

newsletter  
on  
**intellectual**  
**freedom**



IFC ALA

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**libraries  
tackle  
issues of  
Internet  
access**

Devotees of “cyber porn” won’t have any luck trying to get into the Playboy Web page at the William K. Sanford Town Library in Colonie, New York. Those who try will find their way blocked by SurfWatch, a software program that filters out sexually explicit material. Also down on their luck will be football fans eager to check out the Super Bowl XXXI Web page and coffee connoisseurs curious about Green Mountain Coffee.

The problem, library officials said, is that SurfWatch often can’t distinguish between material the library wants to keep out and useful information patrons seek. So the program blocks a hockey site because it contains news of a player sidelined due to a groin injury and the Super Bowl site because of the ‘XXX’ in its name. Librarians haven’t been able to figure out what triggered blockage of the coffee site.

Library officials are considering getting rid of SurfWatch but still want to make sure younger patrons can’t access material that’s “inappropriate,” Assistant Director Richard Naylor said.

But some librarians say it’s not their job to decide what library users can and can’t see on the Internet. “It’s not up to us to censor or to restrict — it’s up to the individual. With children, it’s up to the parents,” argued Rachel R. Baum, adult services consultant to the Upper Hudson Library System, a network of 29 libraries in Albany and Rensselaer counties in New York.

Everywhere, public libraries are finding themselves at a crossroads, thanks to the wide array of information and imagery available on the World Wide Web. As debate over access to sexual material on the Internet heats up and more public libraries offer Internet access, librarians are forced to grapple with the meaning of intellectual freedom in cyberspace and its application to libraries.

The American Library Association (ALA) believes that a public library’s mission is to provide patrons equal access to all library resources, and that library policies and procedures should not deny minors equal access. But when a library offers Internet access does that mean *all* materials on the Internet become library materials, including materials that, if obtainable individually, the library would never even consider acquiring in accordance with its selection policy?

Today, 45 percent of U.S. public libraries offer connections to the Internet,  
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## TV unveils its ratings system

The television industry officially unveiled its historic ratings system December 19, at the same time seeking to defuse criticism from advocacy groups and legislators with surveys showing public support for its approach. Jack Valenti, president of the Motion Picture Association of America, who oversaw implementation of the system, confirmed that most broadcast and cable networks would begin labeling their programs as early as January 1, before the Federal Communications Commission was scheduled to review the system.

The ratings resemble the established motion picture ratings system wherein categories are defined by appropriate age groups. Most shows will receive one of four ratings — TV-G (for all ages), TV-PG (parental guidance suggested), TV-14 (may be inappropriate for children under 14) and TV-M (for adults). Children's shows will be rated separately as either TV-Y (suitable for all children) or TV-Y7 (appropriate for children seven and older).

"This is a huge step forward over what we have now, which is nothing," said President Clinton, after meeting with industry leaders. "We might be able to make it better. What I think ought to happen is that all of the parents in the country ought to look at these ratings, give it ten months to work, and then if they're inadequate, or there needs to be some more content in the ratings system, then after a ten-month test period, we'll be able to make that argument," Clinton said.

Critics of the new system have complained that the age-based system does not provide adequate information about the content of shows, indicating whether they include sexual or violent content.

"This proposal is just unacceptable. It hides the ratings from the parents," said Rep. Edward Markey (D-MA). "It lumps in *Seinfeld* with *Terminator II*, with *Married . . . With Children*. It doesn't really discriminate between violence and sexual and foul language."

Industry officials, however, pointed to opinion polls indicating public satisfaction with the new plan. One poll shows that 84% of 1,207 parents surveyed understand the MPAA movie system on which the TV ratings are modeled and that 79% consider it helpful. A second study found that, while more than four in five adults support both content- and age-based ratings systems, given a choice they preferred the latter MPAA-like plan by a 54% to 41% margin.

Television industry executives maintain that it would be too confusing and impractical to break down ratings for every program into, say, three criteria — violence, sexual content, and language — as did a system tested in Canada.

"We wanted to have something that parents would use," Valenti said. "I'm exasperated because someone

representing twenty-four people in a phone booth is criticizing our system without evidence of their own and we're being trashed in editorial pages. The Canadian system — which is only a test — is being abandoned as unworkable. Where is the critics' evidence that it works?"

Television executives also warned about the prospect of censorship from a ratings system more specific than the one adopted. "My big concern is that some people will take what we've done and try to use it to push for more, saying, 'That's not enough — let's have no shows of a certain kind on the air,'" said NBC President Bob Wright.

Some argue that the net effect of the push to regulate and label program content may be more sound than fury. Doubts about the efficacy of ratings range from industry reluctance to clearly delineate levels of sex, violence, and harsh language, to more ephemeral factors.

Moreover, there is considerable uncertainty about whether the new ratings will actually affect content. Network officials said they did not expect the ratings system to tone down their shows, only to provide more information to parents in deciding what their kids may watch.

In the realm of unintended consequences, moreover, there are indications at least with the MPAA's movie code that a "G" rating can be off-putting to adults without children. Since television advertising is sold primarily off how many young adults tune in, ratings for wholesome family shows could theoretically be hurt by the system.

Conversely, ratings may actually inspire curiosity about shows that carry more restrictive labels. "It's the 'forbidden fruit' syndrome," said one network executive. Indeed, even as the industry put the finishing touches on the new system, a children's advocacy group reported a sharp increase in sexual content during the prime-time hours when children are most apt to be watching. The report by Children Now and the Kaiser Family Foundation, "Sex, Kids, and the Family Hour," compared three-week periods in 1996, 1986, and 1976, citing a substantial increase in sexual content defined as "talk about sex" and "sexual behavior."

Three-quarters of the programs in the 8-9 o'clock hour contained at least some sexual material during the monitoring period last year, compared to 65% in 1986 and 43% in 1976. In addition, 43% of parents surveyed for the report said they worry "a great deal" about sexual content that children see on television compared to 39% who put violence in that category.

The new ratings will be determined for each show by the broadcast network. Rosalyn Weinman, NBC senior vice president of broadcast standards and an implementation committee member, said her network will decide upon a rating after the standard process of discussing each episode's content with producers.

Each show will be guided by an overall guideline, but episodes will be judged individually and ratings may fluctuate.

tuates. The show *Homicide*, for example, would be rated TV-PG, but an upcoming episode dealing with violence will receive the harsher TV-14. Similarly, Weinman suggested the popular comedy *Seinfeld* would generally be PG but probably would have received the more restrictive TV-14 for an episode that dealt with masturbation.

TV-14, viewed as the most potentially damaging rating from an advertising standpoint, will go with shows like ABC's *NYPD Blue* and Fox's *Melrose Place*, *The X-Files*, *Millennium*, and *Married . . . With Children*.

Although virtually no network TV programs will be rated higher than PG-14, NBC will use the TV-M — likely to be limited to movies on pay services like HBO — in February, when the network airs the Holocaust drama *Schindler's List* virtually uncut and uninterrupted.

Most daytime soap operas are expected to be rated PG-14 because of their sexual content. Late-night programs like those hosted by Jay Leno and David Letterman are expected to be lumped into that category for bawdy humor and language.

"The good news and the bad news is that we're not going to make the parameters any tougher, but we're not going to loosen them [either]," Weinman said. "We're not going to have the tail wag the dog and box shows in creatively, [saying to] producers there's a hard and fast category we're going to put you in."

Nevertheless, ratings could constrain programming if advertiser won't support shows in more restrictive categories. In the past, groups such as the American Family Association, headed by Rev. Donald Wildmon, have targeted advertisers deemed to sponsor shows containing excessive sex and violence, though usually with no discernible results.

ABC President Bob Iger, who as the father of two teenage girls said he understood the need for a ratings system, predicted few advertisers would pull out of shows with unfavorable ratings. Reported in: *Los Angeles Times*, December 12, 19, 20, January 9; *Hollywood Reporter*, December 16, 20. □

## censorship plagues tribal newspapers

American Indian newspapers are thriving, with more than fifty new tribal publications having started up in the last decade. But while the business of the press is flourishing in American Indian regions, financed in large part by gambling revenues, the sale of natural resources, and cash settlements from land disputes, freedom of the press is not.

The problem is that almost all of the three hundred or so tribal papers are owned and financed by tribal governments. American Indian journalists who are employed by the tribal councils often face the choice of

working as public relations agents or writing tough, probing articles that cast their employers in a poor light and put careers at risk.

"I'm fighting a constant battle here," said Tom Arviso, Jr., editor of *The Navajo Times*, weekly newspaper of the Navajo nation. The tribal government wants the paper as a mouthpiece, Arviso said, "but as an editor serving the largest Indian nation in the world, I have to stand up and say we're not going to be sheep."

In September, the newspaper published a series of articles detailing questionable spending practices by the Navajo nation's president, Albert Hale. The articles prompted an investigation by the tribal council, which in late October indefinitely tabled a motion to suspend Hale. But Arviso said that after the articles were published, powerful figures within the council and the office of the president threatened him with the loss of his job and budget cuts.

"I respect what Tommy Arviso is doing," said Keith Skenandore, editor of *Kalihwisaks*, the paper of the Oneida nation of Wisconsin. "In terms of freedom of the Indian press, he's really pushing the envelope. A lot of people on the reservation think you should be part of the tribal government and supporting of it. But there are those of us who think the only way to make the government better is to make it accountable."

American Indian journalists often face government censorship or self-censorship for the sake of their jobs. Editors say they sometimes first leak the news to the mainstream media, then pursue it with follow-up articles. But many journalists acknowledge that a tribal-owned paper is only as free as the tribal government allows.

In 1994, the editor and staff of *Hopi Tutuvehni*, a tribal paper serving 10,000 people on the Arizona Hopi reservation, were dismissed. The bimonthly paper was shut down when the tribal council erased its budget, complaining that it was not presenting balanced news. It reopened after the election of a new chair and council, yet censorship still prevails.

"We were forced to edit a column that satirized a council member," said reporter Jennifer Joseph. "An offending paragraph was removed after he threatened to vote against our budget."

Under the Indian Civil Rights Act of 1968 and most tribal constitutions, there are guarantees for a free and vigorous press by American Indians. But it is unclear whether censorship from tribal leaders, who are effectively the publishers, violates federal or tribal law, said Steven Tulberg, the director of the Indian Law Resource Center in Washington.

"It's like any small town in America," Tulberg said. "If the city council releases a newsletter, you're not likely to find severe criticism of the city council." Reported in: *Denver Post*, November 23. □

## in review

**An Exhibit Denied.** By Martin Harwit. Copernicus, 1996. 456 pp. \$27.50.

In early 1995, the Secretary of the Smithsonian Institution, I. Michael Heyman, announced the cancellation of an exhibit which had been in preparation for several years.

The sides were clearly drawn. On the one hand were aligned various veterans' organizations along with the conservative political establishment. On the other side was the Director of the National Air and Space Museum (a unit of the Smithsonian), and the major organizations of historians in the country.

The author of this volume, Martin Harwit, had been appointed Director of the Air and Space Museum in 1987 and was caught in the middle of the controversy. In this book, he attempts to present all sides of the dispute. He relies not only on his recollection of the events, but also on the hundreds of documents available that are related to the case. These documents are quoted at length, with many presented in their entirety.

Those who were planning the exhibit wanted to display the Enola Gay, which had dropped the first atomic bomb on Japan, in a context that was judged to show some sympathy for the Japanese killed by that bomb. Those opposed to the exhibit wanted the Enola Gay to be displayed in a context positive to the glory of the heroic individuals who fought in the Pacific Theater of the Second World War.

The book details the battle between the two sides. The questions the author attempts to answer are: what were the museum creators' intentions in mounting the exhibit, would the exhibit have accorded American veterans their due respect and honor; who stood to gain by quashing the exhibit; did the controversy take the Smithsonian Institution by surprise; and, does the National Air and Space Museum really have a legal mandate to critically examine complex military issues?

This book is interesting not necessarily because of the specific controversy which it discusses but rather because it presents in such detail, with documents from both sides, the circumstances surrounding that controversy. It documents the difficulty which any publicly-funded museum encounters when it tries to raise uncomfortable questions.

Most censorship battles generate a lot of rhetoric; few are documented as clearly as this one is. For those who are interested in understanding how an issue arises and festers and then explodes onto the public scene, this book is invaluable and is highly recommended.—*Joseph A. Boisse, University Librarian, Davidson Library, University of California, Santa Barbara, California.*

**Zoia! Memoirs of Zoia Horn, Battler for the People's Right to Know,** by Zoia Horn. McFarland & Company, Inc., Publishers, 1995. 316 p. \$25.00.

"I shall give you a full and free account of my life without concealment . . ." (1) Zoia Horn presents to the reader a vivid account of her life without any concealment or fabrication. Horn begins her narrative with her birth on March 14, 1918, in Odessa, the Ukraine, as Zoia Markovna Polisar. She includes revelations of her childhood, specifically the events surrounding being told by her best friend that she was Jewish and further trying to sort out the inconsistencies of being a child in a home devoid of holiday celebrations and gaiety and with very little laughter.

Horn writes passionately about the influence of her teachers during her formative years. At the age of ten, she was given the first contribution to her personal list of ethical principles. The principal at her first school took an interest in Horn and her educational progress, and although she did not understand its meaning or significance at the time, "noblesse oblige" became the principle that influenced Horn's philosophy of life. Later, this phrase came to mean "an obligation to serve others as part of my sense of self." (2)

It was in high school that Horn received her second ethical principle. One of her instructors remarked that "being sensitive is not measured by your capacity for feeling hurt, but rather by feeling the hurt of others." (3) Horn continues to relate events in her academic education, and subsequently, her career in the field of information. In writing about her days at Pratt Institute Library School, she discusses how her enthusiasm and respect for books grew, along with the exciting prospect of helping people find information.

Horn keeps nothing from the reader, detailing her professional life and also sharing the joys and sometimes agonies of her private life. As a reference librarian at the Ellen Clarke Bertrand Library, Horn began her life's work in fighting censorship. Her involvement with the Harrisburg Seven conspiracy case and her refusal to testify against some of her acquaintances fueled the fire for her complete dedication to the principle of the people's right to be informed. As a result of Horn's refusal to testify in the Harrisburg Seven trial, she was jailed for twenty days.

Horn's description of her controversial dealings and association with the American Library Association (ALA) and the Intellectual Freedom Committee (IFC) comprises a very small part of her story; yet, to this reviewer, it is the most exciting portion of the book. Her activities with ALA, which at first refused to support her during her trial and jail ordeal, and further struggles while she was chair of IFC, are quite revealing. With the release of the film, "The Speaker," a radical exercise in the issues of the First Amendment, Horn became a vocal advocate for

the public's right to complete disclosure. Defining censorship became a very painful, confusing and sometimes disappointing journey. For those readers who are interested in intellectual freedom, these chapters are worth the acquisition of the book.

Horn, a woman of action, has been completely forthright in revealing her life—concealing nothing, sharing all. Well done, Zoia!—Reviewed by Joyce G. Taylor, Ph.D., Lecturer, Indiana University School of Library and Information Science, Bloomington, Indiana.

## Moore v. Borders

Borders Books and Music calls it a “misunderstanding.” Michael Moore — of *Roger and Me* and *TV Nation* notoriety — calls it censorship.

Moore maintains that Borders has banned him from speaking or signing copies of his book *Downsize This!* at any of their 153 stores across the country. “My book was doing well,” Moore wrote in an article that appeared in *The Nation*. “It has been on the *New York Times* bestseller list for a month and was the number two bestselling Random House book for the entire Borders chain. I’ve been banned, I found out, because I made the mistake of uttering a five-letter word, the dirtiest word in all of corporate America — ‘union.’”

According to Moore, his feud with Borders began in September in Philadelphia during an early stop on a promotional tour. Nearly a hundred people were picketing outside that Borders when he arrived, protesting the firing of a former employee who had tried to organize a union. Moore declined to cross the picket line, instead inviting protesters into the store and giving the fired organizer the microphone to speak. Moore claimed that this transpired with the approval of a local Borders executive.

The following week, Moore said, he was barred from speaking at a book-signing held at the new Borders store in New York’s World Trade Center. Borders contended the speech was canceled at the urging of the Port Authority of New York and New Jersey police, who wanted to limit crowds.

Moore’s next encounter with Borders occurred after a speech in Des Moines, Iowa. He charged that Borders’ employees furtively approached him in the parking lot, telling him they feared being fired if managers saw them talking with him.

In fact, according to Borders executive Jody Kohn, Borders paid for the tickets employees used to attend Moore’s speech, and gave them time off to do so. Managers did replace employees scheduled to sell books following the event, but only because Borders got wind that Moore — knowing Borders workers would be present — was bringing a film crew and might interview them.

Kohn insisted that Borders had promoted Moore’s book heavily, through direct mail materials and in-store promotions. “We certainly are in no way undermining him,” she said. Reported in: *Ann Arbor News*, November 21. □

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(Internet . . . from page 29)

according to a survey conducted by the U.S. National Commission on Libraries and Information Sciences (NCLIS). This is a 113 percent increase since 1994, when a similar NCLIS survey found 21 percent of public libraries connected. Preliminary survey analysis suggests that this number could exceed 60 percent this year.

While libraries can select specific books for their collections, they cannot do the same with Web sites. The Internet comes as a whole collection. Most libraries don’t stock print pornography, if only because they have a limited amount of money to spend on books and give priority to what’s most popular with patrons. With the Internet, however, it doesn’t cost a library more to take everything — in fact, it costs money to screen things out.

Yet citizens who pay taxes for this access often hold libraries responsible for holding this resource to com-

munity standards. Moreover, there are increasing legal threats involved with Internet access. Although the Communications Decency Act was struck down by a three-judge appellate panel, the Clinton administration has appealed that ruling to the U.S. Supreme Court (see *Newsletter*, January 1997, p. 1).

At the state level, as well, various new and proposed laws seek to regulate access. In New York, for instance, the state’s On-line Decency Act, which took effect in November, makes it a felony to make available to children via computer any information “which depicts actual or simulated nudity, sexual conduct or sado-masochistic abuse, and which is harmful to minors.” The law has been challenged by a coalition that includes ALA, the New York Library Association, and the ACLU (see p. 47).

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## — censorship dateline



### libraries

#### Parks, Arizona

Former school board member Zane Morris protested strongly against the recent banning of some books in the Maine School Library. "What right do you have to deny the children of Parks the reading of books which have been enjoyed by my children as well as so many others," he told the December 10 meeting of the board.

Morris was angered by what he read earlier that week in the "Menu Message," which is sent home with students: "*Goosebumps* books may only be checked out by third, fourth, fifth, and sixth grade students. *FearStreet* books may only be checked out by sixth grade students. If you wish that your child not read any of these books, please let the school know."

One student, a fourth-grader, had read one of the books and his parents said he had a nightmare as a result. Upon their complaint to the superintendent, the books were removed from library shelves. Subsequent reaction from the parent-teacher organization about censorship led to the policy of restricting readership.

None of the board members acknowledged awareness of the situation, nor did they defend the actions of the administration. When Morris referred to a board policy specifying opposition to book censorship, President Clara Pirtle said she was "not aware there was one."

Morris also complained about the censorship the board imposed on the use of a print which the Masterpiece Art Program included in its list. The prints were displayed for the board prior to their approval of the program. Reported in: *Williams-Grand Canyon News*, December 18.

#### Orlando, Florida

The Orange County Library System board voted unanimously November 14 to hire a computer firm to block pornographic material from being retrieved by patrons on library computers. The board will pay Web Sense of California \$7,765 to set up the equipment needed to screen the library's Internet link. The service will then cost \$1,500 annually.

The action came after growing complaints from library patrons offended by material being retrieved off the World Wide Web on the library's public terminals. Library Director Dorothy Field told the five-member board she had walked through the Arts and Literature Department at the library and saw all six terminals being used to find pornography.

"We have an obligation to protect our children from that filth," board secretary Jackie Perkins said.

Library attorneys warned that screening Internet material would be hard to defend in court. But Field likened the action to the library's books and materials policy, which prohibits the purchase of pornographic material.

"The time has come to take a stand," Field said. "I would rather be sued for the First Amendment than be sued because I let your children view pornography."

Orange County Chairman Linda Chapin said the county would support the library in any legal challenge. "For hundreds of years libraries have had acquisition policies which allowed them to choose the materials they would make available to the public," Chapin said in a letter to the library board. "The materials now accessible on the Internet would never be tolerated by our community if they were available in bound volumes on library shelves." Reported in: *Orlando Sentinel*, November 15.

#### Coweta, Georgia

The book *Obsessed*, by Rick R. Reed, has been permanently removed from the shelves of the East Coweta High School media center. Senoia Police Chief Mike Aldredge, the father of an East Coweta student, complained that the book about a man obsessed with killing contained "pornographic passages."

The book was temporarily removed in late October after Aldredge's complaint (see *Newsletter*, January 1997, p. 7). In mid-December, the school media review committee decided, after review, to remove it permanently. School administrators said the book was not initially screened by the committee of students, parents, and school personnel. It had been approved only by a student committee, they said. Reported in: *Atlanta Journal*, December 16.

### **Baltimore, Maryland**

Baltimore County school officials have lifted a ban on the book *Froggy Went A-Courtin'* as part of a compromise that allowed the book, which ends with the amphibian in pinstripes, back on the shelves of elementary school libraries. Under the agreement, however, the book is to be kept in restricted areas of the libraries where only parents and teachers will be allowed to check it out and read it to children.

The book, featuring a "gangster" version of the folk tale, drew complaints from one parent who found it inappropriate because it features a carousing frog who goes on a crime rampage and eventually ends up in jail (see *Newsletter*, January 1997, p. 7).

Israel Weitzman complained in the spring after his daughter brought the book home. Weitzman said he found the book "highly satirical" and inappropriate for anyone below the high school level.

The book was removed after Weitzman complained to a panel of administrators. Phyllis Bailey, associate superintendent for educational support services, reviewed that ruling and recommended the compromise after holding a public hearing December 9. Reported in: *Washington Post*, December 23; *Baltimore Sun*, December 22.

### **Anoka, Minnesota**

Some *Goosebumps* books, by R.L. Stine, gave too many goose bumps to one mother, who asked the Anoka-Hennepin District 11 School system to remove the popular paperbacks from school library shelves.

Margaret Byron first complained about the books last April after she read three of the nine books in the series available at the Johnsville Elementary School library in Blaine. "I would like to see the school remove the books from the media center," she wrote in a complaint. "While the books are only fiction and unreal, children under the age of twelve, as well as many teenagers, may not be able to handle the frightening content of the books. Some children could become paranoid and insecure about daily life after reading the books. The book covers alone are quite offensive."

Although Byron said she wished all the books in the series could be banned from all district libraries, she restricted her complaint only to the nine available at Johnsville, which her two children attend. The books are *The Haunted Mask*, *It Came From Beneath the Sink*, *The Horror at Camp Jellyjam*, *Revenge of the Lawn Gnomes*, *Let's Get Invisible*, *Monster Blood III*, *A Night in Terror Tower*, *Night of the Living Dummy III*, and *A Shocker on Shock Street*.

Byron's request prompted the convening of a school committee of the principal, parents, teachers, the librarian, and other citizens, which split in its vote. The books remained in the library while Byron's complaint

was appealed to a second district committee.

"If they'd voted unanimously to keep the books I'd have stopped," said Byron. "But the way the vote split, it was clear that a majority of the committee agreed there was a problem with the books." Reported in: *Minneapolis Star-Tribune*, January 4; *St. Paul Pioneer Press*, January 3, 15; *Washington Post*, January 22.

### **Seabrook, New Hampshire**

Most cash-strapped, small-town public librarians know better than to look a gift horse in the mouth. But when books on the occult, bearing titles like *Buckland's Complete Book of Witchcraft* and *To Ride a Silver Broomstick*, began showing up in the mail by the dozens last summer at the Seabrook Public Library, head librarian Elizabeth Heath admitted that she and her staff were "amazed and confused."

The donated books started arriving after the library's trustees, under pressure from religious leaders in town, postponed two proposed lectures last August on tarot reading, numerology, and dream analysis. A group of three hundred local churchgoers objected to their tax dollars financing lectures that they said would promote the occult. Some also called for the town Selectmen to withhold money from the library and shut it down, should the lectures be scheduled.

Soon after, Tom Canfield, a resident of nearby Durham, who dabbles in tarot and astrology, spread word of the postponements on the Internet, calling the board's decision a violation of free speech and urging people to send occult books to the library in protest. As a result, the library received close to five hundred books related to the occult.

The issue sharply divided the town's roughly 7,000 residents. While many opposed the lectures, mainly on religious grounds, about 250 residents signed a petition opposing "concessions to censorship."

The controversy began last July when the Rev. Andrew Gosnell and others learned that the two lectures — "The History and Use of Tarot Cards" and "Numerology and Dream Analysis" — were on the library's summer lecture program for young adults. In a letter to library trustees, Gosnell called for cancellation of the talks, warning that sponsoring them was tantamount to "inviting all who would participate to unleash a literal 'hornet's nest' of destructive spiritual entities into their lives."

The board tried to appease the protests by first rescheduling the talks as adult programs, and then withdrawing payment for the lectures. Eventually, the board voted 2-1 to postpone all programs at the library, with the exception of a poetry reading, until a policy on lecture topics was written.

Heath said she felt abandoned by the board. As a librarian, she said, her job is to "resist all efforts at censorship of library materials and information" by groups



or individuals, and that shutting down the series violated her personal and professional ethics. Reported in: *Berkshire Eagle*, November 30.

#### **Jersey City, New Jersey**

A play about AIDS and homosexuality was abruptly pulled by a Jersey City library official from the Five Corners Branch in mid-November because of nudity. The action enraged the show's producers, who accused library officials of censorship, homophobia and AIDS bashing. Library officials maintained that the producers misrepresented the contents of the script — but admitted they never actually read it before allowing the library's theater to be used.

The play, "Made For Each Other," by David Gaard, had its first and last performance November 9. There was to have been another performance to benefit the Hyacinth Foundation of Jersey City, which raises money for AIDS support services. But Community Library Assistant Gil Corby, who helps coordinate the library's Community Awareness Series, pulled the plug.

"There was nudity. And I hate to say it, but there was simulated sex, too. It was very R-rated," he said of the production.

"I absolutely refute that," replied playwright Gaard. "The play begins after the love-making ends." Gaard also maintained that he told Corby there was some nudity in the play and he called the decision to cancel the second show "homophobic." He said nudity was clearly mentioned in the script's stage directions, which library officials failed to read. Reported in: *Jersey Journal*, November 13.

#### **Stillwater, Oklahoma**

The Stillwater library board decided it would exert more control over the content of library displays. The action came after a group representing relatives and friends of homosexuals requested use of a display case. Parents, Family and Friends of Lesbians and Gays member Lana Stone said she had requested use of a display case for Lesbian and Gay History Month in October but was told all the cases were reserved.

Meanwhile, according to Library Director John Augelli and board Chair Rick Bellatti, the subject of restricting use of the cases arose independently during a discussion they had last summer. As a result, in November, the board decided to limit use of the cases to library staff, effective December 25.

"[Stone] thought that the vote was on her request," Bellatti said. "I did not know that she had made that request." At the board's December meeting, however, Stone said she thought the policy did not reflect the library's mission statement, no matter what its origin.

Bellatti said the board thought displays should promote library themes and collections. "There are special theme months," he said. "In the summer, they promote a lot of children's books. Some of the displays have been to promote collections."

Augelli said the library, in its old location, restricted displays to staff use. When it moved two years ago, some community groups were allowed to use the cases because the library had not established a policy against it.

Bellatti said the decision to close the cases to outsiders was not a decision to limit their content. He said the library staff could create a display to highlight Gay and Lesbian History Month. Reported in: *Daily Oklahoman*, December 26.

#### **Pottstown, Pennsylvania**

Religious opponents of R-rated videos and controversial books at the Pottstown Public Library again demanded that the borough council censor materials December 9. Ironically, when the council finally ordered them to be quiet, the protesters argued that their own First Amendment rights were being violated.

After railing for several minutes about "ungodly" movies at the library, Wendell Parson of Pottstown began reading a psalm. Council President Dennis Wausnock told him to stop and Parson complained that his "freedom of speech" was being violated.

Helen Mackewicz, who initiated the campaign after resigning from her job at the library earlier in the fall, preached to the council for the third consecutive month about "R-rated videos and Howard Stern's books and other such materials." Asked Mackewicz, "Will today's adult bookstore be tomorrow's public library?"

As at two previous meetings, the council responded that no action could be taken until a formal written objection is made. But Mackewicz refused, claiming the form "does not apply to the question."

Pottstown resident Shirley Lupold brought a Howard Stern book from the library and asked Council President Dennis Wausnock to read a sentence. "Do you think that's suitable for children?" she asked. "No, not for children," he responded. Reported in: *Pottstown Mercury*, December 11.

#### **Stroudsburg, Pennsylvania**

The autobiography of teenage AIDS advocate Ryan White was back on library shelves, but with restricted access, at a Pennsylvania school despite references to sodomy, condom usage and smoking that had previously gotten it banned. The book was not returned to the middle school's sixth-grade curriculum. *Ryan White: My Own Story* details the hemophiliac's battle with AIDS, which resulted in his death six years ago at the age of 18.

Officials at Stroudsburg Middle School pulled the book from the curriculum and library on November 5, after

parents and administrators found it inappropriate. In mid-November, the school principal decided to put the book back in the library but said students must first get parental permission before checking it out.

"The book is a good book, but it's not age-appropriate," said principal William Stoudt. Most of the book deals with White's fight with AIDS, but one section uses a gutter term for sodomy and another approves of teen smoking.

"When Ryan originally wrote it, it was intended for kids," said Michael Morrison of the Ryan White Foundation. "But it's up to the school districts to deem it appropriate."

Last year, the book was in the school curriculum as part of a reading list. This year, teachers had a choice of whether to assign it as required reading. That choice is no longer available. Reported in: *Philadelphia Inquirer*, November 24; *Pocono Record*, November 14, 15.

## **schools**

### **Ceres, California**

A novel loaned by a Ceres High School teacher to one of her students raised just a little more than community eyebrows. Sexually explicit passages in *Pillars of the Earth*, by Ken Follett, caused the student and her parents to consider legal action against the school district and raised a flap in the community, especially among those in the parent group, Citizens Involved in Education.

The incident began September 23 when English teacher Debra Mays-Bukko handed Janille Lemons the novel for fun reading, remarking that it would be a book she "would find interesting." The book came from Mays-Bukko's personal classroom library, which had not been reviewed by school officials.

Janille's parents, Ron and Sharon Lemons, said their daughter was horrified to find graphic sexual passages scattered throughout the book. The Lemons claimed that exposure to the book had a devastating effect on their daughter. They said she had lost faith in authority figures, is depressed, and suffers from nightmares about rape scenes.

"I feel betrayed that a person who carries the respected title of teacher would give me a book that has pornography and awful acts of violence in it," Janille said in a written statement released by her parents. Since receiving the book, Janille Lemons has not returned to school, fearing both the teacher and the ridicule of classmates.

In a meeting with the Lemons, Mays-Bukko apologized for recommending the book, noting that she had forgotten that the graphic passages were in it. "We forgive her as a person but as a professional person, I hold her

accountable," said Carl Lemons. "But it's past the teacher."

The Lemons initially sought to have the Ceres police press obscenity charges, but were persuaded not to. Organized groups like the Traditional Values Coalition (TVC) and Focus on the Family have come to the couple's aid. Ron Mullins of TVC said his organization was getting involved because of the "inconsistencies of the Ceres Unified School District" and its "history of not working with the parents and trying to pacify them."

"The school district should be abhorred (sic) that this teacher would allow this in her personal library," said Mullins. "If she didn't know this material was in there, she should be disciplined. Why did a book like that come through a teacher when the district policy and state policy doesn't allow it?" She would know what decency is." Reported in: *Ceres Courier*, November 8.

### **Burlington, Connecticut**

Some Region 10 parents have questioned how the brutal and often graphic language of a South African man's autobiography can relate to their children at Lewis S. Mills High School, and asked the school board to pull the book from the curriculum.

At a meeting December 23, the board discussed *Kaffir Boy*, by Mark Mathabene, but could reach no decision. Dawn Marie Lorenc distributed copies of several pages of the book which contained what she found to be the most objectionable material. "It's college material, not sophomore high school material," she said. "It's an adult book. It's very descriptive." *Kaffir Boy* was approved by the school board for inclusion in a tenth-grade World Literature course.

"I read most of the book and I question the appropriateness of having sophomores in high school be required to read it," said Rose Ponte, a board member. "The problem is that there are a lot of valuable things that you can gain from reading the book. I am against censorship, and we will never get to the point where the book will be banned from the library, but I do have concerns."

Although Ponte acknowledged that the board had approved the book, she said it was unaware of its graphic nature. "Everyone feels that the process needs to be revised, and that the board should be more informed about books," she said. Reported in: *Waterbury Republican-American*, December 24; *Torrington Register Citizen*.

### **Crestwood, Illinois**

The mother of a student at Nathan Hale Middle School in Crestwood left a school board meeting in late December confident that the board would heed her advice and pull a controversial historical novel from a

mandatory sixth-grade reading list. Michele Santiago told Blue Island-Crestwood District 130 school board members that *Jump Ship to Freedom*, by James and Christopher Collier, was damaging to the self-esteem of young black students. Santiago had approached the district November 21 after reading the book.

"I tried to look at it through the eyes of my son," she said. "This is not a book that's going to build a person's self-esteem." The book portrays a slave, Daniel Arabus, who frequently refers to his own lack of intelligence and is repeatedly called a "nigger." He eventually overcomes the negative stereotypes and emerges a hero.

District 130 Superintendent Barbara Mackey assured the school board that after reading the book over Christmas break, she would recommend whether it should remain on the reading list.

In November, *War Comes to Willy Freeman*, a sequel to *Jump Ship to Freedom*, was removed from a Flossmoor, Illinois, school after the father of a fifth-grader objected to the use by characters in it of racial epithets (see *Newsletter*, January 1997, p. 9). Reported in: *Star*, December 26.

#### **Farmington, Maine**

School Administrative District 58 on January 10 appealed a Superior Court judge's refusal to overturn an arbitrator's ruling on the use of the controversial book *Bastard Out of Carolina*, by Dorothy Allison. Superior Court Justice Stephen L. Perkins upheld a ruling allowing an English teacher at Mt. Abram High School to disregard some of the conditions that the SAD 58 school board had set last school year for the use of the novel.

In December, the SAD 58 board banned use of the book in the classroom.

By asking the Maine Supreme Judicial Court to take up the issue, SAD 58's administration and directors continued to maintain the arbitrator, John D. Alfano, overstepped his bounds in his August decision and intruded into the board's policy-setting powers.

"The point is not the book. The point is if this guy can dictate this policy to the board, he can dictate any other policy to the board," SAD 58 Superintendent Quentin Clark said.

The filing was the latest chapter in a lengthening saga over use of the book at the high school. After it was assigned by a Mt. Abram English teacher to a sophomore class during the 1995-96 school year, a parent objected and filed a complaint with the SAD 58 board. Following extensive debate, the board a year ago voted to retain the book in the curriculum, as long as the teacher provided alternate books, designed lessons so all students could remain in the classroom, and advised parents if the book were to be used in class.

Another English teacher, Stuart Hardy, filed a grievance over the board's stance, claiming it restricted

his teaching methods. Both sides then agreed to hire Alfano, an arbitrator who in September upheld a portion of Hardy's claim, saying it would be impossible for the teacher to design a lesson plan in which all students would remain in the classroom.

Rather, he said, Hardy should design a plan that would minimize the number of times students would feel more comfortable leaving the classroom after being "discreetly forewarned" when a discussion might be offensive to them.

But the SAD 58 board objected and filed a civil complaint, naming the Mt. Abram Teachers Association as a defendant and arguing Alfano acted beyond his bounds. The case was argued in Franklin County Superior Court December 11, and Justice Perkins the next day denied the request with a simple hand-written notation.

That evening, the board voted to remove the conditions it had set the previous January and then voted to unconditionally ban the book from use in the Mt. Abram High School curriculum. The book was to remain in the school library.

Hardy, who was not present for the vote, was stunned by the decision. "Once again, the kids lose," he said. "They lose access to a wonderful piece of literature." Reported in: *Waterville Morning Sentinel*, December 12, 17, January 11; *Lewiston Sun-Journal*, December 14.

#### **Montgomery County, Maryland**

Montgomery County Schools Superintendent Paul L. Vance informed Montgomery Blair High School's campus television station January 9 that he supports a decision to keep a panel discussion of same-sex marriages from airing on the school system's cable channel.

Vance signed off on a report and recommendations issued by Nancy H. Powell, a former principal whom Vance appointed to look into the issue. Powell found that the school system's cable operation "is not a forum for student expression of any kind. The guidelines for local school publications cannot therefore be viewed as applying to the [school system] channels."

The decision cannot be construed as censorship, Powell wrote, because "the guidelines and court decisions applying to local school student publications do not apply and [because the school system] has not denied the students the right to make the program or to seek to air the program elsewhere."

Emily Beckman, a senior who worked on the program, "Shades of Grey," said she and other students had hoped Vance would reverse the ban. "I was definitely disappointed and a little frustrated, too," she said. "I feel very strongly about the quality of our programming and the quality of our experience. It's taken a lot of energy, and I was really hoping [the decision] would turn the other way." Reported in: *Washington Post*, January 10.

### Cherry Hill, Pennsylvania

English teachers at Cherry Hill High Schools East and West were told in November to delay teaching *The Adventures of Huckleberry Finn*, by Mark Twain, after requests were filed by the Cherry Hill Minorities Civic Association and a member of the NAACP.

"The use of *Huck Finn* is under appeal by parents, and until that appeal is completed, [teachers have been asked not to] use it," said Superintendent Philip Esbrandt, adding that a review would be completed in about four weeks. The book is part of the required reading for eleventh-grade honors and accelerated English classes.

"We are concerned about students' being required to read it no matter how they felt about it," said Patricia McCargo, the corresponding secretary for the Minorities Civic Association. "If you had an African-American student in a classroom which is predominately white, the use of the 'N word' over and over again [is] very uncomfortable. All we ask the board is two options: either to outright say the book is not part of the required reading list or to make it the students' choice. We're not asking for an outright ban on the book."

The association's request was made at the behest of some parents and students, McCargo said, adding that "some parents don't have a problem with it, other parents do." Reported in: *Philadelphia Inquirer*, November 15.

### Sharon, Pennsylvania

Many eleventh-grade Hickory High School students were nearly finished reading *The Watchers*, a science fiction novel by Dean Koontz, when Superintendent Dr. Louis Mastrian decided it would no longer be used as part of the school's curriculum.

"The language was offensive and we didn't want to send a message to the students," Mastrian said. "We have certain standards in the community." The decision was announced during a closed-door executive session of the school board November 11. Mastrian said board members "chose to ask me to ask that it not be used in the curriculum," but the board itself did not take a vote at that meeting.

The decision met with immediate opposition from students. "They act like we're little kids," one eleventh-grader said. "I think we can handle it." They formed a committee and about thirty students attended the school board meeting on November 18 to present a petition appealing for a reversal. Many adults also came to voice opposition to the decision. In the end, however, the board declined to take any action. Reported in: *Sharon Herald*, November 15; *Youngstown Vindicator*, November 19.

### student press

#### Eagle River, Alaska

Those in Eagle River who read the *Chugiak Pegasus*, the high school newspaper, were baffled by the appearance of question marks scattered throughout the mid-November issue. The marks, it turned out, indicated sections deleted by the administration. They were symbols of censorship.

"We couldn't say we were censored by the administration," said Lorraine Henry, editor of the *Chugiak High School* paper. "They told us it wasn't appropriate." Therefore, the students inserted question marks where material had been deleted.

Students working on the *Pegasus* said that not one of three issues this school year had been printed without censorship. Administrators bit into a Halloween feature about vampires and deleted a paragraph that explained what vampires do and how to stop them. The material was from a book in the school's library, said Henry. Another feature that was cast aside was a list of terms and their definitions that are used by witches, including words like charm, magic, pagan, and spell.

"We try to make sure there is nothing that would offend anyone," said Principal Jan Christenson. She said the vampire piece seemed "a little graphic" and the witches' terms "seemed to be advocating a religion."

Misty Melielo, a senior and *Pegasus* staffer, found the latter explanation more than a little hypocritical. "It is frustrating," she said, "that they are allowing religion in school at one level and not at another." She said at the time of the controversy a banner that read "Raise Jesus Higher" was hanging in a glass display case at the school. Reported in: *Alaska Star*, November 21.

#### Colorado Springs, Colorado

The editor of a student newspaper who authored a story about gay youth saw a backlash of local and administrative protest, including a push by some to revise the district's student publications guidelines. Mary Margaret Nussbaum wrote the story as a feature article for the *Palmer High School Lever*.

"It was an article about difference in high school," she said. "We'd been thinking about it for a while, and planned to write about it. We'd gotten letters from gay and bisexual students saying there was a need for this." According to Nussbaum, the day after the article was published, a parent called the school principal and complained about the article.

"Twenty-four hours after distribution, the phones were ringing off the hook," said *Lever* adviser Vince Puzick. He said the article was originally not intended to be a straight news story, that it dealt not with balancing competing views on homosexuality, but with describing what it's like to be a gay member of the population.

Puzick said a school board meeting was held on November 6 to decide on the present student publication guidelines. At the meeting, he said, members of the public were invited to make suggestions about changing the guidelines. He said board members even brought a tentative revision of the guidelines to the meeting.

The new policy guidelines included a proposed list of inappropriate topics of discussion, and a requirement that the student paper not express an opinion on controversial topics that would affect the school's neutrality on those topics, said Puzick. He pointed out, however, that many in the audience at the meeting supported the article and had no wish to see the guidelines altered.

In revising the guidelines, the school board may find itself running up-against not only public opinion but state law as well. In 1990, Colorado passed a student free-expression law giving student editors of school-sponsored student publications the ability to determine the news, opinion, and advertising content of their publications. Reported in: *SPLC Report*, Winter 1996-97.

#### **Stillwater, Minnesota**

Last fall, some Stillwater Area High School students flocked to an off-campus location to watch a scheduled grudge fight between two sophomores. Before it was over, one of the combatants was held down by three seniors, kicked in the face and hospitalized with a broken jaw and other injuries. In late December, the student newspaper, *Pony Express*, wrote about the incident, without naming names, in a front-page story.

Before the newspapers could be distributed, however, the school administration confiscated all copies because of concerns that information in the story might violate the privacy rights of some students and open the district to a possible lawsuit.

An attorney representing the *Pony Express*, Lucy Dalglish, said that was ridiculous. "By no stretch of the imagination can the school district be held liable," she said. "There's no chance of the district being sued, particularly since the kids involved in the incident were either expelled or suspended and because it's common knowledge around school who they are."

Dalglish credited the student journalists with doing "one heck of a job. They did virtually everything you would want young student journalists to do," she said. "They went out and got the police reports. They interviewed witnesses. They talked to the victim and his family. The people of Stillwater should be incredibly proud of these kids."

The district's attorney, Anne Krisnik, said the district didn't intend to reflect negatively on the student reporters. "The question here is whether it's the school or the students releasing information," she said. "It's a legal question."

Student editor Andrew Wallmeyer said the paper acted responsibly. "We had been dealing with the Student Press Law Center in Washington, D.C., over this story," he said, "because we knew it was sensitive. According to them, we could even run the names as long as they were common knowledge. But we decided to go the safest route, and run the story without names. We also talked to the victim and his father and cleared the story with them." Reported in: *St. Paul Pioneer Press*, December 21.

#### **Itawamba, Mississippi**

In an unusual twist to the issue of high school censorship, principal Pete McMurry of Itawamba Agricultural High School named himself editor-in-chief of the student newspaper after students sought to include a political cartoon in the paper last spring.

"If the administration of the high school won't give control of *The Chieftain* to students unless a court tells them to," said former editor Nicholas Nunnally, "we'll take them to court."

Itawamba High School superintendent David Cole said he supported McMurry's decision and defended his response to the cartoon, which was to confiscate all copies of the newspaper. Cole said the cartoon was "inappropriate" and "would have caused bad blood."

The original cartoon portrayed a school district administrator visibly sweating after being asked about his long-term plans for the high school. The cartoon has never been published in *The Chieftain*. Reported in: *SPLC Report*, Winter 1996-97.

#### **South Kitsap, Washington**

A student newspaper was held from distribution October 29 when the South Kitsap High School principal decided the paper contained too many errors. "I pulled the paper because it was undoubtedly the most substandard paper I'd ever seen. It was riddled with errors," said Principal Steve Wilson. "I told the students that I wouldn't let a paper go out like that to the community. It would be unprofessional."

Student journalists said Wilson deemed a photograph in the paper of boys wearing undershorts too offensive for circulation. Wilson denied that he stopped the paper over the photo, which was unintentionally out of focus. "The photo was a secondary issue," he said. More crucial were grammatical errors and misspelled words.

Wilson acknowledged that he "did not appreciate the picture and everyone that I showed it to did not appreciate it either." However, he continued, if it had been [the photo] alone, I probably wouldn't have pulled it."

The October 29 edition of the *Skukhum Views* featured an opinion page story about student preferences concerning boxer or brief undershorts. The paper was ready for distribution and bundles were in teacher mailboxes when

several teachers complained to Wilson about the errors and the photo. After discussions, Wilson "made the decision it wasn't appropriate" and officials confiscated the papers.

Wilson said he would pay to reprint the paper if the students removed the photo and cleaned up the spelling and grammar. Normally, printing costs are paid through advertising rather than school funds. The students declined the offer.

"I just want to push it behind and get on with it," said *Skukhum Views* editor Hallie Lambert. "In some respects I do agree with Mr. Wilson," she said. "If it had been another issue, about something kids need to know, it would have been different."

"It wasn't an important picture," said opinion editor Amber Bell, who edited the undershorts story. "But it was censorship and I don't think that should happen in this country. It's things like this, where people let little things slide, that promote censorship." Reported in: *Bremerton Sun*, November 8, 12.

## colleges and universities

### San Jacinto, California

It is hard to think of anything more benign than an institution's mail delivery system. But, at Mt. San Jacinto College, the district is going to the mat to keep the faculty from using the college mail system to send material administrators deem inappropriate.

Since the college was founded in 1962, the mail had been free of administrative interference until last year when the Mt. San Jacinto College Faculty Association (MSJCFA) initiated a political action program. The chapter backed three candidates for the district's governing board, an action that irritated the district's top administrators.

When the district's vice president of business services, Wally Upper, learned that the staff mailboxes contained the chapter's political action flyers, he removed them and sent a memo to the chapter president, Gail Hoak, telling her that he had done so because "the boxes are owned by the people." In support of Upper, Superintendent/President Roy Mason cited a section of the Education Code that prohibits use of district property for electioneering. But MSJCFA attorneys countered that the provision "does not include campus mailboxes because their use does not cost the district anything." Moreover, the Education Code prohibits officials from interfering with the political activities of employees.

The chapter has filed an unfair labor practice charge. "We're confident that we will prevail on this question," said Hoak. Reported in: *California Educator*, December 1996.

### Miami, Florida

The nation's largest association of Middle East scholars has decided to defend an embattled University of South Florida professor and to rebuke a Jewish advocacy group that tried to silence him. The 2,900-member Middle East Studies Association of North America, which includes scholars on both sides of the Arab-Israeli conflict, approved a resolution in November that "deplores" the actions of the Anti-Defamation League of B'nai B'rith "for creating an atmosphere of incitement and intimidation, resulting in the cancellation of an academic event."

University of Maryland professor Louis Cantori sought a formal censure of the ADL after it stopped USF engineering professor Sami Al-Arian from speaking at an academic conference last spring. The ADL suspected Al-Arian of helping to raise money and support for Palestinian terrorists, although such a link has never been proven. Shortly before the conference at Villanova University, the ADL's regional chapter wrote the university and asked that Al-Arian be prevented from speaking.

"This request was accompanied by numerous telephone calls to the president of Villanova in which questions were raised as to whether the president could assure the safety of Villanova students if Dr. Al-Arian were permitted to speak," declared the Middle East scholars group. A Villanova official said the university feared "student riots" if Al-Arian appeared. Rather than silence Al-Arian individually, conference organizers canceled the session in which he was to speak. Reported in: *St. Petersburg Times*, November 28.

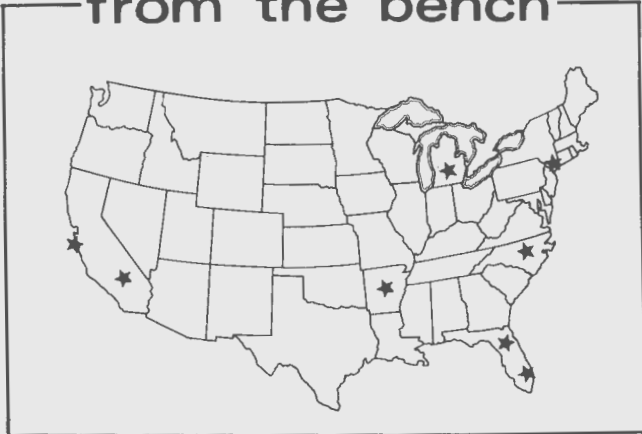
### Beloit, Wisconsin

Student leaders at Beloit College accused the administration of censorship for temporarily closing an exhibition of the works of lesbian artists. The exhibit, "Queer Art," had been open for one day when officials closed it for about twenty-four hours, at the same time that more than a hundred alumni were on the campus for a reunion. Beloit officials said the wife of one alumnus had complained about the display.

Ron Nief, a college official, said the exhibit had been temporarily closed because "it was upsetting to alumni who are in their 70s and 80s." He added: "It was their evening, and they were disturbed by what they saw." Officials reopened the exhibit the next day and apologized.

The apology "did not properly address the issue of censorship," said Kimberly Walz, the head of student government. "This incident represents a dangerous precedent which could spell the end of academic and artistic freedom," the student government said in a formal statement. Reported in: *Chronicle of Higher Education*, November 29. □

## —from the bench—



### **broadcasting**

#### **Fort Lauderdale, Florida**

A federal jury on December 18 ordered ABC and one of its producers to pay a Florida banker \$10 million in a libel suit over a *20/20* segment that portrayed him as misleading investors. The damages, among the highest ever returned against a news organization, were awarded to Alan Levan, chief executive of BankAtlantic, and his Fort Lauderdale-based bank after Levan convinced a U.S. District Court jury in Miami that the 1991 broadcast had ruined his reputation.

“When your weapon is national television, the damage you cause is immense,” said Alan Fein, Levan’s lawyer. He said ABC and correspondent John Stossel went after Levan “with an atom bomb” and “broadcast a lie to twenty million people.”

ABC attorney Floyd Abrams called the verdict “intolerable” and said it was part of a “disturbing” pattern “of big-bucks verdicts against the press.” While public figures such as Levan win 80 percent of their libel suits at trial, about 70 percent of these verdicts are later overturned, he said.

ABC’s appeal, Abrams said, would involve Judge C. Clyde Atkins’s refusal to allow him to present evidence that a civil jury had found Levan guilty of securities fraud, leading to an \$8 million settlement with investors.

A central issue in the trial was the *20/20* on-air contention that Levan “wouldn’t talk with us,” when in fact he had met with producer William Wilson for five hours. Abrams said ABC regarded the meeting as off the record,

which Levan disputed. Levan, who offered in writing to meet with ABC again, wound up submitting videotaped responses, some of which were broadcast. Reported in: *Washington Post*, December 19; *Wall Street Journal*, December 19.

#### **Greensboro, North Carolina**

In a clearly watched media case involving the use of hidden cameras and undercover reporters, a federal jury in Greensboro found December 20 that ABC producers had trespassed and committed fraud when researching a *Primetime Live* segment in 1992 that suggested a supermarket chain sold spoiled meat.

The panel found that officials of the chain, Food Lion, Inc., were defrauded when the producers submitted fake resumes to get jobs in the meat department of a store owned by the chain. The producers then used hidden cameras to film inside the store without the company’s permission.

In a statement, Tom Smith, president of Food Lion, said the company was delighted with the verdict. “We think, with this verdict, that the jury has told ABC that networks, producers and reporters — like everyone else in this country — are not above the law.” Food Lion has more than 1,100 stores in 14 states.

The Food Lion case was highly unusual because the company, while denying the accuracy of ABC’s report, did not sue the network for libel. Instead, it brought claims against the network of using fraudulent means to gather the news.

The Food Lion decision came as a raft of lawsuits have accused news organizations and television networks of invading the privacy of individuals or companies with techniques like hidden cameras. Gary Bostwick, a lawyer who has represented both sides in such cases, said little new legal ground had been broken at the trial.

“But the cultural effects will probably be enormous as a signal that reporters and producers will have to be careful and that it is not possible to conduct yourself in a way that most people won’t accept in the cause of some higher good,” Bostwick said. Reported in: *New York Times*, December 21.

### **colleges and universities**

#### **San Bernardino, California**

A federal appeals court ruled last August that a community college’s anti-harassment code violated the First Amendment rights of a professor disciplined for requiring students to read and analyze articles from magazines such as *Playboy* and *Hustler*.

The U.S. Court of Appeals for the Ninth Circuit ruling exonerated Professor Dean Cohen, who filed suit

against San Bernardino Valley College after being reprimanded because of a student's complaint in 1993. In the 3-0 decision, the panel held that the school's policy violated Cohen's free speech rights because it was "unconstitutionally vague" and could "trap the innocent" by not specifying what material is inappropriate. A lower court had ruled against Cohen.

The school's policy, under which Cohen was the first to be charged, forbids creating an "intimidating, hostile or offensive learning environment." It is based on a non-discrimination policy that is common among universities and businesses and resembles the state Equal Employment Opportunity Commission guidelines against harassment. In its ruling, the court said the policy unjustly forced professors to censor themselves.

Cohen was accused of harassment by Anita Murillo after she took his remedial English class in 1992. He was accused of discussing controversial sexual subjects, reading articles he wrote from magazines such as *Playboy* and *Hustler*, and using profane language in class. The articles were for an essay assignment on pornography. Murillo failed the class and filed a formal complaint with university officials over a year later. She claimed Cohen's behavior was directed at her and other female students.

The school's grievance committee said charges of sexual harassment were well-founded. That decision was appealed to the board of trustees, who agreed Cohen's actions violated the policy. The board required Cohen to take sensitivity training and submit detailed class plans with appropriate content warnings. Finally, he was warned that another complaint could result in his suspension or termination. Reported in: *SPLC Report*, Winter 1996-97.

### **Ann Arbor, Michigan**

The publishing industry has won the latest round in its ongoing legal battle to force copy shop owners to get permission and pay royalty fees before reproducing copyrighted excerpts for college courses. A divided U.S. Court of Appeals for the Sixth Circuit ruled 8-5 in favor of three publishers who had sued the owner of a small copy shop business for copyright infringement.

Since 1991, when a federal court in New York ruled against Kinko's Copy Centers, the publishing industry has been pressing colleges and copy shops to obtain permission and pay fees on excerpts they reproduce in custom-made anthologies for college courses, known as "course packs."

James M. Smith, the owner of Michigan Document Services, refused to abide by a copyright-permission system that he viewed as time-consuming, costly, and harmful to education. His main store is near the University of Michigan, and he also operates branches near Eastern Michigan and Michigan State Universities. The bulk of his business involves course packs.

Professors have followed with interest the legal battle between Smith and three publishers — Princeton University Press, the Free Press, and St. Martin's Press. While the case involved a for-profit company, many observers in higher education hoped that it would provide some answer to a much-debated question: When is it legal, under the "fair use" provision of the copyright law, to use excerpts in a classroom without permission from the copyright owners?

The three publishers sued Smith in 1992 and, two years later, won a summary judgment against him in a federal district court. Last February, a three-judge panel of the Court of Appeals stunned the publishing industry by siding with Smith.

After the publishers appealed, the full appeals court agreed to rehear the case and in November ruled against Smith. Citing "the potential for reasonable disagreement" over the definition of fair use, however, the court said it could not determine whether Smith had "willfully" violated the law. The court vacated the \$30,000 in damages that the district court had ordered him to pay the publishers and asked the lower court to reconsider the amount.

Smith maintained that he was not required to obtain permission for material in the course packs he produced because they were made for educational and non-commercial purposes and were protected under the fair-use provision.

The majority of the appeals court disagreed: "It is true that the use to which the materials are put by the students who purchase the course packs is noncommercial in nature," they said. "But the use of the materials by the students is not the use that the publishers are challenging. What the publishers are challenging is the duplication of copyrighted material for sale by a for-profit corporation that has decided to maximize its profits — and give itself a competitive edge over other copy shops — by declining to pay royalties requested by the holders of the copyrights."

The majority opinion called the money that publishers collect from permission fees a significant source of revenue. Whether it would be legal under copyright law for professors to reproduce, on their own, the same materials that Smith's company copied for them is "by no means free from doubt," the majority said. "We need not decide this question, however, for the fact is that the copying complained of here was performed on a profit-making basis by a commercial enterprise."

Smith vowed to appeal to the U.S. Supreme Court. "The decision from my perspective is very illogical and irrational," he said. "It's got to be clear that somebody has the right to make multiple copies for classroom use. If professors and students have that right, according to the majority opinion, they're forfeiting it if they try to get it done cheaply at a copy shop."



Three dissenting opinions, supported by five judges, agreed with Smith. Chief Judge Boyce F. Martin, Jr., in his dissent, called it "misguided" for the majority opinion to lend significance "to the identity of the person operating the photocopier." In a separate dissent, Judge James L. Ryan agreed. He wrote that Smith's production of course anthologies should not be considered independently of their educational use. "It is obvious that the use that is to be evaluated for fairness in this case is the use to which the protected *substantive* text is put, not the mechanical process of copying it." Reported in: *Chronicle of Higher Education*, November 22.

## copyright

### New York, New York

A federal judge threw out the copyright infringement claim of photographer Annie Leibovitz, who had sued Paramount Pictures Corp. for satirizing her famous *Vanity Fair* cover shot of a nude and pregnant Demi Moore. The dismissal was the latest example of how much leeway courts are willing to give to those who create parodies of copyrighted works.

In Paramount's case, the company didn't dispute that it based a brief 1994 ad campaign for *Naked Gun 33 1/3: The Final Insult* on the 1991 photo of Moore. But Paramount said it didn't need Leibovitz's permission because the ad was a parody. In the ad, a pregnant model struck the same pose that Leibovitz had chosen for the shot of Moore. Paramount then substituted the head of comic actor Leslie Nielsen, who starred in the film.

Parodies qualify for the "fair use" exception to copyright law allowing the use of copyrighted material in criticism, commentary, news reporting, teaching or scholarship. Courts consider parodies to be criticism or commentary.

Over the years, judges have allowed imitators to "conjure up" as much of the original work as is necessary to let people know what is being satirized. But "how much is enough and when you take more than is necessary is always difficult" for a judge to decide, said Edward Samuels, a New York Law School copyright professor.

U.S. District Court Judge Loretta Preska emphasized that the *Naked Gun* ad was "a photograph of a different pregnant woman," adding that "of course neither Ms. Leibovitz or anyone else holds a monopoly over the idea" of a nude, expectant female. The ad "clearly takes satiric aim" at the original, the judge said. "In fact, without reference to the Moore photograph, the Nielsen ad is simply not very funny."

Although Leibovitz acknowledged in a deposition that the ad was "a parody" which caused her to laugh, she contended that it copied too much of her original photo and that it was done solely for commercial purposes. "If

the photograph were to be appropriated for advertising purposes," she told the court, "the decision and the terms of that decision should have been mine."

The Supreme Court has said a parody may qualify for the fair-use exception to copyright law, even if it was created for commercial purposes. The high court said in 1994 that an appeals panel had relied too heavily on the commercial purpose of a parody in ruling against 2 Live Crew, which had been accused of infringing on Roy Orbison's song "Pretty Woman" with a rap version.

Judge Preska found that the *Naked Gun* ad was "vastly different" from the original Leibovitz photo. And that, she said, slightly "trumps" the commercial purpose behind Paramount's satiric ad. Reported in: *Wall Street Journal*, December 20.

## encryption

### San Francisco, California

The government's restrictions on the export of computer encryption programs are an unconstitutional interference with freedom of speech, a federal judge decided in a ruling made public December 18. The ruling, in favor of University of Illinois at Chicago mathematics professor Daniel Bernstein, who was barred from publishing his encryption code on the Internet, was hailed by computer industry executives, who believed the export restrictions have left U.S. companies at a competitive disadvantage.

U.S. District Court Judge Marilyn Hall Patel stopped short of forbidding the government to place any restrictions on the export of encryption programs. But she said the current restrictions went too far.

Bernstein's encryption program, called Snuffle, allows users to scramble telephone and computer messages that move across computer networks and the Internet. The messages can then be read only by using his decryption program, Unsnuffle.

The State Department initially decided in 1993 that the programs, as well as an academic paper Bernstein wrote to describe his ideas, were military articles that required licenses to communicate abroad. The department withdrew that designation for the academic paper in 1995, but left it in place for the programs, prompting the lawsuit.

Patel's ruling is not binding on other courts. Another federal judge in Washington, D.C., upheld the export ban earlier this year. Reported in: *Chicago Tribune*, December 19.

## media access

### Little Rock, Arkansas

President Clinton's videotaped deposition testimony, used in a criminal trial of his former associates, is not a judicial record to which the media has either a common law or First Amendment right of access, the U.S. Court of Appeals for the Eighth Circuit held December 20. And even if it were, the balance of interests would tip in favor of denying access, it said.

After the president's videotaped deposition was used in court, media organizations sought access to it so they could copy it. The district court refused the request, and the appeals court affirmed.

The videotape isn't a judicial record subject to public review but is merely an electronic recording of witness testimony, the appeals court said. Moreover, the First Amendment isn't violated by denying the press post-trial access to the tape, the court said, because the press already had been given access to all of the information on the tape during the trial. Reported in: *U.S. Law Week*, January 7.

### New York, New York

New York City's child welfare agency violated the First Amendment by making employees preclear all contacts with the press via its media relations office, the U.S. District Court for the Southern District of New York held November 26.

Under the preclearance policy, the agency determines who will make press contacts, "consistent with [its] efficient and effective operation . . . and the achievement of its objectives." The policy was challenged by an employee who was suspended after being interviewed for a TV news broadcast about the notorious death of a child allegedly abused by her mother.

The court found the policy to be a "prospective government restriction on employee speech," like the honoraria ban struck down by the U.S. Supreme Court in 1995. Thus, the policy elicits stricter review than post hoc government actions based on employee speech, the court said. The city must show that the employee's and public's interest in the speech is outweighed by the speech's actual impact on agency operations. Reported in: *U.S. Law Week*, December 17.

## gay rights

### Gainesville, Florida

A judge has thrown out Alachua County's charter amendment that barred laws protecting gays from discrimination, citing a recent ruling by the U.S. Supreme Court. Circuit Judge Frederick Smith declared the county's charter amendment unconstitutional on the basis that it denied gays and lesbians equal protection under the law.

The ruling does not automatically give gay people protection from discrimination under county law. Smith merely removed the legal barrier that kept commissioners from adding that protection in the future.

"Amendment 1's focus on sexual orientation cannot be explained on any rational basis other than as a manifestation of the majority's condemnation of homosexuality and bisexuality," Smith said.

The ruling reopened the possibility that residents could ask commissioners to once again include "sexual orientation" in their anti-discrimination ordinance. Reported in: *St. Petersburg Times*, November 24. □

(Internet . . . from page 34)

Public librarians have come up with a variety of creative solutions. In Michigan, Bev Papai, director of the Farmington Hills Community Library, purchased privacy screens to fit over the monitors of the Adult Department computers and outfitted those in the children's room with filtering software. The screens limit the observation of images on the computer monitors; only when a person stands directly behind the monitor is the screen visible.

Some libraries use filtering software to circumvent complaints about children accessing inappropriate material. Several software companies have created programs that claim to police the Internet. These programs filter out material their publishers view as offensive by

using a database of banned sites. The database also may contain a list of words that could lead a user to an objectionable site if entered into a search engine.

These types of filtering programs are far from perfect, however. Software makers have a hard time keeping up with the more than three thousand new sites posted daily. Nor are the databases of objectionable words perfect in catching the many synonyms for sexual terms which can link to an indecent site.

Some libraries offer both filtered and unfiltered access. Because of the "nature of the Internet and the World Wide Web, objectionable sites cannot be totally eliminated even through the use of filtering software," said Farmington Community Library Board trustee Clark

(continued on page 51)

## is it legal?



### Internet

#### Evanston, Illinois

For two decades, Northwestern University professor Arthur R. Butz has been trying to provoke a debate about the Holocaust, but now, thanks to a home page he posted on the World Wide Web, he is at the center of a controversy over free speech on the Internet.

Even though his views are demonstrably false — he refers to the Holocaust as “the extermination legend” — Northwestern is providing Butz free access to the Internet via the university-owned Web server, exposing his view of history to a wide and growing audience. The university, one could argue, is metaphorically giving Butz free stationery with university letterhead on it. In effect, it also is paying for Butz, who earned tenure in 1974, to make his material denying the Holocaust available to millions of Internet users around the world.

Since last spring, Butz has been using Northwestern’s Internet server to broadcast Holocaust revisionist material. Anyone can call up Butz’s home page, which identifies him as an associate professor of engineering, but adds a disclaimer that his opinions are not related to his university position.

Students on campus who zip through the university server can find Butz’s rambling Holocaust denials written beneath a large purple Northwestern “N” — although it does not appear for those accessing the site from outside the campus.

When Sheldon Epstein, a Northwestern engineering instructor, outraged by Butz’s “hate, lies and libel,” recently refuted Butz’s views in class before a relatively small number of students, he was fired. The reason: He had strayed from the class curriculum.

Angry students demanded to know how the university could “harbor” Butz and fire Epstein. Administrators answered that Butz has confined his Holocaust comments to forums outside class, which the university has uneasily tolerated for more than twenty years because of a staunch belief in freedom of speech for professors.

To keep pace with the information age, colleges and universities around the nation are racing to offer faculty and students Internet access. At the same time, they must struggle to balance academic freedom against emerging laws on hate speech, truth and civil discourse on the Internet.

The University of Illinois, for example, is drafting a policy that requires Internet use be related to university matters, while the University of Iowa policy demands “ethical and responsible behavior” by users, prohibiting harassment, plagiarism or other violations of the law. Several universities have set up committees to hear complaints of Internet misuse.

Northwestern has chosen a different route: almost anything goes. The university’s decision to allow Butz free speech on the school’s server is particularly tolerant because as a private institution it could, without fear of constitutional violation, muzzle the professor on the Internet as a condition of employment, as it does in the classroom.

The heart of the matter, said Northwestern President Henry S. Bienen, is intellectual freedom. He said he would not curtail free speech by Butz or any other professor.

“I’m a very strong civil libertarian,” Bienen said. “Even if I abhor what someone is saying, I will defend their right to say it, and I defend his right to say things that are idiotic — worse than idiotic.”

The university’s policy on intellectual freedom in cyberspace says: “The network is a free and open forum for the expression of ideas,” including unpopular ones. Administrators “place no official sanctions upon the expression of personal opinion on the network. However, such opinions may not be represented as the views of Northwestern University.” Reported in: *Chicago Tribune*, December 29.

#### Albany, New York

In another attempt by government to “protect” children from indecent material on the Internet, the New York state legislature enacted legislation, effective November 1, 1996, which makes it a crime to use a “computer communication system to initiate or engage in com-

munication with a minor if the communication is deemed 'harmful to minors.'" The law is similar to the federal Communications Decency Act, although the state bill employs the "harmful to minors" standard rather than the CDA's "indecent" standard.

The ACLU National Office and the New York Civil Liberties Union challenged the legislation. They were joined as plaintiffs by the American Library Association and the Freedom to Read Foundation. Reported in: *Intellectual Freedom Action News*, December 1996.

#### **Geneva, Switzerland**

Amid widespread confusion over intricacies of copyright protection on the Internet, a group of attorneys, diplomats and trade association representatives met in Geneva in December to begin revising intellectual property laws. The negotiating sessions marked the first time in twenty-five years that the World Intellectual Property Organization, a UN body, has convened to approve new treaties.

Three treaties were being hammered out: one for literary and artistic works, one for the rights of performers, and a third for producers of databases, which can include books as well as computer data.

The purpose of the gathering was to insure that electronic transmission of copyrighted work is subject to the same rules as other works. Non-sanctioned electronic distribution of copyrighted work would be illegal, and rules regarding public domain works would also be tightened. Reported in: *Variety*, December 9-15.

## **schools**

#### **Escondido, California**

In an effort to make classrooms a "safe haven" from politics, the elementary school district in Escondido has clamped down on the speech of parent volunteers. On December 12, the district's trustees voted 3-2 to ban school volunteers from taking part in political activities on campus.

The regulations mean parents will not be able to wear buttons or T-shirts with political messages, distribute campaign materials, put materials in staff mailboxes, or enlist students for assistance. The rules also mean that Escondido elementary and middle school students, who have the right to make political statements of their own, will have greater freedom of speech than the adults in their classrooms.

Some school districts have similar policies that limit political statements of teachers. However, the Escondido district appears to be the first in California to regulate parents, said a representative of the California School Boards Association.

Patty Huerta, PTA president of Oak Hill School, told

the board that the regulations offended her. "It's offensive and a violation of my free speech," she said. "I urge the board to get back to the issues facing it and stay away from personal politics." She said the board should pay volunteers if it wants to regulate them.

Legally, it is not clear if districts can regulate the speech of volunteers. The San Diego Unified School District recently lost a court battle over whether teachers could wear political buttons in classrooms. A California appeals court ruled that districts may limit the free-speech rights of employees, but only in instructional settings. The ruling said nothing about volunteers. Reported in: *North County Times*, December 14.

#### **Monticello, New York**

A case of high school censorship has gone before the second highest court in New York. The Monticello Central School Board of Education is suing the Commissioner of Education of New York, Richard Mills, to overturn the commissioner's ruling that a Monticello High School senior had not been afforded due process when school officials decided to suspend the student after he published an underground newspaper in January, 1995, that urged students to "wear your Pot, Acid, Alcohol and Revolution T-shirts."

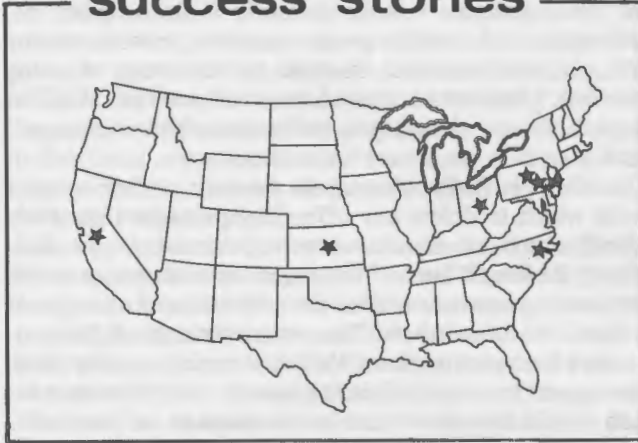
Mills ruled in favor of student Josh Herzog in November, 1995. At the request of school officials, police entered his home to search for evidence of his crime. Herzog was also charged with "inciting a riot." The charges against Herzog were later dropped.

Herzog and his parents filed a civil suit against the school and the police department in 1995, which was set to go to trial early this year.

According to Herzog's attorney, Mark Schulman, the school board denied Herzog's appeal of his suspension without ever considering the appeal's contents. Schulman said that members of the school board admitted under oath that they had not even read Herzog's appeal. Further, Schulman said that both the board and police violated Herzog's right to due process when they entered the Herzog home and seized computer disks containing information about the newspaper.

Schulman said the disciplinary case was argued before the state Supreme Court, Appellate Division, in October. "I don't think anyone is proud of Josh's misspellings or grammatical errors, but that they should be angry his rights (were found violated) is ridiculous." Reported in: *SPLC Report*, Winter 1996-97. □

## success stories



### libraries

#### Haysville, Kansas

On December 3, the Haysville school board voted to keep a controversial book in the Haysville Middle School library. Parents Ken and Vicki Gromala had complained that *Iceman*, a novel about a violent hockey player by Chris Lynch, was full of profanity. The book was reviewed by a committee which recommended that it remain on the shelves.

Vicki Gromala said she had counted 36 different places in the 180-page book where profanity was used. "I believe that most parents will feel that this is something that they don't want their sixth- to eighth-grader to read," she said.

But school librarian Janet Tibbets said the effort to remove the book marked a threat to reading. "I feel like I have a duty to provide information to people, all different people," she said. Principal Jerry Singer said he didn't like some of the words in the book but to pull it could invite a lawsuit. Reported in: *Wichita Eagle*, November 28, December 18.

#### Bellefonte, Pennsylvania

*Rolling Stone* magazine and others like it will remain on the shelves face out for all to see at Bellefonte library, according to the Centre County Library Board of Trustees. The issue arose after Jeanne Mumma asked the board to adopt a policy regulating the display of nudity on book covers, posters, and magazine covers. Mumma complained to library officials after she saw a *Rolling Stone* with a nude photo of Brooke Shields on the cover.

The board voted unanimously November 21 to keep its policy on what magazines it carries and the way they are displayed, with no specific statement related to nudity. "We put a lot of time and effort in deciding what could be done," said Sam McGinley, one of four board members charged with reviewing the request. "Part of our decision was based on the fact that we serve the whole community, we have to look to the good of the whole community." He said the committee consulted the state library and took a look at how other libraries display materials. Reported in: *Centre Daily Times*, November 22.

#### Chester County, Pennsylvania

The moral activists who called on Chester County Library officials to remove books about sex saw their quest end in failure November 19. "We will not censor any books or remove any books that are currently in our collection," library board chair Judith Shuler declared at a meeting of the board. She cited the library's policy of "independence from undue political intrusion and from any threat of censorship from any source."

At the meeting, the board heard testimony from several county residents who demanded that sexually explicit works — including *Women on Top*, by Nancy Friday, a collection of women's sexual fantasies, and *It's Perfectly Normal*, a text about human sexuality for young readers — be taken off the library shelves or moved to a special adults-only section (see *Newsletter*, January 1997, p. 8).

The board concluded, however, that it is up to parents to monitor what their children read in the library, as well as which books they bring home. "The board and personnel cannot sit as some sort of super-censor," said board member Steve Long. "We encourage all families to be actively involved in the raising of their children. . . but the right to have information is paramount."

The handful of protesters at the meeting promptly pledged to take their fight to county commissioners, state legislators, and the governor. They also called upon the library to change its acquisition policies to bar sexually explicit materials.

At a second meeting December 18, however, the board voted to approve a revised materials selection policy that reaffirmed the library's right to acquire controversial materials. "The library recognizes that some materials may be controversial and that any given item may offend some patrons," the policy states. However, the presence of a particular work "does not constitute an endorsement of [its] contents." Reported in: *West Chester Daily Local News*, November 20, 23; *Wayne Suburban Advertiser*, November 21, December 19; *Suburban and Wayne Times*, November 21; *Philadelphia Inquirer*, November 20.

## **schools**

### **Stockton, California**

By a 3-0 vote November 26, trustees of the Lincoln Unified School District voted to keep a classic children's book on classroom shelves despite a passage that refers to a black man as a "darkey." A week earlier, a school library committee had ordered *Little House in the Big Woods*, by Laura Ingalls Wilder, removed from third-grade classrooms after a parent raised objections to the passage (see *Newsletter*, January 1997, p. 9).

"This is not a racist book," said board member Don Riggio. "There's this one chapter where a father sings a song that is inappropriate by today's standards. They can read the book without that chapter." Claudia Thurman, the mother of a third-grader at Village Oaks Elementary School, had filed the complaint after she heard a teacher reading the passage to her son's class.

Janet Ghio, chair of Lincoln High School's English Department, spoke on behalf of about twenty English teachers when she told trustees the library council's earlier decision had been reached without adequate investigation. Ghio said challenges like Thurman's force a community to reconsider the impact of literature. But she said controversial literature should not be banned. Reported in: *Stockton Record*, November 21, 27; *San Jose Mercury-News*, November 28.

### **High Point, North Carolina**

Despite two parents' pleas to protect students from what they called sexually graphic and violent material, a review committee decided December 3 to keep two books on the reading list at Northwest High School.

*The Color Purple*, by Alice Walker, and *Native Son*, by Richard Wright, will remain part of the curriculum for Advanced Placement English. Rich and Kathy Peschell, the parents who protested the books, said they would appeal the decision to the Guilford County School Board.

"All of my friends say they didn't like these books, but they put their trust in their teachers and the schools," said Eric Peschell, a junior at the high school who was assigned the books.

The committee handled the two books separately, voting to keep both on the reading list, but to offer alternatives to both. Barbara Moody, the school's media specialist, said the committee had many reasons to retain the books. "The most important reason was the students themselves," she said. "We want our students to compete. Taking part in the AP curriculum, taking college classes, helps them do that." Reported in: *High Point Enterprise*, November 28, December 4.

### **Cortland, Ohio**

At the beginning of the school year, with the approval of his principal, teacher Robert Walls assigned his eleventh- and twelfth-grade students *Schoolgirls*, by Peggy Orenstein, which discusses the self-image of young women. Then the parents of one student asked Walls to pull the book, objecting to its "rotten, filthy language" and a section on sexual harassment.

Although Walls offered the parents a black marker with which to delete any offending passages from their daughter's book, he refused to drop the assignment. Suddenly, he found himself the object of a campaign by the student's parents as well as their church and a couple of school board members. They wanted the book banned.

As a first-year teacher, Walls had no job security. Still, he argued his case before the board, confident that his job would be safe whatever the decision on the book.

"People told me to wait until I have tenure, then assign the book," he said. "But I can't put aside something I believe in for another two years."

His courage paid off. After his two-hour presentation in mid-November, the school board voted to let him continue using the book. "A lot of people said this was a crazy thing to do," he said. Reported in: *New York Times*, December 7.

## **university**

### **Princeton, New Jersey**

Princeton University reversed in September a newly issued policy that would have prohibited use of its Internet access and e-mail systems for "political purposes" after widespread criticism and a threatened ACLU lawsuit. After several months of policy clarifications and contentious heat from students and staff, the university backed away from a policy that would have potentially disciplined individuals from campaigning or even downloading information from candidates' web pages.

Last July, Princeton reiterated its previously unenforced ban on individual use of the school's computers for political purposes. In a letter to the university community, Princeton quoted its regulations as specifying that "The computing and network resources of the University may not be used by members of the University community for political purposes."

The school's strengthened resolve to rein in policy violations was brought about by a concern for its tax exemptions. School administrators said they believed they could be held accountable for partisan communications sent over its computer system.

The ACLU, which received complaints about the policy, disputed the university's claim. They countered that while the tax code says the university itself cannot support political positions, students, faculty and staff are explicitly exempted.

In August, Princeton admitted the previous memo was overbroad and clarified its stance. The new memo stated that while campus members were "generally free" to communicate political views, electronic campaign activities were still not allowed. In a written reply, the ACLU criticized the school for not rescinding the ban completely. Likening online political work to the right to distribute campaign literature on campus, the ACLU emphasized Princeton's obstructive policies were still violating students' rights.

Finally, in a mid-September submission to the *Daily Princetonian*, Princeton general counsel Howard S. Ende completely rescinded the school's earlier statements. "It is not Princeton's goal to prohibit individual members of the university community from using Princeton's computer network for personal political discourse," he wrote. "Our goal as an educational institution is to foster the free exchange of ideas to the greatest extent possible." Reported in: *SPLC Report*, Winter 1996-97. □

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(Internet . . . from page 46)

#### G. Doughty.

Lesley Williams, head of information services at Evanston (Illinois) Public Library, argues that "by using filtering software, libraries are setting themselves up for liability, due to the presumed protection from graphic sites." Joyce Latham, director of library automation at the Chicago Public Library, agrees. "Libraries are vulnerable," she said. "We should not pursue strategies in the short-term that make us vulnerable in the long-term."

Many libraries do forego software tools and risk full Internet access. According to *Newsletter* editor Judith Krug, director of ALA's Office for Intellectual Freedom, "the librarian's role is to bring people together with information, not keep it from them." She believes filtering software is "contrary to what a library stands for, and is definitely not appropriate for a public library.

Libraries such as Evanston and advocates of unfettered access to the Web believe that the amount of indecent material on the Internet is exaggerated. Moreover, to retrieve much of the material, a user must be looking for it and is unlikely to stumble across it. Also, much of the access to hardcore pornography requires a credit card to buy passwords.

Libraries that do give full access to the Internet usually

provide a warning statement that the library has no control over the contents of cyberspace. Oklahoma City's public library system uses the following disclaimer: "The Internet is an unregulated medium. It offers access to a wealth of material that is personally, professionally and culturally enriching. It also enables access to some material that may be offensive, disturbing and/or illegal."

Some libraries will not provide access to minors unless parental consent is obtained. At most libraries, when children receive permission to obtain a library card, parents are asked to take responsibility for materials the child reads. Similar policies regarding Internet use are springing up, requiring parents to be responsible for their own child's activity.

In November, the Solano, Napa and Partners (SNAP) library system in Northern California approved a policy stating that libraries do not have "the right or responsibility to act in the place of the parent." The policy guarantees open Internet access to all patrons. The libraries' Internet access is, however, text-based only.

Other strategies include offering classes to both parents and children on searching the Internet. At Metropolitan Library Systems, serving Oklahoma City, Donna Morris, director of public services, said that because of legal concerns with Internet access the library requires all patrons to become certified either by taking an introductory Internet class or by completing a self-instruction program.

Some libraries try to provide useful listings of Web sites for searching specific types of information. The Simsbury, Connecticut, Public Library recommends and catalogs Web sites and takes full responsibility for these. Selection is guided by the collection development policy of the library.

Public pressure is mounting on libraries to find acceptable solutions that balance intellectual freedom with community support. With the Communication Decency Act ruling appealed to the U.S. Supreme Court (see *Newsletter*, January 1997, p. 1), the controversy will only deepen, placing many libraries in very difficult situations.

Karen Jo Gounaud, founder of Family Friendly Libraries, believes we need "a return to policies placing libraries under maximum local control with more acknowledgment of taxpayer authority and community standards."

ALA counters that the Internet is a unique medium, echoing the words of Judge Stewart Dalzell, who, in his supporting opinion striking down the Communications Decency Act, said: "As the most participatory form of mass speech yet developed, the Internet deserves the highest protection from governmental intrusion." Reported in: *Government Technology*, December 1996; *Schenectady Gazette*, December 15; *Orlando Sentinel*, November 14; *Fairfield Republic*, November 19. □

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