imagine a lot of librarians feel that kind of loneliness when they're trying to take on a group alone.

There are two additional things we did that I think are worth considering. In the last few months, we have formalized something called the Texas Faith Network, which is an adjunct of us. It is composed of ministers and rabbis and other religious leaders around the state which serves as a faith-based voice to counter the Religious Right.

The second thing we did is create something called the Texas Mainstream Voters Project. The Mainstream Voters Project is an attempt to counter the Christian Coalition voters guides, which are all over the country.

The Mainstream Voters Project is a way of providing an alternative set of voters guides. We did twenty thousand in the last state board of education races. And we were successful in that moderate candidates defeated the Religious Right in those races. We'll be doing that again in November.

I want to conclude with five things we have learned. The first is that you can win the battles that you get to fight. You can win the battles where you get to take the vote. The insidious part of this to me is the fights that we don't ever get to have, the self-censorship that happens.

It's not the books. When we fight over Maya Angelou's book at the school board meeting, we can turn out five hundred people. And we can win that battle, as we did in Round Rock. But what really happens and the more insidious story to me is the self censorship by high school English teachers who simply don't put the books on their list anymore. The irony in Round Rock is that even though they fought the battle and won the battle over Maya Angelou's book, it was no longer on anyone's list. Because no one wanted to take the heat from the Religious Right.

I think this is something that is much more important than simply the fights that we get to have at the school board level or at the public library level. And that's why the work that you do, that you're involved in here today, is so important to me.

The second thing we've learned is that voters will not vote for extreme candidates if they know who they are and what their positions are on issues. We've demonstrated that again and again in school board races and through the Mainstream Voters Project. If people know who the candidates are, regardless of party, we've been winning races in Republican districts all over the state of Texas. No one wants an extremist on their school board. The danger is if people don't know who they're voting for, and they don't know their positions on issues. So I'm saying voter education is critically important. It is something we can not ignore.

The third thing is the community needs to hear from religious leaders on these issues. I could talk for two hours just about that. But I think that for too long, those of us in the mainstream and on the progressive side have abandoned the right to talk about faith and values and family and things which we care about passionately. We have ceded that territory to people like Pat Robertson. It's very important that we don't allow that to continue to happen. There are things that religious leaders can say on the radio that sound very different when they say it, than when I say it.

The fourth thing is, steal from the other side. They have spent millions of dollars in ten years developing the most sophisticated grass roots organizations in the country. And we don't have the time to recreate it ourselves. So I encourage you to learn from your adversaries. I took the best Christian Coalition Voters Guide I ever saw, took their name off it, put our name on it, and changed it around. It was wonderful. I had people calling me from all over the country, saying, "This is great. Where did you get it?"

The fifth thing is that this is a growth industry. I've not stressed that enough. We are just beginning to see the effect of years and years of grass roots organization. Do not think that because Pat Buchanan is not a candidate for President, that the Religious Right is now demoralized, defeated and are going to pack their marbles up and go home. I think just the opposite. In fact, I think that when they lose, they enjoy that even more than winning because they can continue to be the persecuted minority that they believe they are.

I would just say in conclusion that I think it's very difficult sometimes to admit that by confronting the things we oppose we come closer to articulating those things in which we believe. But, that's really what has happened to me this year. I'm not about denying the Religious Right their right to be involved in public policy and the political process, I just think it's high time the rest of us were involved as well.

Susan B. Anthony said something I'm going to close with: "Cautious, careful people, always casting about to preserve their reputation, never can bring about reform. Those who are really in earnest, must be willing to be anything or nothing in the world's estimation, and publicly avow their sympathies with the despised ideas and bear the consequences."

I'm unwilling to stand by anymore and allow hatefulness and blame to become socially acceptable again. While we don't want to demonize the Right, I think it's my obligation to speak out against any movement that is built upon blaming everyone else for the world's problems, whether it's poor people, recipients of affirmative action, gays and lesbians, women in the work force, or folks from other countries.

I think we all have to do our part, big or small, to stand

up for our values, our communities, our families. Stand up against bigotry and intolerance. The power of compassion really does multiply a dozenfold. But it begins with each of us.

Thank you very much. □

remarks by Deborah Jacobs

My comments today are about how to work closely with the Evangelical Right in your community and make stronger libraries.

I will be talking about three things. The first is the Oregon Library Association and our successful efforts to defeat the Oregon Citizens Alliance (OCA). The second is about our successful efforts both to make our community feel a responsibility for and an ownership of intellectual freedom issues, and to establish a strong relationship with the Evangelical Right. Finally, I'll give you some concluding thoughts about what we can all do to strengthen our libraries.

By way of background, in 1992, the Oregon Citizens Alliance introduced an initiative that they alleged was only to disallow special rights for gays and lesbians. In reality, what they wanted to do was eliminate gays and lesbians. There was a key section in that initiative that said no government funds could be spent to endorse or promote homosexuality.

The librarians and library supporters in Oregon knew that clearly meant books. We decided that we needed to focus our Association's efforts on that language and develop a campaign to let people know what the OCA was trying to do, and once this initiative passed, what it would do to our libraries.

Initially, we were very naive about the political process. We didn't really think a lot about coalition building and working with other organizations. We just knew we had a good message. So we held our own press conferences on the front steps of three libraries across the state. National Public Radio covered our press conferences and before we knew it, we were catapulted into the forefront of the electoral process. In fact, it was the library community's arguments that were in the headlines.

For the media, the library censorship issue was so compelling, our library leaders found themselves and the library arguments plastered on the front pages of papers, or quoted in editorials.

As many of you know, we defeated Measure 9 in 1992. And we are exceptionally proud that the day after the election, Lon Mabon, the leader of the Oregon Citizens Alliance, was asked, "What went wrong?"

His response was, "We never should have gone after the books."

Thanks to the efforts of the Oregon Library Association and to Candace Morgan who lives in Oregon, there is not now a state-wide campaign or organization deal-

ing with a censorship issue, that doesn't make sure they have one or two librarians on their Board of Directors or on their masthead. They know how important having that library community link is.

The first lesson we learned was the value of being political.

A negative lesson we learned was that the Oregon Citizens Alliance regularly challenged our collections in debates. Some of the things they were challenging were the materials in our collections. But we were very sensitive to the criticism they had of items they felt should be in our collections but weren't there.

OLA's leadership and the Intellectual Freedom Committee at that time felt we were most vulnerable in this area and worked hard with the Oregon library community to develop book lists and authors and different materials that would be helpful for the Oregon Citizens Alliance and other people who felt like they did so that they wouldn't be able to push our buttons easily and say, "Oh, you have these materials but you don't have others."

Yet one year after the election, when we did a search of library collections throughout the state, we found that nobody had really paid attention. They hadn't bought those materials. So we remained vulnerable by not serving the diversity of our community.

My message to all of you on this is that in order to be credible freedom fighters, you must do everything within your power to develop strong and *inclusive* collections.

In terms of my relationship now with the Evangelical Right, I want to start with a story that happened to me right before I went to the Midwinter Meeting in January. You know how hassled you are before you leave for a conference, you're trying to do a million things at once. In my case, I had to give a budget presentation the day before I left. And in fact, I was not just asking for my usual budget, I was asking for mega dollars to increase our technology.

Then a phone call came. It came from a person that I was working hard on developing a personal relationship with, and that's the leader of the local Evangelical community. One of the things I was going to be talking about at the Midwinter Meeting was my attendance at the Family Friendly Libraries Conference. So I'm thinking, I've got to talk to him. I'm talking about how I'm working with the community [at Midwinter], and yet I was rushing off to do other things.

I think he could tell from my voice that I was a little harassed and he said he just wanted to thank me for the piece I had written in *American Libraries* about the Family Friendly Libraries Conference. I told him yes, indeed, I was busy and thanks for the feedback. I said I was on my way out the door to City Council to ask for money for the library budget.

And then he said a most shocking thing to me. He said,

"Can I help? Can I give testimony in favor of your library budget to the City Council?"

So the question is, how did I come to the place that one of the library's strongest advocates in town was the leader of the Evangelical Ministerial Association?

Well, it started for me after the election with the Oregon Citizens Alliance. I was disappointed in what I saw happening with my colleagues who were not buying books that people on the Christian Right felt needed to be in our collections. And I want to remind you that this is not just a problem with Evangelical Christian materials.

One Saturday morning, I was reading the newspaper. I don't know why, but I was reading the religion page. It's not a page I normally read in my Saturday paper. And I just happened to see something about this new organization called the Friends Of The Family Ministry.

Because we had just done a lot of work with the Oregon Citizens Alliance and because I had done a lot of research and learned some scary things, I thought, "What does this mean?" I cut it out of the paper and on Monday morning, I made a phone call to this person and said, "I'm Deborah Jacobs from the Public Library. I heard that you're starting this new Evangelical Family Friendly Ministry. What can we do to work with your Ministry?"

Well, as I got to know him better, he told me what happened when I called because he was silent. What happened was that his jaw dropped. He had felt from everything he knew and from hearing his colleagues talk, libraries didn't want to hear from them.

This initial discussion — because eventually his jaw did close and then started going up and down and we did have a conversation — has led to an ongoing relationship. It's a respectful and deepening relationship, in spite of my somewhat alternative life style and his Christian, anti-homosexual stance.

Our library staff has met with the entire Evangelical ministry. And we've talked to them about what can we do to make our libraries [more responsive to the needs of their congregants].

We felt like real smarty pants when we went back to the library and discovered that, in fact, we had most of the books they were recommending to their congregants in our collection. We were very pleased. We had worked hard to have those books, and we were very pleased to call them back that same day and say, "Thanks for the list. Guess what? They're all here."

But they never would have known that because they assumed that the library didn't have those materials. That's fairly typical of what happens. The important thing for us is that they know we're listening to them. And they're being respectful to us.

It's not in any way changing the kinds of library services we provide. We're not changing the way we select books or the way we do displays. This link has served us in many important ways and, in fact, made us a much

more vital institution for our community.

The first thing is that more people use our library now and have a sense of ownership and belonging. The second is that on three occasions during this period of time, when censorship battles started to heat up, they didn't.

One of the reasons was because on our City Council we have an Evangelical Christian who, as a City Council person, has seen every two years that the library goes to the City Council and talks about the *Library Bill of Rights*. The City Council then reaffirms and adopts the *Library Bill of Rights* as city council policy.

This City Council person had a deep understanding of why we do what we do, and was able to calm things down when people in her church started to rally on a Sunday morning, on each of these issues. The end result is that we've never had a negative letter to the editor about these things.

People came in to complain. But when I was able to talk with them, one at a time, and say, "Does our library serve your family's needs? Are you finding things that meet your needs?" in every instance, they thought about it and agreed. They never even filled out a form to complain about these items.

The third way that served us is very recent, and that's when we brought up our Internet access. I called the minister and said, "We're bringing up the Internet," and I talked to him about some of the things we're doing to be responsible. But I made it clear that there were no filtering devices in our library, and that we had no regulations on use because of age.

I also asked him for some help. I said, if you hear of any complaints, why don't you call me so I know about them. And if you have some sites that you and people in your church think are great sites for kids, please tell us. We'll look at them and we can link those to our home page. We've been up and running for about three months and have not had any complaints.

In terms of strengthening our communities and our libraries, the first thing is to be active and aggressive in working with your communities. Treat intellectual freedom like any other campaign, for instance, like when you're going to the voters and asking for a new building. Hold community forums and talk to people. And get in the habit of constantly consulting with the community.

The second thing is when people call or come in and ask questions, or challenge decisions you've made, don't immediately put up walls and barriers. See what you can learn from their questions. Don't treat concerns like they are all censorship.

The third thing is to engage staff in regular discussions of intellectual freedom issues, have an on-going training program.

The fourth thing is to make sure that board members, friends of the library and volunteers also have regular an-

nual training on intellectual freedom issues. They are the people who get hit most often at parties and in grocery stores, and they need to understand why we're doing what we do.

The fifth is to develop strong collections. While my focus has been on Evangelical, gay and lesbian collections, this is true for all kinds of collections. When a new rabbi came to town, we talked to him about the books he recommends to people. When new pediatricians come to town, we do the same. Keep those collections strong and vital to the interests of your community.

The sixth thing is to take the *Library Bill of Rights* to a governing body, like we do regularly. Make sure they understand it. It should not be something they agreed to in 1978, and haven't seen since. Keep those documents living and vital.

The seventh thing is to be available for your colleagues. The schools often have censorship problems. Public librarians can help them. Or in neighboring communities, they often can't stand on the front steps of their libraries. But you can go and help them; be the spokesperson for intellectual freedom problems if they're having one. Stay aware.

The eighth thing is to build relationships and coalitions *before* you have trouble. In Oregon when we had training, we just weren't just training librarians. We were training ministers and journalists and regular folks to be our spokespeople on the front lines.

The final thing, which will segue into my last point, is to insist that your colleagues discuss in open and non-judgmental ways, intellectual freedom principles and concerns. I believe strongly that in order to build coalitions to support intellectual freedom, we absolutely must encourage dialogue with our colleagues on this emotion-laden topic.

Yesterday, Lillian Gerhardt talked about how the ALA Council unanimously without debate, reaffirmed ALA's commitment to the inclusion of the word age in the *Library Bill of Rights*. I personally and strongly believe the word "age" belongs in the *Library Bill of Rights*. Where I have a problem is that major, respected urban libraries, rural libraries, small libraries, libraries of all kinds are adding what are called "J" cards. In spite of that, we're reaffirming a principle unanimously without debate. Clearly, something is wrong here if we're not talking to each other. And just as clearly, we have a lot we need to talk about. Today isn't the best forum, but there are many that we're all involved in and we do need to make sure we're having those discussions.

Libraries are increasingly offering more and more options to parents. But they're doing this without the benefit of open and stimulating debate. This is a tough issue. Twice recently I have been told by my colleagues that I'm selling out my library. We haven't introduced a "J" card, so that isn't why I'm selling it out. I'm sell-

ing it out because I'm working with the Evangelical Right in my community.

I maintain if we can't do it together, we're never going to succeed at home when people come in and complain. We will have to change our policies, and we're not going to be able to talk to our colleagues about it.

So my request to each and every one of you is to engage your colleagues in discussion. Do it today as you walk out of this room. Do it at home with your staff. Do it at regional meetings. Do it with library directors. Do it at the dinner table. But talk about these issues.

I really have faith in librarians and in their collective wisdom. I believe that if we talk about these issues, we'll build stronger libraries, and our users will be much better served.

Thank you. □

(information/indoctrination . . . from page 144)

of 124% in homicides among teenagers between the ages of 14 and 17 in this country in the past three years.

Let us look at studies of monkeys. Harry Harlow showed that *even monkeys* need some kinds of tactile stimulation and interpersonal—inter-monkey relationship, in order to thrive, even physically. The metaphor, I think, is probably obvious. Isolation, bringing up kids in a bubble is not the surest way to produce the kinds of good thinking and health that are needed, even though it might seem like a simple solution to block out germs. Now here, we are not talking here about germs, of course, but ideas, and what I want to say, and I want to say this as clearly as I can, is that the problems I mentioned before, the very real problems of violence, of irresponsible or dangerous sex, of racism and other kinds of anti-social problems, may be triggered and influenced by some media content, but they are not caused by that and they are not prevented by blocking out the content of media. They are caused, or at least the primary reason for the great increase in modern times is something much more fundamental, which is that we have removed from all the contexts in which young people grow and have primary relationships—from the home, from the school, from the community—we've removed the sources of guidance that young people need to develop high standards and good values.

This is the subject of my most recent book, *Greater Expectations*, which I am not going to summarize because it is in your libraries. But I will say in a couple of sentences that if you look at what is happening in many schools or most schools, especially in the early years, the standards have been reduced. There has been so much conflict and disagreement politically about what children should learn that a lot of the curriculum has been watered

down to the point where they can't engage in serious or rigorous thinking anymore. Parents, for one reason or another, advice they've been given, books written about child rearing that emphasize the child's fragility and incompetence, parents are resisting guiding their children, are resisting promoting the kinds of engagements, the kinds of in-depth, profound, active engagements with reality children need to develop high standards and good values. A lot of institutions in our society that once provided exactly the primary source—the churches, even the libraries, the youth clubs, the intermediate associations—had the rug pulled out from under them. They've been weakened by a lack of community support, by a dissolution of community itself. So a young person growing up has a hard time in many cases.

I'm not talking about every young person in America. Of course there are kids that are thriving; there are kids that are finding these things in a home that is still together and in a good school here and there. But, if you look at the numbers, if you look at the aggregate, if you look at the range of what's happening in the society, too many young people are failing to find in their own lives the sources of guidance they need to build up the kinds of natural resistances to bad ideas, to racist ideas, to violent ideas that they need in order come up with their own answers about how to live a decent life.

The solutions that I've written about in my own writings are twofold: one happens between the parent or the teacher and the child, and one happens at the level of the community. The phrase that I have used in my writings about the interpersonal part is respectful engagement. Respectful engagement is the process of open communication where the child is encouraged to express freely his or her point of view, has total access to any information, from the culture, no matter how frightening or how salacious it might seem, and the adults around the child engage in a dialog in which they give their own points of view in a firm and honest manner.

In other words, a child can watch an incidence on television that might seem dangerous or scary, but won't ruin the child, and in fact, that can be used as an opportunity for instruction. Bring it out. Have the child watch tragedy, watch hatred, watch all kinds of things, but use that as an opportunity to engage the child in a dialog that will expose the child to a responsible set of values from an adult who has experience and knowledge and tradition—a framework, if you will, for understanding this—that will guide the child in his or her ultimate mission which is to take the best out of that framework, and to build his or her own.

The other solution that I want to quickly mention goes beyond the parent and the teacher, goes beyond a single kind of relationship and communication, but is a solution that brings in institutions such as libraries. It's something I call, when I write about it, creating a youth

charter in our communities. A youth charter is a kind of a consensus, an understanding among people living in a community, the adults and the young people, about a set of values they can share; a set of values that cuts across the diversity and the possible divisions and disagreements that will always exist in a pluralistic society. But even in a pluralistic society, and even when people have different interests, they can still agree to be compassionate. They can agree to be fair. They can agree to be honest. They can agree to be respectful of one another. In fact, if you do travel into a lot of different sub-cultural groups and backgrounds, most adults in most communities will agree to a set of common values. They don't understand that they will and they don't trust that their neighbor will necessarily, and they don't believe that the institutions in their community are contributing in a positive way to this set of values. In fact, they have an active belief that a lot of the institutions, especially the media and the institutions that represent the media are undermining these values. I think this comes largely from a misunderstanding of what young people need. There is a belief that young people are much more fragile than they really are and can't handle information, and a further belief that kids pick up ideas like a camera takes a picture. The truth is that ideas and values develop over a long period of time and are shaped by extensive communication in deep social relationships with parents and teachers that stick with the kid and who care enough to go over with the kid, what's right, what's wrong, to respond, who are willing to learn from the child when the child is right, when the child is wrong, are willing to learn from the child when the child may have a better idea than the adult does. These are the kinds of relationships which shape values, not a single episode on a television set. But if the institutions in our society sponsor forums and occasions where adults can meet and discuss what they have in common and the young people can come in and join the discussion, we can begin to create across our communities the foundations of an understanding, that I like to call a youth charter. It is no more than a set of high standards and expectations that all the young people in our society believe that they can live up to, that provides them with a sense of purpose and that they can take to be their own. I will say that the implementation of this, if and when it happens, will deflate a lot of the pressures we are feeling right now to control and over-control the child's access to information.

My belief is that we are all after the same ends.

We want young people to thrive, we want them to have a strong sense of purpose, we want them to believe in something that is socially constructive. What is not widely understood is that the way to get there is to work in a positive way. The best defense is a good offense. In this case, we need to work in a positive way to give young people the sense of purpose they need to immediately see

through the violence and the salacious influences and to build up their own set of high standards and strong behavior. All young people can do this. I've worked with children from every kind of background. I think that sometimes well-intentioned people believe you have to lower standards for children with deprived backgrounds and, protect them from things. It's not true. They, just like every child, can understand a complex message, can invest themselves with high spirits and intellectual energy in the demanding tasks and reciprocally, children from the most affluent situations are often dispirited, purposeless and drifting because, in an ironic way, we created the same vacuum for them as we have for under-privileged kids. We have to do this across our entire society. We have to work energetically on this and, hopefully, if we do, some of the valiant struggles that we are seeing on the constitutional front will be reinforced, or, my highest hope, be rendered unnecessary because people will realize that the attacks on our constitutional rights are not the solution to the education and the moralization of youth.

remarks by Herbert Kohl

What you are going to get from me is an unreconstructed radical from the left view, not dogmatic but real serious. First of all, violence — poverty is violence. Violence is not caused by poverty. Poverty is violence delivered by the privileged on the non-privileged. Therefore, what we are basically talking about is the free expression of rage, the free expression of anger that is being suppressed basically by the well-funded forces who have used the word "politically correct" incorrectly.

If you are interested in a further elaboration, my book *I Won't Learn From You* has an essay on this. I'm a red diaper baby. So I know what "politically correct" means — really where it comes from. "Politically correct" means you follow the Moscow line. You're "politically correct" if they tell you in Moscow what to do in Chicago, New York, Detroit, Atlanta — that is what "politically correct" meant. "Politically incorrect" meant you acted in a community based on conscience as opposed to the party line. Now, the word "politically correct" was crafted by the fascist right — they call themselves neo-conservatives and neo-liberals — the intellectual fascists — by people themselves who are ex-communists, or were ex-fellow travelers. So if I speak out against racism and I speak out against homophobia, they want to target me — some would say paint me red. They suggest I am preventing someone else from speaking by speaking out against an outrage and violence against somebody else. I think it is very, very important, especially for librarians, people who honor language, not to tolerate those people who glibly put down the notion of political correctness and by doing so marginalize struggles for equality and

social justice. Because after all, it is nothing but a strategy to marginalize serious attempts to deal with equity and justice. Rhetorically, it's an attempt, and a very effective one, by the way. Effective because they can say that anytime they don't like a magazine, like *The Nation*, they can set up a new one, like *The New Standard*. That money is coming from somewhere. There are people in whose interest it is to keep people poor. Therefore, active engagement with reality, to quote something I just heard, means active engagement with those forces in whose interests it is to keep people poor. I don't want to stop the Klan from publishing. I want to teach kids how to deal with what they publish. In fact, it is worse to stop the Klan from publishing than to let kids read in the context of a larger literature with more diverse voices, a literature that allows them to put into perspective hatred and foolishness and intolerance and oppression. But I really do believe that we are not neutral and librarians can't be neutral. My first librarian wasn't neutral. She was an old socialist who kept slipping me books I would have never read otherwise. She gave me those books. She said, "I know you like all this Hardy boys stuff, but you are from the Bronx, you are from a working class community — read this, would you, please." And I said, "No I won't." And she said, "I'll tell you what, you can only check out three books. You can check out five if you read this. I'll give you one extra of yours and one of mine." And when I'd go back she'd ask me what was in the book. That engagement with the library, the center of literacy, is what is at peril, as much as free speech is at peril. If I were coming up on the streets having the terror that a lot of kids I work with have when they have to go to school, I would want nothing but revenge against white people. It would take a good hard dose of Christianity and a very deep education in compassion to keep me from doing something. There is no such thing as the child in the United States. There are children, and all of our children are not equal, just as all of our libraries are not equal. All of our children do not have equal access to the Web, to the Net, to all of this information. I think it is terribly important when we start speaking of our culture and free expression that we situate it in the real lives of real children that each one of us wherever we come from dream another child's life that is different than ours, more difficult than ours, more painful than ours. A life in which there are no words, in which the issue of what's censored and what's not doesn't come up because there ain't no books. And what I really think we need is a militant opposition to the cynical people who have power now, and it has to come from all of us, not as librarians or from me as a writer, but as citizens. What is at peril here is not free speech, it is democracy. I am thoroughly convinced that if it was a choice between the free market and democracy, where the people in power would go. On that level, we all have to honor and learn

from young people. There are young people coming out as gay and lesbian, there are young people trying to reach across culture and gender and stereotypes, young that people are boundary crossing all the time. But we don't spend time building up what we can learn from them. We're always putting them down as the sources of violence. We are the source of violence. They are the victims of the violence we've created, and at their best, they are part of the solution. We can be either part of the solution with them or part of the problem.

remarks by Lawrence Magid

I think there is a lot of pornography in our society and it bothers me; sometimes I think maybe it should be controlled. In fact, pornography is rampant. It's legal. It's even popular, for example, for politicians and demigods, including the liberals and the White House who should know better than to be pornographic in their portrayal of homosexuals, denying them their rights, setting up these odd kinds of criteria by which they can be or not be in the military. I find that a form of pornography. I think it is pornographic for Congress and state legislatures to slash the arts, to close libraries, to cut back on school budgets, all in the interest of balancing a budget and trying to keep the financial coffers going in a certain situation. It strikes me that there is something very dirty about that, yet we don't see anybody censoring the rights of school boards to cut libraries and cut school budgets.

The media, it strikes me, are guilty of the worst kind of pornography in the way in which they create what becomes our mass culture. It is not based on what is intellectually appropriate, it is not based on sound editorial decisions, but is based on business practices which have little to do with the old-fashioned art of publishing and have a lot more to do with the new fangled art of marketing intellectual material. I find it somewhat pornographic, to be honest with you, that an editor will not sign up a book in many cases without first checking with the buyers from the major book chains, without first going to the movie studios to determine whether or not this might not be appropriate for a movie, without checking with the television networks to see whether or not this might be a movie of the week. What makes it all the worse is that in some cases, they don't even have to cross corporate lines to do it because the same conglomerates that own many of the publishing companies also own the book chains, and the movie studios, and the television networks; in many cases, they are the same company. You can count them, I think, on one or two hands. To me that is a form of pornography because it is offensive and because it contradicts some cherished values that I hold as somebody who very much loves and appreciates a pluralistic society with many, many choices.

It is pornographic that small bookstores are becoming extinct, that today you can't even find in many communities a bookstore that isn't owned by a national chain. The other day I wanted to have a meeting at a library. I needed to meet with a colleague and we figured a library would be a good place to have it. It turned out we couldn't find anywhere within a few miles that was open before eleven o'clock in the morning. They had cut back the hours. I called up and got a voice mail message that told me to show up at two o'clock. Between two and five, the library would be open. To me that is a form of pornography. Maybe I have a different definition of pornography than Senator Exon and the people in Congress who passed the Communications Decency Act.

What I do share with conservatives in this country is defense of family values. I strongly believe in family values and strongly believe that every family has the right to set its own values. The problem is when other people's families try to set the values for everyone. If people in Congress who passed the Communications Decency Act think that they know how to define values for the American people, I have news for them. I don't know how to define values for the American people. I doubt if there is anybody in this room that knows how to define the values of the American people. We're lucky enough if we can define the values or help to find the values or even understand the values of our own community, let alone our own family. Even within the small community that I'm part of, my wife and two children, there is disagreement, there is diversity. There are intellectual arguments. Right now my son and I are fighting over the relative merits of Nintendo or PC games, and believe me, it's an extremely vibrant argument that we are fighting. He is winning at the moment.

Last year I took my 11-year-old daughter to New York with me, and her grandmother came with us, so I had someone to be with her while I was in meetings. One night I was free and took my daughter and her grandmother to a Broadway play. We so we took a cab to Times Square and walked over to the theater to see "Grease." But on the way we passed a number of adult bookstores and adult movie theaters, and my daughter actually turned to me and asked me what an adult store was. She actually thought that an "adult" bookstore was a place where adults could go to relax and get away from kids. Well, I suppose you could. But the fact is that in passing through Times Square, we were confronted by what I think most people would agree are materials and places that are inappropriate for children. Even though there were people to keep my daughter from going into these places, what they represented and offered were clearly available on the billboards and the windows; you really didn't have to go into the adult bookstore or movie theater to understand what they were all about. So on the way to the Broadway play, we had a discussion about

what these places were and why they were there and how I felt as a parent about them. Her grandmother added a very different point of view, being somewhat older and more conservative, but it was a very vibrant and useful discussion. I think in many ways my daughter learned a great deal by having this exposure to these stores.

The irony is that the presence of these stores are constitutionally protected and no one has successfully argued that they should be banned. We have a tradition of free speech, and adult bookstores and movie theaters within limits are protected by that free speech. Yet on the Internet, these institutions or the kinds of material they publish would have been considered illegal had the Communications Decency Act not at least temporarily been struck down by a three-judge panel in Philadelphia. Ironically, my daughter and my son spend hours and hours on the Internet and they have never encountered online anything that looks like the adult bookstores in Times Square that you can't help but walk by on your way to a Broadway play.

Yet on the Internet, where it is hidden, where you have to go out of your way to find this kind of material, it is banned by an overwhelming vote of Congress.

The nature of how you protect children is a very important question. It goes back to my initial comment about the pornography that exists in a society where arts have been slashed, where reading is being limited, where good speech, where speech that we need to encourage—and by speech I mean not just speech, but also reading, music, athletics, the whole diversity, the whole experience of growing up in a society—is being challenged. Yet at the same time there are those who would tell us what we cannot and can read. But the question is, how do you protect children?

That was the fundamental justification of the Communications Decency Act. In fact, it was originally written without the children in mind. It simply said that indecent material shall be banned from the Internet. I'm simplifying it, but that's the basic concept — that the Internet should not be able to carry indecent material. And then, after a number of pressures, they modified it to say such material could fall into the hands of children, which is basically why Congress went along with it. It seemed like an act to protect children. The problem is that the way they were defining "falling into the hands of children" put the burden on virtually anybody who handled that material from the author to the publisher to the online service that passed it on. Basically, they modified this bill with this child thing in it and that is the justification of how it got passed.

Most of it actually resonated from some of the themes that many of the people have been talking about in the public media for years, for instance, the overreaching arm of the federal government as the massacre of Waco, Texas, what happened at Ruby Ridge, people who felt

that the IRS was abusive and repressive. In fact what these groups are doing is using the Internet to recruit, by saying "watch what is happening in your government, and by the way, look at the surnames of some of these people." There is a very surreptitious and very resonant message that's getting across. But banning such a message, banning this speech, would essentially be an exercise in futility because the ideas which they are expressing are ideas that are out there. It would have been as effective as banning the anti-war messages of the 60's, saying SDS couldn't speak out against the war in Vietnam because, as patriotic Americans we must all support the war in Vietnam. Well, regardless of which side of that particular struggle you happen to have been on, it would have been a futile attempt — and it was a futile attempt on the part of those who wanted to ban such speech because the ideas were out there anyway.

My contention is that the way you fight the American Nazi Party, the way you fight the Ku Klux Klan, the way you fight those who use any medium to promulgate hatred, is by engaging them and their ideas. I welcome the fact that it is now possible for me to bring my child into an environment where they can look at this kind of material so I can engage them in a discussion as to what the material means. I welcome the fact that for every racist and sexist and homophobic and anti-Semitic web site that is out there, there are probably ten to fight racism and sexism and homophobia. If I tell the Ku Klux Klan that it can't use the Internet to promote its sexist, racist and anti-Semitic propaganda, then I can't use the Internet to promote my ideas. In fact, some of my ideas were suppressed many years ago and I know what it means to be the victim of censorship. I'm not going to do it. I don't have to like the speaker to protect his or her right to speak.

It is very easy for me to come out against the Communication Decency Act. It was difficult for me to take on the Simon Wiesenthal Center, which I respect tremendously as an anti-fascist organization. But I have to criticize them for their position, which essentially would have banned hate speech on the Internet. I think it is important that people in the intellectual community understand that we have an obligation to keep in our libraries books that celebrate or express ideas that some people may find offensive, to keep in our schools certain kinds of talk or thought or books some believe to be inappropriate, or politically incorrect, to defend the right of people to express those things. Right now, I think it is especially important in the online world, that we band together to protect the right of free speech.

I want to leave you with one thought about that. American government has a very influential position in the whole world. We are looked to as the beacon of democracy, rightly or wrongly. Many countries have patterned their constitutions and their bills of rights after

our bill of rights and they pattern their legislature after our legislature. Let's imagine that the Communications Decency Act were passed in other countries. And let's imagine, for example, that one day you and I engage in discussion on the Internet about civil rights and the right of discussion about religion and take a position about why Christianity was the only religion that one should subscribe to and I argue with that, or you take the position, let's say, that it was okay to allow socialist organizations to distribute literature in New York City and I argue with that. Nobody in this country, including the most conservative legal scholar would say that what we were doing was inappropriate.

But let's say that one day Herb Kohl went to Singapore for a business meeting. He gets off the plane and security says, "Mr. Kohl, would you come with us, please." "What can I do for you; why do you want to talk with me?" Well, sir, you are under arrest. Herb Kohl would say, "I've never been to Singapore. What could I have possibly done to violate your law?" "Well, Mr. Kohl, a copy of *Thirty-Six Children* was posted on the Internet, the book you wrote thirty-six years ago, and there are some ideas in that book which are contradic-

tory to the laws here in Singapore. I'm sorry, Mr. Kohl, but you are guilty of distributing subversive literature against our laws and you are coming with me."

That is not a very far-fetched concept. Just ask Salman Rushdie. It's a very real threat. We live in a global society, with a global economy, and a global information structure. The United States government can ban one kind of a book and the Singaporean government can ban another kind of book internally in their libraries or their bookstores, but the reality is you cannot ban intellectual property once it enters the electronic realm. It's impossible. Or if it's possible, it's using a technology that I don't know about. And so, even if you are successful at suppressing free speech in your own society, you're not going to be successful in suppressing that speech when it comes in from another society or if you are publishing it, when it goes out to another society. It's a very, very dangerous business. It's also a losing battle. The genie is out of the bottle. You can ban pornography in the United States but you can't ban somebody from Sweden from publishing it and having it come into the United States on the Internet.

So we do have our work cut out for us. □

southern baptists censure Disney

The Southern Baptist Convention voted June 12 to censure the Walt Disney Co. in part for having adopted a policy last year extending health insurance benefits to the same-sex partners of employees. "We're through with the mouse until the company cleans up its act," said delegate Gary Hughes.

The resolution, adopted overwhelmingly by the nearly 14,000 people attending the denomination's annual meeting in the Superdome in New Orleans, stopped short of calling for an immediate boycott of the media giant. But those at the meeting toughened the resolution's language by adding an amendment calling on Southern Baptists to "boycott Disney Co. stores and theme parks if they continue this anti-Christian and anti-family trend."

The Baptists are also critical of Disney's production and distribution, through subsidiaries, of adult-themed movies and TV shows, such as *NYPD Blue*.

Nancy Victory, chair of the denomination's resolutions committee, who helped oversee the statement's drafting, said, "The Disney Co. is not the same Disney that it was years ago when we were growing up. We find there is a philosophical shift at the highest levels of the company, which is not friendly to families and people of faith."

"We find it curious that a group that claims to espouse family values would vote to boycott the world's largest producer of wholesome family entertainment," the company said in a formal statement. "We question any group that demands that we deprive people of health benefits, and we know of no tourist destination in the world that denies admission to people as the Baptists are insisting we do."

The resolution faulted Disney for "hosting" gay and lesbian theme nights at its amusement parks. "In recent years, the Disney Co. has given the appearance that the promotion of homosexuality is more important than its historic commitment to traditional family values," the resolution said.

Disney representative John Dreyer said, "What they are talking about is an event that's dubbed 'gay day' by its organizers," a gay and lesbian group in Orlando, Florida, that for several years has held an annual gathering at Disney World in late June. "Those who decide they're going to the park go out and buy tickets just like any other guest would."

Dreyer said company officials would be willing to talk with leaders of the Southern Baptist Convention. "However, we will not drop our new health program," he said. "We will not discriminate against people who come to our parks." Reported in: *St. Petersburg Times*, June 13. □

(Internet . . . from page 141)

Publishers, Center for Democracy and Technology, CompuServe, Microsoft Corporation, Prodigy Services Co. and Wired Ventures, Ltd.

In handing down its decision in *American Library Association v. U.S. Department of Justice*, the judges said, "the government . . . implicitly asks this court to limit both the amount of speech on the Internet and the availability of that speech. This argument is profoundly repugnant to First Amendment principles. . . The First Amendment denies Congress the power to regulate protected speech on the Internet."

The decision included a brief statement of the history of the action, the statutes involved, and 123 specific findings of fact. The findings of fact contain an overview of such topics as the nature of the Internet, methods of restricting access to materials and information on the Internet, the practicality of the defenses included in the legislation, and the problem of Internet transmissions from outside the U.S. These are followed by separate opinions by Chief Judge Dolores K. Sloviter of the U.S. Court of Appeals for the Third Circuit, and Judges Stewart Dalzell and Ronald L. Buckwalter of the U.S. District Court for the Eastern District of Pennsylvania, each of which discussed a separate aspect of the CDA. Dalzell and Buckwalter were appointed to the bench by President George Bush, Sloviter by President Jimmy Carter.

The full text of the 219-page decision was made available online at the following Internet sites: <http://www.aclu.org> (American Civil Liberties Union); <http://www.cdt.org> (Center for Democracy and Technology); <http://www.epic.org> (Electronic Privacy Information Center); and <http://www.vtw.org> (Voters Telecommunications Watch).

"As the most participatory form of mass speech yet developed, the Internet deserves the highest protection from government intrusion," wrote Judge Dalzell. Because the Internet is decentralized and global, he continued, "any content-based regulation of the Internet, no matter how benign the purpose, could burn the global village to roast the pig. . . Cutting through the acronyms and argot that littered the hearing testimony, the Internet may fairly be regarded as a never-ending world-wide conversation. The government may not, through the CDA, interrupt that conversation."

"The absence of governmental regulation of Internet content has unquestionably produced a kind of chaos," Dalzell concluded, "but as one of the plaintiffs' experts put it with such resonance at the hearing: 'What achieved success was the very chaos that the Internet is. The strength of the Internet is that chaos.' Just as the strength of the Internet is chaos, so the strength of our liberty

depends upon the chaos and cacophony of the unfettered speech the First Amendment provides."

Under the CDA, enacted into law February 8 as part of the Telecommunications Reform Act of 1996, any person who knowingly sends or displays materials over the Internet that could be interpreted as "indecent" or "patently offensive by contemporary community standards" could be imprisoned for up to two years and fined up to \$250,000.

Attorneys for the plaintiffs argued that the law would curtail freedom of speech by restricting all communication on the Internet to a level appropriate for children and would unfairly subject libraries, colleges and other educational institutions to criminal prosecution for disturbing great works of art and literature, health, science and other materials that some might find offensive. Government attorneys argued that the court should read the Communications Decency Act to apply only to hardcore sexually explicit material.

In presenting its case, the CIEC brought the Internet directly to the judges with high-speed modems and large computer monitors. That work apparently paid off because the judges' 71-page findings of fact closely resembled the plaintiffs' briefing materials. The findings were quickly labeled by some computer columnists as the best introduction to the Internet available in print.

The wording of the judges' opinions grants First Amendment protections to the online world that are equal to, if not stronger than, those afforded print material. The court accepted the plaintiffs' contention that parents could best police their children's Internet surfing by using high-tech tools now becoming available to restrict access to materials to which the parents objected. The emergence of such tools, the judges reasoned, meant that the government, through the CDA, had not abided by its constitutional obligation to use the least restrictive means to regulate speech.

The decision also served as a warning to lawmakers because the court's findings "lead to the conclusion that Congress may not regulate indecency on the Internet at all," Dalzell wrote. If that logic stands, said attorney Bruce Ennis, who argued the case for the coalition, "it means there's no way Congress can go back to the drawing board" to regulate indecency. Judge Buckwalter noted, however, that "it is too early in the development of this new medium to conclude that other attempts to regulate protected speech will fail a challenge."

Congress had stated, and the Justice Department had argued, that the intent of the CDA was to prevent pornography on the Internet. The judges noted, however, that the legislation went well beyond that goal because it failed to define "indecency" and instead ensnared constitutionally protected materials. In fact, the ruling noted that Broadway plays, discussions of female genital mutilation, photographs in *National Geographic*, novels, and

even ribald conversations between adolescent boys might be considered to fall within the scope of the statute. The court stressed that there were better, and less restrictive, ways to protect children — for instance, the use of blocking software like SurfWatch or Cyber Patrol.

The law did not address issues of child pornography or legally obscene materials, which are already barred whether in print or digital format.

The ruling was not only a landmark decision about free speech but also important to the future of libraries. "Libraries can continue to provide information and ideas, regardless of the format, without concern about fines or jail terms," noted Candace Morgan, 1995-96 Chair of ALA's Intellectual Freedom Committee. "This is a victory for everyone who uses libraries."

There was growing concern that if the CDA was upheld, the potential for prosecution would force libraries and librarians to become self-censors or go off-line, signaling the death knell to the library of the future. This was echoed by Judge Sloviter when she held that the CDA was too vague and did not provide enough guidance for those who provide Internet access.

"It is difficult to characterize a criminal statute that hovers over a content provider, like the proverbial sword of Damocles, as narrow tailoring," Sloviter wrote. "No provider . . . is likely to willingly subject itself to prosecution for a miscalculation of the prevalent community standards or for an error in judgment as to what is indecent."

Dalzell agreed: "Even though it is perhaps unlikely that the Carnegie Library will ever stand in the dock for putting its card catalog online, or that the government will haul the ACLU into court for its online quiz of the seven dirty words, we cannot ignore that the act could reach these activities."

The decision was cheered by computer users, who got their first notice of the court ruling from a victory fireworks graphic announcing the decision simultaneously on 3,900 linked Web pages. The decision also prompted outdoor rallies by computer users in New York, Pittsburgh, and San Francisco. Plans were also underway for a "Million Geek March" in September, aimed at urging the Supreme Court to affirm the decision.

"This is a victory for anyone who cares about freedom of expression or the future of the Internet," said Microsoft head Bill Gates. "Technology can provide a much more effective safeguard without restricting the free flow of ideas and opinions on the Internet."

"The court today did for children and adults what Congress did not: it decided that parental-control tools combined with user education and enforcement of existing laws is a more effective and constitutional way to protect children and safeguard our freedom," said Bill Burrington, assistant general counsel for America Online, Inc.

"There is a lot of rejoicing going on in our online conferences," reported Maria Wilhelm, president of The Well, a Sausalito, California-based online service. "The judges' decision is a very sane response to an insane law. We are really happy today. It's kind of like an online hoedown."

Even if the CDA had been upheld, foes said, there would have been tens of thousands of dissidents on the Internet. Many responded to the new law by posting the very type of content opponents of the law say it would make illegal. Kirsti Thomas, a librarian at Seattle Pacific University who describes herself as a "church-going Christian," posted images of art classics such as Michelangelo's David and the Sistine Chapel that could be illegal.

"The tremendous amount of online opposition to the CDA was instrumental in helping to attain this victory for free speech," said Stanton McCandish of the Electronic Frontier Foundation.

Bruce J. Ennis, who argued the case for CIEC, called the decision "a spectacular victory for free speech and the Internet." Marc Rotenberg, director of the Electronic Privacy Information Center, called the decision "the *Times v. Sullivan* of cyberspace," a reference to the landmark 1964 Supreme Court case that found the First Amendment protects the press from libel suits by public officials, except for reports made with "actual malice."

"This is as historic a case as we have had in our history on the First Amendment," declared ACLU executive director Ira Glasser.

Not everyone was overjoyed at the court's action, however. President Clinton, who had signed the act in February, said, "I remain convinced, as I was when I signed the bill, that our Constitution allows us to help parents by enforcing this act to prevent children from being exposed to objectionable material transmitted through computer networks."

"We know the online community overwhelmingly opposed the CDA, but only ten percent of the country is online and they're mostly male and mostly upper-class," said Cathleen Cleaver, director of legal studies for the Family Research Council, a conservative policy group. "They've had complete freedom online and they just don't want to burden themselves by changing their ways to protect children. Outside cyberspace, laws restrain people from displaying sexually explicit images in public places and from selling porn magazines to children. So, on the Internet, the burden of protecting children from exploitation should not rest solely on the parents." Cleaver likened the court order to "leaving a loaded gun in a playground . . . in a world in which pornography knows no bounds."

Sen. James Exon (D-NE), who sponsored the CDA, charged that the court had "taken the ACLU line that anything goes on the Internet, even though that overlooks

well-established laws protecting children from pornography in other areas. Hopefully, reason and common sense will prevail in the Supreme Court."

That view was echoed by Bruce Taylor of the National Law Center for Children and Families, who said that the court "jumped off the bridge" with its "absolute" decision. Complaining that "the technology overwhelmed the court," Taylor predicted the Supreme Court would reject the ruling. "They haven't got a prayer of having this upheld on appeal," he said.

Penny Young Nance, legislative director of Concerned Women for America, said, "We anticipated it going to the Supreme Court and we believe we'll win there."

Legal scholars, however, were near unanimous in praising the decision and most predicted that the nation's highest court would affirm the ruling.

"When you start monkeying with terms like *indecent*, you are heading down the road toward 1984, where much of our speech would be restricted. The courts are not about to go down that road," predicted Philip Weinberg, a professor at St. John's University School of Law in New York.

"I think the panel was a good cross section of the federal judiciary generally," said Gregory M. Harvey, a First Amendment specialist with the Philadelphia law firm of Morgan, Lewis & Bockius. "It is similar to how the Supreme Court is now constituted." Although there would likely be dissent, Harvey predicted the ruling would be affirmed. "I have not heard any informed legal opinion to the effect that it is going to be reversed," he said.

Harvard constitutional scholar Laurence H. Tribe called the decision "an extremely important victory for free speech in cyberspace." Tribe said the decision went against a long-standing trend of courts trying to limit speech in new media, from early declarations that motion pictures do not qualify as "speech" to today's content restrictions on radio and television. "It's a scary trend, and I'm glad to see that this court didn't buy into it," Tribe said.

Sen. Patrick J. Leahy (D-VT), who opposed the CDA in the Congress, said that he was gratified by the ruling. Leahy criticized colleagues for being willing "to trample the Constitution just to make political points back home." He said many of his colleagues knew that the CDA was unconstitutional but voted for it anyway, and "a couple already have told me they were relieved that the courts found that way."

In anticipation of the Supreme Court review, ALA, FTRF, and other CIEC members are continuing to work with the legal team headed by Bruce Ennis. Legal expenses were expected to reach over a million dollars. The Freedom to Read Foundation has contributed \$100,000 toward those expenses and in May, the ALA Board approved the expenditure of \$250,000 to offset

legal expenses.

Aside from the Supreme Court appeal, several state bills modeled on the CDA remain pending. "Unfortunately, many of the state bills are sufficiently different that they will not automatically be affected by the judges' ruling on the CDA and will have to be challenged individually in the courts," said Stanton McCandish of the Electronic Frontier Foundation. "And then there are also efforts in other countries to pass similar laws." Reported in: *Intellectual Freedom Action News*, June 1996; *Cognotes*, July 7; *Washington Post*, June 13; *Washington Times*, June 13; *Los Angeles Times*, June 13; *San Francisco Chronicle*, June 13; *San Francisco Examiner*, June 13; *Atlanta Constitution*, June 13; *Philadelphia Inquirer*, June 16. □

(censorship dateline . . . from page 160)

or be associated with a book that makes "repellent" assertions.

Brand called the decision "both craven and stupid. I've become more aware of how widespread is the rot of political correctness," he said. "I hadn't dreamed that these people were so tyrannical, and that they could pull out on a book."

Several scholars, including some who take issue with Brand's work, decried Wiley's decision. Stephen Ceci, a professor of psychology at Cornell, said a fair amount of empirical evidence existed for Brand's position. "It happens to be one I disagree with. Still, I find it regrettable that they felt the need to muzzle him. If it can happen to Brand, it can happen to anyone." Reported in: *Chronicle of Higher Education*, May 17.

New York, New York

Jewish groups have joined a campaign to boycott selling a book that is believed to have inspired the Oklahoma City bombing. The American Jewish Committee and the Simon Wisenthal Center have contacted major booksellers across the nation, asking them not to distribute *The Turner Diaries*, by neo-Nazi William Pierce. The Southern Poverty Law Center, headed by Morris Dees, first raised concern about the book's publication and distribution.

The novel has been in circulation since 1978. At that time, it was published by National Vanguard Books, an arm of the neo-Nazi National Alliance, which sold 185,000 copies. But it was inaccessible to the general public until Barricade Books decided to publish it.

"It is almost beyond belief that on the first anniversary of the Oklahoma City massacre, a mainstream publisher would announce publication of a book which depicts the destruction of a federal facility by a truck"

carrying a bomb, "a book which was found among Timothy McVeigh's possessions following Oklahoma City," said Rabbi Abraham Cooper, dean of the Simon Wiesenthal Center.

Barricade Books publisher Lyle Stuart defended his decision to publish the novel by evoking the First Amendment. But, said Cooper, "the issue here is not censorship." In an introduction to be published in the Barricade edition, Stuart acknowledged that *The Turner Diaries* is a "dreadful" and "bigoted book." But, explaining his decision to print the book, Stuart wrote, "The majority — you and I — must always protect the right of the minority, even a minority of one, to express the most outrageous and offensive ideas." Reported in: *Intermountain Jewish News*, May 3.

radio

Spartanburg, South Carolina

A Spartanburg radio station pulled a talk show discussing same-sex marriage and gay issues off the air May 21 just twelve minutes after the program began. T.C. Lewis, owner of WMMZ-AM, said his station is a community broadcast facility and was not going to get involved in the "same-sex marriage and those rights issues that everybody keeps talking about. I was not informed they were going to have that kind of program," he said. "I'm not going to be part of the story."

The "You and Ann Hicks Show" was being broadcast live from a coffee shop. Hicks was out of the country and the show was being hosted by Meg Barnhouse, a Unitarian minister.

"I'm sorry I had to embarrass Meg or anybody else," Lewis said. "If we'd have had a guest discussing both sides of the issue, I wouldn't have had a problem with that. It is time people took a stand before this country gets away from us."

Barnhouse said after the show was stopped she called Lewis. He told her, "You can discuss any subject, but not this. We can't have that topic on our radio station." Reported in: *Spartanburg Herald-Journal*, May 22.

art

Mankato, Minnesota

"It is erect penises. It is female nude torsos. Full-front genitalia. It is vegetables cut out to look like penises and breasts. It is fruits. It is vegetables," said Waseca Art Center (WAC) director Steve DeLaitsch as he described a mobile he deemed age-inappropriate for the center's twentieth anniversary celebration June 23.

The creator of the piece, Mankato State University graduate student Heidi Gjengdahl, said the decision not to show her piece, "Some Assembly Required," which consists of fifteen photographs of body parts and fruits and vegetables that resemble those parts, is censorship. So she pulled her piece from the month-long show entirely. Two other artists agreed and pulled their pieces, also.

The piece was one of an exhibit of award-winning pieces, sponsored by the Prairie Lakes Regional Arts Council, which had hung for nearly a month in downtown Mankato. But when on May 30 winning entries from the exhibition were to be moved to the WAC, DeLaitsch informed Gjengdahl that because the center was used by children, her piece would not hang with the other winners. According to entry forms the artists signed when submitting their works, all winning entries would hang in the center. By banning Gjengdahl's piece, the WAC was putting Prairie Lakes in breach of contract.

Later that evening, DeLaitsch called Gjengdahl back and said her piece would be hung but that all functions for children at the WAC would be canceled and that her piece would be removed for the twentieth anniversary celebration, a family event. Gjengdahl thought the compromise was still censorship and removed her piece from the entire show. Reported in: *Mankato State Reporter*, June 12.

foreign

Canberra, Australia

The Australian government, moving to curb film and television violence in the wake of the April massacre by a gunman at Port Arthur, announced new censorship controls, including electronic violence filters on all new television sets. Communications Minister Richard Alston said the government also would introduce new classifications and revamp its censorship board, adopting recommendations stemming from an investigation into violence in the media conducted after the massacre.

The new censorship guidelines for films and videos could prevent the screening of movies such as the controversial *Natural Born Killers* in Australia, Alston said. All films, videos and movies in Australia must be officially classified by censors. Alston said the length of service for members of the national censorship board would be reduced to one year from five "to ensure that they don't become desensitized over time and that they do reflect a wide set of community views." Alston said the government would also ask commercial television networks to delay broadcasting violent programs until late at night. Reported in: *San Francisco Chronicle*, July 10. □

intellectual freedom bibliography

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