
**SEX AND THE
SINGLE
BEER CAN**

Critical Praise

“Walter Brasch is the most informed, opinionated, witty, and delightful commentator on the media scene today.”

—John Noonan, *Aspen Media Review*

“Brasch illuminates the dark, and often absurd, sides of society and the media with a style that invites laughter and encourages the reader to look beyond reality to the truth.”

—Nancy Baumgartner, *Williamsport Sun-Gazette*

“Brasch keeps the readers entertained not just through his poignant satire, but with his ability to tell a good story first. He always displays a solid point and makes it a fun ride getting there.”

—Bill Kohler, *Standard-Journal* newspapers

“A dynamic journalist in the tradition of Andy Rooney.”

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“Wonderfully wacked.”

—Bob Batz, *Pittsburgh Post-Gazette*

“Entertaining, informative, and fun for everyone.”

—Rob Ervin, producer, “The Gary Burbank Show,” WLW-AM, Cincinnati

“Walter Brasch has a wonderful way of cutting through the media hype to clarify the ‘real’ culture and media in a manner that can be understood by all.”

—Jack Holcomb, WEEU-AM, Reading, Pa.

“Skewers the American media [in a] satiric romp [that is] hilariously funny and deadly serious. You will never read a newspaper or magazine, listen to the radio, or watch a movie or TV in the same way again.”

—Sally Mattero, Koen Books

“A pleasant respite from the overly academic dissections of media events that allows the reader to learn through laughter. A great book of readings for students who are trying to learn how to tell it like it is.”

—Dr. Pat Heilman, chair, Department of Journalism,
Indiana University of Pennsylvania

“In *Sex and the Single Beer Can*, Walt Brasch is both refreshingly irreverent and irreverently fresh. Little escapes his attention. This is a book about the media, politics, government, war, political incorrectness, religion, the injustice system, the health industry and other corporations, Miss America and, yes, sex and beer. He ties these subjects together under a double-barreled heading of the foibles and strengths of American society. His approach is both biting criticism and healthy respect, both creative imagination and deep understanding. Most of all, *Sex and the Single Beer Can* is a plea for a better media and a better place in which to live.

Because it is broad in its scope, it’s also suitable for a variety of journalism/mass communication classes either as a primary or secondary text. It could add important perspectives to classes in ethics, media management, media economics, media and society, media criticism and a variety of other subjects of journalistic interest.”

—Dr. Ralph Izard, former associate dean, Manship School of Journalism, Louisiana State University; professor emeritus and former director, Scripps School of Journalism, The Ohio University.

“Effective and powerful. In Dave Barryesque fashion, Brasch weaves sights, sounds, feelings, and attitudes into clever, playful, entertaining essays. Brasch provides an excellent guide for students trying to learn the art of writing. For a teacher, this collection offers models of tone, dialogue, description, narrative voice, and point of view.”

—Dr. Beverley Pitts, provost and professor of journalism, Ball State University

“Insightful, readable and tightly written.”

—R. Thomas Berner, professor emeritus and former head, journalism program, Pennsylvania State University

“Outrageous and irreverent, but always on target. Better than most of what passes as commentary in the daily press.”

—Dr. Donald Bird, chair, Department of Journalism, Long Island University

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**SEX AND THE
SINGLE
BEER CAN**

**PROBING THE MEDIA AND
AMERICAN CULTURE**

SECOND EDITION

WALTER M. BRASCH

MARQUETTE BOOKS • SPOKANE, WASHINGTON

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Dedication . . .

. . . This book is dedicated to Rosemary Renn Brasch who provided inspiration for many of the columns, and encouragement for all of them. Her ideas and suggestions are always good, her social conscience a model for others to emulate.

. . . And, as always, to my parents—Milton and Helen Haskin Brasch—who provided the inspiration to challenge injustice and stupidity while still being part of the greater community of mankind.

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Acknowledgments

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During the past decade, I have worked with dozens of editors who have provided valuable advice and friendship. I am especially pleased to recognize and thank editors Nancy Acitelli, Jerry "Politex" Barrett, Wayne Bauer, Peter Becker, Jacob Betz, Jim Burchik, Rita Cellucci, Carl Christopher, Alexander Cockburn, Scarlett Corbin, Jeff Cox, Shawnee Culbertson, Jim Curtis, Vivian Daily, Robert Fursiewicz, Jim Gallagher, David Gilmartin, Jill Golden, Bekki Guilyard, Andy Heintzelman, Regina Huelman, John Huckaby, Rob Kall, Clark Kee, Bill Kohler, Rich Lewis, Tom Lowe, Scott Makufka, Leland B. Mather, Holly Matthews, Marie McCandless, Wiley McKellar, John Michaels, Dave Monaghan, John L. Moore, James Oliver, Mitchell Olszak, Jamie Phipps, Harold Prentiss, Susan Prior, Terri Pyer, Michael Regan, Ray Saul, Charles Schenk, Ed Schreppe, Troy Sellers, Linda Seligson, Sunil Sharma, Joseph

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Dr. David Demers founded Marquette Books upon altruistic principles. May his company continue to publish works of substance, and may it prosper.

—WALTER M. BRASCH

Introduction

Hardly anyone admits reading the supermarket tabloids, but someone—other than movie star publicists who “leak” information to the tabloids to create controversy—must be reading them because the combined weekly circulation for the six major weekly newspapers is more than 10 million.

I read the tabloids.

Usually, I read *The National Enquirer* and, occasionally, one of the other tabs. I seldom read the *Weekly World News* because in the *USA Today* world of splashy color and flashy graphics, the black-and-white *Weekly World News* front page just doesn't measure up.

Nevertheless, it was a hot August afternoon when I went into the local air-conditioned supermarket to cool down and, perhaps, to find a few of the 30,000 advertised items that could translate into dinner for six, including two German Shepherds. (The pot-bellied pig and “pound puppies” mix came later.) Apparently, I wasn't the only one that afternoon who figured out how to get free air conditioning. The checkout lines were longer than a politician's lies, so there was only one thing to do.

I guessed I'd be able to read most of the 15 magazines and six newspapers in the “you-got-to-buy-this” point-of-purchase racks by the time it was my turn. I also figured that my two sons would have graduated from college, moved out of the house, although still needing weekly “loans,” and had children of their own by the time I finished checking out.

Thus, it was in the checkout line that I learned from the *Weekly World News* that a space alien had come to earth in 1992 to advise presidential candidate Bill Clinton. The alien had already advised President George Bush and Reform Party candidate Ross Perot early in the Summer, but had to wait until after the Democratic convention to find out which of the donkeys was going to run.

Being the alert reporter I am, I was upset that a competitor

had scooped me on what could have been the most important news of the week. Just a couple of weeks earlier, I had covered the first Clinton–Gore bus tour of America, and no one mentioned anything about an alien. Obviously, the Secret Service had covered it up once again.

That evening, Rick Renn, my nephew from Georgia, called. He had just read the space alien article, and knew I would be interested. The evidence was overwhelming. There were now at least two people who recognized good journalism. It was time to act.

For a few years, usually when I had too much time and not enough sense, I thought about writing a weekly newspaper column. It would be a great catharsis of what I proudly knew to be a warped mind, fertilized now and then by my wife. With only 23,000 other columnists trying to pitch their own catharses, I figured there was room for another 700–800 words a week, especially since newspapers appeared to be desperate for features. How else could anyone explain why they publish gossip columns and capsule summaries of soap operas?

Thus was born “Wanderings,” a column that probes a small particle of society. Sometimes it’s humor or a satire; sometimes it’s a wistful essay or a hard-hitting investigative report. Sometimes it looks into politics, the environment, health care, recreation, or whatever needs to be probed that week. About one-fourth of the columns have a media focus. Occasionally, the media are the central focus, sometimes a supporting player, often an extra. But the media are always there; lurking; sometimes playful, sometimes annoying; but most important, informing, persuading, and entertaining.

The skeleton for *Sex and the Single Beer Can* is some of those media-related columns. Most of the columns have been significantly revised for book publication, and new articles have been added. After all, each medium has its own language, structure, and parameters. Besides, newspaper columns stay around a couple of days, while books remain on the shelves, unread, for decades.

No one book—nor for that matter *all* the books currently in print—can explain everything a reader needs to know about the mass media. However, these unique mini-case “slices-of-life” studies that comprise *Sex and the Single Beer Can* do present an understanding not just *of* the media, but of people *in* the media and others affected *by* the media. By understanding the

broad perspective presented in *Sex and the Single Beer Can*, it's possible to better understand the nature of mass media. More important, the book should generate discussion and debate, as each reader learns from and then responds to the viewpoints presented.

For more than 30 years I have been proud to be a journalist. I believe in the American media and in the people I am pleased to call my colleagues and friends. For the number of obstacles business, government, and public institutions put into their paths, the media overall do a splendid job. But, like any institution, the media have their problems, some inherent within their own structures. As a media critic and satirist, I have a responsibility to examine the media, hoping that by bringing the excesses and problems to light—something every journalist should strive to do—the media will do an even better job of helping Americans better understand their own lives and issues that affect them.

Read the columns. A few now; a few later. No one will rat on you if you read them out of order or if you fall asleep while reading the one column that has the secrets of the universe.

Many may wonder where the sex and beer are that the title promises. Like tabloid headlines, book titles are meant to grab readers; more than half of all paperback books are sold on the basis of the title and cover design. In this case, the title is meant to grab two readers—my sons, Jeffrey and Matthew Gerber, wonderful children who enjoy my columns, usually don't read my books, but are fond of what the book title promises. Let them search this book, reading every column until they find what the title promises. For the rest of my readers, there really is a column about sex and beer; more important, it is a key discussion about one part of the media and of the American people.

While reading this book, I hope you find yourself not only informed, entertained, and persuaded, but also mentally stimulated and ready to act against stupidity and injustice. The strength of our society shall always be in the foundation that allows many views to be heard.

“I write for the great mass of intelligent, observant, reflecting farmers and mechanics; and, if I succeed in making my positions clearly understood, I do not fear that they will be condemned or rejected.”

—*Horace Greeley*

The First Amendment

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

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Only 14% of Americans—and only 57% of journalists—can name freedom of the press as a right in the First Amendment.

43% of Americans believe the press has too much freedom.

22% of Americans believe government should be able to censor the news.

—*Survey conducted by the Department of Public Policy,  
University of Connecticut; May 16, 2005*

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# INFORMATION AND SOCIETY

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## THE FIRST AMENDMENT

### Stealing the First Amendment

“Got a match?”

I didn’t know where he came from, but there he was, right behind me—as usual. “You know I don’t smoke,” I told Marshbaum. “Come to think of it, you don’t either. What’s up?”

“Not much. Planning to roast some marshmallows and hot-dogs. Burn some books.”

“Marshbaum,” I commanded. “You can’t burn books.”

“Sure I can. All I need is a match. See, first you—”

“Burning books is against everything this country stands for.”

“Not when the books are evil.”

“Didn’t you ever read anything Jefferson wrote? Our country was founded upon the principle that all views must be heard.”

“My view is that we’re going to burn some books to keep them from causing any more trouble.” I could have given Marshbaum a 10-minute lecture about how we no longer have a history of the pre-Columbian Aztec civilization because Spanish conquistadors in the 16th century destroyed the writings of one of the world’s greatest civilizations. I could easily have discussed Milton’s arguments that those who seek to destroy books destroy reason itself, and that mankind is best served when there is a “free and open encounter” of all ideas. Or, maybe, a few words from philosopher John Stuart Mill who stated, “We can never be sure that the opinion we are endeavoring to stifle is a false opinion, and if we were sure, stifling it would be an evil still.” Maybe a little bit of wisdom from Supreme Court Justice

Oliver Wendell Holmes who told us that democracy is best served in a “marketplace of ideas.” But, I knew Marshbaum was in no mood to hear philosophy. So, all I said was a sarcastic, “I assume you plan to burn everything you think is evil.”

“Just Romances. Historical. Contemporary. Anything with a female byline and a cover of a woman with lust in her eyes and a torn dress on her body.”

“Why Romances?” I asked.

“Because Romances lead to crime.”

“Most Romance novels may be a crime against good writing,” I said, “but that’s still no reason to burn them.”

“It’s a case of numbers,” said Marshbaum. “The major publishers put out more than 120 Romances a month, three times more than 14 years ago. And, the average romance reader spends about \$1,200 a year on the books.” He smugly told me he got that information from the Association of American Publishers.

“Wasting money on syrupy nonsense still isn’t enough of a reason to burn books,” I said.

“Get away from your computer and see what’s been happening to America,” said Marshbaum. “In the past 14 years, the crime rate has also tripled. It’s a direct relationship. Where do you think those bored housewives get all that money to buy Romances? You can’t read just one Romance. Once you’re hooked, you need 10, 20. You become addicted. You need more and more until one day your whole life is nothing but a long print-enhanced haze of bodice-rippers and sap. Eliminate Romances, and you’ll walk safer in Central Park at night.”

“That’s the most convoluted piece of logic I’ve ever heard.”

“The *Washington Post* says it’s OK to burn books,” said a smug Marshbaum.

“I doubt the *Post* believes in burning books,” I said eruditely. I was eruditely wrong.

“Maybe not books, but newspapers.” At more than three dozen college campuses a year, according to the Student Press Law Center, students who disagree with something in the student newspapers steal them from distribution racks, and throw them into dumpsters or burn them. In Pennsylvania, entire press runs were recently stolen at the University of Pennsylvania, Penn State, and Mansfield. The culprits were often persons who thought of themselves as liberals but whose actions certainly suggest they spent more time in parties than in classes that discussed the founding principles of the nation.

“So, how does all this tie into the *Post*?” I asked.

Marshbaum pulled an editorial from his pocket. “Read this!” he commanded. According to the *Post*, “scooping up copies of publications—whether to send a message or to protest one—may in itself be a form of free speech.” It argued that proposed legislation in Maryland to ban the theft of newspapers is “neither a good idea [nor] a worthy pursuit” by the legislature. It was a shocking philosophy from a newspaper that screeches a national emergency almost anytime a governmental agency doesn’t yield all its secrets.

“Obviously someone kidnapped all the reporters and editors,” I said.

“Obviously the *Post* has divine guidance to determine what is truth,” said Marshbaum. “Maybe they have a match I can borrow.”

*[Against the Post’s advice, the Maryland legislature became the first state in the nation to declare it illegal to steal newspapers with the intent to prevent others from reading them.]*

## Suspending the First Amendment

The principal of a Bucks County, Pennsylvania, high school suspended five students in April 2001 for committing an act that radicals Ben Franklin, Sam Adams, and the Sons of Liberty would have encouraged.

The students didn’t threaten anyone, unsheathe any weapons, steal anything, destroy property, openly defy authority, get drunk, or take illicit drugs, all of which were committed by the nation’s revolutionaries. What the students did was to create a newspaper.

On four letter-size pages, typeset into three columns a page and sprinkled with shock words, the *Laundromat Liberator* made fun of students, teachers, and administrators at Council Rock High School, Newtown, Pennsylvania. One of the editors said they were trying to emulate the sharp humor and biting satire of *The Onion*, an internet newspaper.

Although the articles fell far short of journalistic excellence, and may have been unnecessarily crude and cruel in the guise of humor, they had an underlining of truth. If no one objected, the newspaper would have been little more than an attempt to be cute, drawing giggles and, hopefully, discussion from the students, while sucking outrage from parents, teachers, and ad-

ministrators. After a few issues, either the stories would have become sharper, the issues better defined, or the novelty would have worn away, and the editors would have looked at other ways to tap their curious and creative minds.

But, the principal, not unlike most school administrators, confiscated the 100 or so copies of the newspaper, and then suspended the students for five days because of the “emotional impact” that teasing has upon students. He said he was sensitive to what had recently happened in Santee, California, when a 15-year-old student, possibly upset by being the brunt of random high school teasing, killed two fellow students and wounded 13 others. The case for suspension, said the principal, was merely “a safety issue.” The district superintendent claimed the seizure and suspension was “a disciplinary matter.”

Student reaction, according to one of the editors, was “they thought our paper was hilarious. Teacher reaction was, ‘you guys did a very bad thing. Do you have any left that I can see?’”

Reacting to questions about the seizure and subsequent suspension, the principal lashed out that media coverage was “a disservice to kids.” He argued, “Anger builds [and] you are going to create more interest in what was in it, and what was in it was hurtful.”

To further the assault upon the rights of free speech, or a public school’s morbid fear of controversy, the local chapter of the National Honor Society began an investigation “to get information and references” that could have led to the expulsion of four of the five editors who were Society members. Two of the students were at the top of their 902-student senior class; a third was ranked in the top 5 percent; one was in the top 20 percent. Fortunately for the school, which would have faced even more media coverage had it expelled students from an honor society, the investigation fizzled. The sanctioned student newspaper, *The Indianite*, never published anything about the alternative newspaper, the students, or the Honor Society investigation.

Those who believe the right way to stop commentary, even “hurtful” commentary, is to silence it and punish the editors have misunderstood their own civics lessons.

the nation’s Founding Fathers were well aware of John Milton’s somewhat “radical” arguments in Parliament in 1644 that those who seek to destroy writing destroy reason itself, and that mankind is best served when there is a “free and open

encounter” of all ideas—even “hurtful” ones. They were also aware of Lord Blackstone’s strong arguments against prior restraint of free speech by the government. Influenced by the views of Milton, Blackstone, and others, Thomas Jefferson pushed for the First Amendment to assure freedom of religion, speech, the press, and the right of the people not only to peacefully assemble and raise whatever issues they wished, but also to petition the government for a “redress of grievances.”

Ben Franklin, working on his brother’s newspaper, snuck articles into Boston’s *New England Courant*. Later, under his own name and a series of aliases, in his own paper, *The Pennsylvania Gazette*, published less than 25 miles from what became the site of Council Rock High School, he vigorously challenged conventional authority and the British government. Many of Franklin’s articles were vicious attacks upon individuals and the government. Franklin would later write, “Without Freedom of Thought, there can be no such Thing as Wisdom; and no such Thing as publick Liberty, without Freedom of Speech.” Sam Adams, Benjamin Edes, John Gill, and other Radicals, a minority in the Colonies even in 1776, used newspapers to unify the people and push for the Revolution. Their words were often hurtful and untrue. Even after the Revolution, newspapers backing Thomas Jefferson and the Anti-Federalists maliciously attacked Washington, Adams, Hamilton, and Madison—and papers backing the Federalists were equally vicious in attacks upon Jefferson. But, as much as each of the Founding Fathers felt the sting of criticism, even if unfairly, they understood why there had to be a free press.

During the mid-nineteenth century, philosopher John Stuart Mill stated, “We can never be sure that the opinion we are endeavoring to stifle is a false opinion, and if we were sure, stifling it would be an evil still.” Supreme Court Justice Oliver Wendell Holmes told us democracy is best served in a “market-place of ideas.” Justice Charles Evans Hughes in 1925 argued, “When we lose the right to be different, we lose the privilege to be free.” Justice William O. Douglas argued, “Restriction of free thought and free speech is the most dangerous of all subversions. It is the one un-American act that could most easily defeat us.”

First Amendment freedoms, said Supreme Court Justice Anthony M. Kennedy, “are most in danger when the govern-

ment seeks to control thought or to justify its laws for that impermissible end. The right to think is the beginning of freedom, and speech must be protected from the government because speech is the beginning of thought.”

At the time the *Laundromat Liberator* was being suppressed, the school administration should have known of a ruling by Judge Lowell A. Reed Jr., of the U.S. District Court for the Eastern District of Pennsylvania. In the 1998 case of the *ACLU v. Reno*, Judge Reed suggested, “perhaps we do the minors of this country harm if First Amendment protections, which they will with age inherit fully, are chipped away in the name of their protection.”

Individuals have recourse against malicious falsehood through libel laws, the community through ever-tightening standards of obscenity and pornography laws. And, all of the courts, interpreting the intent of those who created our Constitution, agree that the recourse to views and writings we disagree with is through more free speech, not less.

Perhaps, instead of thinking the Constitution doesn’t apply to public high schools, school administrators could have brought in writers and journalists to discuss satire, the vital role that alternative and underground newspapers play in America, and how to better craft publications to achieve the impact student writer–editors might desire while respecting the rights of their readers. But, a thick-headed administration, no matter how “humane” it thought its reasons were, saw free speech and an unfettered press not as a right, but as an evil.

Perhaps, more than two centuries after the Revolution, school administrators may soon understand why our Founding Fathers made sure we were a republic founded upon a base of ideas and public discussion, not a kingdom of fear and tyranny.

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“Experience should teach us to be most on our guard to protect liberty when the government’s purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.”

—U.S. Supreme Court Justice Louis D. Brandeis

Throwing Out the First Amendment

The American revolution was built upon a libertarian foundation that all views, even ones that may be blatantly stupid or racist, must be heard. In *The Areopagitica* (1644), which Thomas Jefferson freely quoted from, John Milton had written that truth and falsehood must be allowed to compete in a free and open encounter, and that truth will eventually be known. Two centuries later, John Stuart Mill in *On Liberty* (1859) reaffirmed the libertarian philosophy when he pointed out, “We can never be sure that the opinion we are endeavoring to stifle is a false opinion; and if we were sure, stifling it would be an evil still.” A few years after that, Supreme Court Justice Oliver Wendell Holmes told us that democracy is best served in a “marketplace of ideas.” Even outrageous ones. Even racist and stupid ones. But, for most of us, the First Amendment is little more than words we barely recognize.

On the morning of June 12, 1996, a three-judge federal panel in Philadelphia issued a 175-page decision that declared the Communications Decency Act unconstitutional. That Act would have imposed severe restrictions upon Internet content. “The strength of our liberty depends upon the chaos and cacophony of the unfettered speech the First Amendment protects,” wrote Judge Stephen Dalzell.

That afternoon, the owners of Major League Baseball, apparently having not read the First Amendment, declared the opinions of Cincinnati Reds owner Marge Schott was an embarrassment, and ordered her suspended from day-to-day operations for two and one-half years. The sanction came three years after they had fined her \$25,000 and banned her for a year following remarks that most people would label as anti-Semitic and racist. In an ESPN interview, she defended Hitler as someone who at the beginning of his career helped the people and accomplished much, although she did say he later “went too far.” In a *Sports Illustrated* interview she insulted Asians, working women, and others. On opening day of the season, after umpire John McSherry died at the plate and the game was postponed, Schott told the *Cincinnati Enquirer*, “I feel cheated. This stuff isn’t supposed to happen to us here.”

Schott’s latest suspension, Bud Selig told the media, was the

“result of a succession of events,” including her tight-fisted financial control and her nauseous beliefs that “quite frankly were not in anyone’s best interest.”

Four years later, Major League Baseball was still suppressing free speech. John Rocker, a 6-foot-4, 225 pound Atlanta Braves pitcher, said he didn’t like foreigners, minorities, gays, and just about anyone who doesn’t look, act, or think like he does.

He called a Black teammate a “fat monkey,” and said Asian women are bad drivers. He said he would quit baseball before he would allow himself to be traded to a New York team because he didn’t want to take the subway to work, “looking like you’re [riding through] Beirut next to some kid with purple hair next to some queer with AIDS right next to some dude who just got out of jail for the fourth time right next to some 20-year-old mom with four kids.”

His views, brewed in a cauldron of ignorance and stupidity, aren’t any different from those of millions of Americans. He said them before, to friends, fans, teammates and, maybe, even a few sports writers. Unfortunately, this time John Rocker said them to a reporter for *Sports Illustrated* who included it in a four-page spread at the back of the 3.3 million-circulation magazine.

“I’m not a racist or prejudiced person,” Rocker claimed, “but certain people bother me.” One of those people was baseball commissioner Bud Selig.

“Mr. Rocker’s recent remarks [are] reprehensible and completely inexcusable,” said Selig who in January 2000 ordered Rocker to undergo psychological tests.

Punishment for Rocker’s opinions were warranted, chimed in Atlanta Braves president Stan Kasten. The Players Association, with one-fifth of its members foreign-born and about 40 percent Black or Hispanic, didn’t object.

Under pressure from Management, Rocker apologized. But, Major League Baseball suspended him for having views it didn’t consider to be acceptable—at least in public.

This, of course, is the same sport that banned Blacks and Hispanics from its fields for more than a half-century, which didn’t allow a Black to be a manager for another three decades, which still bans women, and for which the owners were at least half the reason why there was a strike in 1994. But, baseball officials think they, like private enterprise, can dictate what their employees think and say.

“Purists” rightfully claim that the First Amendment applies

only to governmental infringement, and that private enterprise, such as Major League Baseball, can do what it wants. However, Major League Baseball enjoys a special status—cities float municipal bonds for stadiums and then issue eminent domain orders to tear away houses and lots; and the federal government has waived anti-trust action against a sport that reeks of blatant disregard of the nation’s laws against monopolies. Because baseball willingly accepts extensive government assistance, it should be compelled to adhere to the tenets of the First Amendment.

In 1927, Supreme Court Justice Louis Brandeis, in *Whitney v. California*, wrote that “the remedy to be applied [to evil and falsehood] is more [free] speech, not enforced silence.”

Perhaps Rocker and Schott, as well as those justifiably outraged by their opinions, will one day sit down to listen to each other, and realize that education not gags should be the solution for ignorance. Major League Baseball once silenced those who spoke out for integration. It was wrong then. It is wrong now.

Killing Reason Itself: The Argument Against Book Banning

America’s two most popular authors of the late nineteenth century could never imagine their most famous works would be among the nation’s most banned books.

Throughout the country, school districts and libraries, intimidated by vocal minorities of parents and special interest groups, many of whom haven’t even read the books they are protesting, have banned Mark Twain’s *The Adventures of Huckleberry Finn* and Joel Chandler Harris’s Uncle Remus/Brer Rabbit tales as racist. *Huckleberry Finn*, after decades as the most banned book in America because of the ideas Twain presented, is now the fifth most banned book of the past decade, according to the American Library Association (ALA).

The book-banners have succeeded with Harris. Today, few Americans know about the folktales; even fewer know Harris’s name, making him so irrelevant that the ALA’s current book-banning list doesn’t even include any of his works.

Mark Twain, a fierce abolitionist and political gadfly who freely challenged authority, would undoubtedly have been amused that conservatives challenge the book for not-so-subtly

showing that it is acceptable not only to hold certain American institutions up to ridicule but to challenge rules and regulations, both written and unwritten—and that liberal organizations attack the book for what they believe is the use of racist language and stereotypes. Disregarding that *Huckleberry Finn* is regarded by most literary critics as the greatest American novel, and that the Uncle Remus/Brer Rabbit tales were the most accurate literary representation of Black folklore and language of the Antebellum and Reconstruction eras, the critics of the past three decades mistakenly cite the use of the word “nigger” and the American Black English dialogue as “proof” the books are racist. But, these critics overlook the reality that Twain was a vocal abolitionist who forcefully attacked racism and miscegenation laws. Twain, in fact, used the term “nigger” to show just how racist it was, calling Huck’s friend Nigger Jim, a name Twain made clear was given by Whites.

During the latter two decades of the 19th century, Harris was the nation’s second most popular writer, just behind Twain. Even two decades after Harris’s death in 1908, a survey of high school and college literature teachers ranked the Uncle Remus/Brer Rabbit tales fifth among American literature.

By the second half of the 20th century, the critics attacked Harris for what they believed were racist portrayals in his books that featured Uncle Remus telling African folktales to the plantation owner’s son. These critics undoubtedly weren’t aware that Harris, associate editor and chief editorial writer of the *Atlanta Constitution* for almost 25 years, was one of the nation’s most important voices to speak out for human rights and reconciliation during the Reconstruction and post-Reconstruction eras. They also don’t understand that Remus, a teacher, is actually one of literature’s strongest portrayals of a complex character, a slave only by a law which couldn’t imprison his mind. More importantly, they don’t understand that the trickster Brer Rabbit, the apparently weaker character who uses cunning and mental agility to overcome stupidity and undaunted strength positioned against him, is really an allegorical depiction of the American Black.

Some well-meaning critics also believe the Black English in both Twain’s and Harris’s works is blatantly racist, an “inferior” language spoken by “darkies,” minstrels, and the ignorant. But, linguists have long recognized that the literary depiction of Black English in both Twain’s and Harris’s works are accurate representations of the syntax, phonology, and lexicon of the

Niger–Congo West African language family brought to America during the two centuries that slavery was legal.

In *Nights With Uncle Remus* (1883), Harris correctly noted that the tales and language were so intertwined that to present them any other way would “rob them of everything that gives them vitality.”

The arguments against the works of Twain and Harris are nothing short of “political correctness” gone wrong and stomping upon historical accuracy.

Much of the attack upon Harris probably originated with Walt Disney’s *Song of the South* (1946), a syrupy animation and live-action portrayal of the plantation era. Within a decade, at the beginning of the Civil Rights era, Harris and his works would be attacked, usually by persons who hadn’t read his tales and knew almost nothing about their author but had seen the Disney film.

In one of the greatest slaps to Harris’s memory, the board of trustees of the Atlantic Public Library in 1982 ordered the name of the Uncle Remus Branch to be changed to the West End Branch. Four years later, the Savannah–Chatham County School District banned a theatrical production of *Br’er Rabbit’s Big Secret*. The acclaimed Savannah Theatre Company had scheduled the play, with Black actors in lead roles, for second graders; district administrators, objecting to the “inappropriate dialect,” banned it after the first of its scheduled 10 performances. The director said school officials told him the tar-baby scene “might be seen as a racial slur.”

Alice Walker—winner of the Pulitzer Prize for fiction in 1983 for *The Color Purple*—is one of Harris’s most vocal critics. Walker, born in Harris’s birthplace of Eatonton, Georgia, grew up hearing the Brer Rabbit stories. Harris, said Walker, “stole a good part of my heritage [by making me] feel ashamed” of it. Ironically, *The Color Purple* is on the American Library Association’s list as the 17th most challenged book of the past decade. More than 8,500 challenges to various books between 1990 and 2005 were reported to the ALA; as the nation’s primary organization for librarians frequently points out, the actual number is likely to be significantly higher than that.

On the ALA list of the 100 most challenged books of the decade of the 1990s were several popular children’s books, including, J. K. Rowling’s *Harry Potter* series (no. 7), R. L. Stine’s *Goosebumps* series (no. 16), Robert Newton Peck’s *A Day No Pigs Would Die* (no. 17), Shel Silverstein’s *A Light in the*

Attic, (no. 51), several books by Judy Blume, and even Martin Hanford's *Where's Waldo?* (no. 88). By 2005, the *Harry Potter* series, which is seen as "satanic" by a large segment of the American people, moved to the "top 3" list of all books challenged, after being the most challenged books in 2001–2003. *Scary Stories*, by Alvin Schwartz, once the most banned book, was replaced in 2005 by *It's Perfectly Normal*, by Robie H. Harris, a book about dealing with puberty, and for which *Publishers Weekly* called "intelligent, amiable and carefully researched."

Among literary classics that have been challenged and banned are Maya Angelou's *I Know Why the Caged Bird Sings* (no. 3), Robert Cormier's *The Chocolate War* (no. 4), John Steinbeck's *Of Mice and Men* (no. 6), J.D. Salinger's *The Catcher in the Rye* (no. 13), Harper Lee's *To Kill a Mockingbird* (no. 41), Daniel Keyes' *Flowers for Algernon*, which became the hit movie, *Charley* (no. 47), Aldous Huxley's *Brave New World* (no. 52), Kurt Vonnegut's *Slaughterhouse-Five* (no. 69), William Golding's *Lord of the Flies* (no. 70), Richard Wright's *Native Son* (no. 71), and Toni Morrison's *Song of Solomon* (no. 85).

The list of banned books of the past decade is nowhere near the list of books banned during the past two centuries. The primary antagonist has been the U.S. government itself. During the antebellum era, beginning in the 1830s with the Andrew Jackson administration, the Post Office forbid abolitionist publications from being mailed into the South; the fact that Jackson was from Tennessee was not lost upon the abolitionists who made numerous attempts to sneak their publications into the South. In the late 19th century, the Post Office employed Anthony Comstock to determine which publications should be suppressed. For about a decade after World War I, the Post Office seized copies of the James Joyce classic, *Ulysses*. Among others prohibited during the past century have been Aristophanes' *Lysistrata* and Chaucer's *Canterbury Tales*.

Although there are dozens of excuses to ban a book, the most "popular" reasons seem to be what some critics claim to be for obscene language or sexual content—the Tarzan series was frequently banned during the 1920s because some morally-indignant pure-bloods believed it was a sin for Tarzan and Jane to have sex without marriage. However, the one reason that threads its way through most book banning, even when other reasons are claimed, is that the book challenges authority, or

features a character who is perceived as “different,” who may even give readers ideas that many see as “dangerous.” Both Huck Finn and Uncle Remus, in their own way, challenged authority. One of the most dangerous ideas was proposed in Charles Darwin’s *Origin of Species* (1859) which opposed the creationist theory. The mere thought that there could be something known as evolution was so repulsive and heretical that Tennessee, as well as numerous other governmental jurisdictions, banned the book. The issue of censorship, as well as creationism vs. evolution, erupted in the Scopes Trial in 1925 that drew national attention—and international condemnation.

In 1644, John Milton, speaking before Parliament to eliminate the licensing of books, declared, “As good almost kill a man as kill a good book; who kills a man kills a reasonable creature [in] God’s image; but he who destroys a good book kills reason itself.”

Milton’s words became a vital part of the base for the libertarian revolution that led to the formation of the United States and the First Amendment to its Constitution.

Stupid Decisions: Self-Censorship in America

The author and the publisher could agree upon only one thing—neither of them wanted 50,000 copies of the author’s book to be in a 146,000 square foot warehouse in Williamsport, Pennsylvania.

Michael Moore, the author, wanted the publisher to start distributing *Stupid White Men and Other Excuses for the State of the Nation*. ReganBooks, the publisher, wanted to pulp them.

What ReganBooks tried to do to Moore’s book may be typical of what has happened to the industry that has often been accused of sacrificing much of its editorial integrity to the business and marketing sides, and continues to publish “safe” books that don’t attack establishment values.

Copies of *Stupid White Men* were ready for distribution when terrorists struck America on Sept. 11, 2001. Moore, an anti-establishment social issues and media critic who is adept at using the media to promote his views, had first earned a reputation with his playful film, *Roger and Me*, which looked at corporate greed. He followed that up with a best-seller *Downsize This!* (1996); a brief television series, *TV Nation*; and subse-

quent “reveal-all” about that series, *Adventures in a TV Nation* (1998). In October 2002, he released *Bowling for Columbine*, a two hour documentary about America’s gun culture.

But now, in the days after the terrorist attacks of 9/11, ReganBooks thought Moore’s criticism of the Bush–Cheney Administration was not only irreverent but also inappropriate and unpatriotic. In one of publishing’s much-too-common intertangling alliances, ReganBooks is an imprint of megapublisher HarperCollins, which less than two years before stopping distribution of *Stupid White Men* had published George W. Bush’s political memoir, *A Charge to Keep*. HarperCollins itself is a part of News America, a major division of Rupert Murdoch’s News Corporation conglomerate which also owns the FOX TV network. Roger Ailes, FOX’s news chair, was a senior advisor to former President George H. W. Bush. On Election Night 2000, John Ellis, first cousin of George W. Bush and Florida Gov. “Jeb” Bush, was a FOX news consultant and on-air political analyst; in addition to analyzing the election, Ellis relayed information in several private telephone conversations to his cousins.

Perhaps none of the alliances entered into ReganBook’s decisions about *Stupid White Men*. But, Moore later told *Publishers Weekly* the company had wanted him to rewrite up to half of the book, and change the title and cover art. ReganBooks refuses to discuss what it said to Moore, or to answer numerous questions about why it didn’t want to release the book. Moore says he agreed to a title change and a revision of the cover design. He didn’t agree to lose his journalistic integrity.

In the book, Moore opened with an attack upon how George W. Bush had become president at the beginning of 2001, although Al Gore received over a half-million more votes in the popular election. He called Bush a “crook” and a “Thief-in-Chief” for having stolen the election by the Supreme Court’s 5–4 vote along political lines to uphold the official, but highly controversial, election results in problem-plagued Florida, a state in which Bush’s younger brother was governor and the secretary of state were co-chairs of the Bush for President committee. The Supreme Court decision several weeks after the election had given Bush just enough electoral votes for the victory. “We are now finally no better than a backwater banana republic,” Moore declared. In other chapters, Moore attacked racism, corporate business practices, those who presided over the recent economic, technological, and environmental decline, the

media obsession with sex scandals, and even Bill Clinton, a Democrat whom he called one of the best Republican presidents the country ever had.

After a couple of months of discussions, Moore said that ReganBooks told him it had decided to pulp the warehoused copies; the publisher would allow rights to revert to him after a year. As Moore knew, a year's delay would have killed the essence of the book. He proposed to buy the 50,000 copies, and then sell them himself; the publisher, said Moore, refused. ReganBooks refused to say why it wouldn't allow the author to buy the copies, or why it had planned to kill it.

"We had considered a number of options," said corporate spokesperson Lisa Herling; she refused to say what those options were. Whatever they were, apparently the only viable one the publisher was comfortable with was a rewrite. The book was almost dead.

The day after discussions apparently ended in early December, Moore spoke to the New Jersey Citizen Action Coalition, a friendly audience. What he hadn't counted on was support from a source that is vigorous in First Amendment issues.

"This was all about a publisher censoring itself on a book because it may have been politically intimidated," said Ann Sparanese, head of the Reference and Young Adult services for the Englewood (New Jersey) Public Library; she had been at the Coalition's meeting as the delegate from the Bergen County Central Trade and Labor Council. Two days later, she e-mailed letters to members of the Social Responsibilities Roundtable of the American Library Association (ALA) and to the Progressive Librarians Guild. "My colleagues apparently picked up the ball and ran with it," said Sparanese. The librarians began writing each other and the publisher. And, they did even more—they placed orders.

Within days, as Moore later told *Publishers Weekly*, Regan Books was receiving "hundreds of letters a day from angry librarians. . . . That's one group you don't want to mess with." The publisher had already sacrificed its editorial integrity when it thought dissent wasn't "appropriate"—and that it would be subject to attacks for releasing the title, and would probably lose sales not only for *Stupid White Men* but possibly other titles as well. But, now there were those letters of support—and all those book orders. Now, *that* was something to reconsider!

About the same time the librarians were mounting their

campaign, Jane Friedman, chief executive officer of Harper Collins, asked a question. Moore believes Friedman “was probably a bit of a hero in all this, saying ‘Why are we distancing ourselves from something we approved of and worked on?’”

In mid-December 2001, ReganBooks agreed to release *Stupid White Men* without changes. ReganBooks claims the librarians had minimal impact. “We did not receive a lot of comment from librarians, not a lot of feedback from outside,” Herling claimed. She said the decision to publish was “made by a team of people”—she refused to identify who was on that team—“and certainly not because of feedback from outside.” Was Jane Friedman part of that team? “The team made the decision,” said the corporate spokesperson firmly.

In February 2002, Moore began a 12-city author tour, coupled with several appearances on national TV shows to promote the title. The controversy helped assure exposure and eventual sales. Within weeks, HarperCollins even featured *Stupid White Men* on its website home page. Speaking to the ALA annual meeting in June 2002, Moore again forcefully noted that the librarians’ campaign was a major reason ReganBooks decided to release *Stupid White Men*, and directly stated that librarians are “the most important public servant in a democracy.” Within six months of distribution, there were more than 500,000 sales, making the book a surprise run-away best-seller.

What ReganBooks did to *Stupid White Men* isn’t censorship since the First Amendment applies only to governmental interference not to what private companies do. But, the government doesn’t need to worry about interfering when so many private companies, especially media conglomerates, seem willing to self-censor themselves out of greed or fear. “Americans are apt to quickly spot and automatically distrust government efforts to impose prior restraint,” wrote media analyst Norman Solomon in March 2000, “but what about the implicit constraints imposed by the hierarchies of enormous media corporations—and internalized by employees before overt conflicts develop?”

Self-censorship is the “most corrosive and insidious form of censorship,” said Aidan White, general secretary of the International Federation of Journalists. He attributed much of self-censorship to journalists “living and working in conditions of fear, poverty or employment insecurity.”

Self-censorship begins when writers submit articles, book manuscripts, and scripts to editors and producers who reject

them or demand modifications. Often, there are good reasons. In the print media, it's known as editing; in television and film, it's known as "notes," which could come from any of several dozen places, including executives whose only creative thought may have been to add non-dairy creamer to their cappuccino. Many times, rejection is based upon personal beliefs and news values of the editors, disguised by such comments as "We regret that your manuscript doesn't meet our needs at the present time" or "This area doesn't seem to work." Whatever the reasons agents, editors, and producers have, after enough rejections or requests to delete or modify portions of a manuscript, writers learn what is and isn't acceptable. Soon, writers become socialized to the system, adapting to the wishes of editors.

Self-censorship extends to lunches and dinner receptions, gyms and golf courses, where writers, agents, editors, and owners mix to discuss everything from other writers, agents, editors, and owners to the world economy. Those who travel in the "power circles" of their sources learn and internalize the norms, no matter how independent they believe they are; those who maintain their independence, or can't afford to be a part of a power-elite, are forever knocking on doors that never open.

Self-censorship for editors and producers is the next level of self-restraint. Often, they impose standards they think their own editors, publishers, vice-presidents, and owners might impose, even if nothing was ever said. Vice-presidents and publishers don't need to say anything—their subordinates figure it out. An author who proposes a book attacking book publishing conglomerates probably won't get a warm response from either conglomerates or independents, some of whom may need conglomerates for distribution. Nor is it likely authors will investigate and report about perfidious publishers or supercilious book reviewers, all of whom could be useful to an author who sheds what dignity and integrity he or she may have left in order to become published and, thus, little more than a pawn in the industry.

One leading agent told an author one of the main reasons she couldn't represent his next manuscript was because he wrote about some "dirty little secrets" in the publishing industry—among those "secrets" was a minor sub-plot about a leading character who didn't want to go on author promotion tours, the backbone of many front-list titles. However, greed trumps publisher principles—if John Grisham, Stephen King, or Jackie

Collins wrote about a “secret,” publishers would undoubtedly defer to the anticipated income rather than any principles they may or may not have.

A reporter for a large Iowa newspaper says he was given permission and a budget to research repair practices among auto dealers and service stations, but his article was spiked when the publisher declared the two-part series wasn’t objective since he didn’t go to all of the repair shops in town; when the reporter said he could do that, the publisher then decided there wasn’t enough money in the budget for the investigation of shady repair practices among some of the advertisers. The experiences of the book author and the newspaper reporter aren’t unique.

Fear and cowardice, sometimes sprinkled with a dose of familiarity with the source, often keep even good writers from investigating and reporting about America’s institutions—or even about supercilious book reviewers and perfidious publishers.

About one-third of journalists say that stories are avoided because of possible conflicts with the business interests of their employers or advertisers, according to a poll conducted in 2000 by the Pew Research Center and the *Columbia Journalism Review*. About one-third of local newspaper journalists also reported they “softened the tone” of a story to meet what they believed was the interest of their employer. Even if a medium is vigorous in pursuing the truth, even allowing freedom for “in-your-face” reporters and writers, a web of unwritten edicts restricts writing and publishing media analysis and commentary; it may be acceptable to attack others but don’t look inside our own houses, many editors and news directors silently tell their staffs.

For every Michael Moore book that gets accepted by a publisher, hundreds are rejected, often for reasons no writer ever hears but are whispered in the silence of corporate offices.

“[I]t’s not just the books under fire now that worry me,” said best-selling author Judy Blume whose books are often among those that are most challenged by self-proclaimed moralist-censors, “it is the books that will never be written. The books that will never be read. And all due to the fear of censorship.”

Michael Moore, still believing he is an independent journalist, is now under contract to the media conglomerate AOL Time Warner which, *Publishers Weekly* reports, paid \$3 million for the rights to his next two books. ReganBooks, said Herling, “declined to review” Moore’s forthcoming manuscripts.

In a final irony to the story of *Stupid White Men*, the distri-

bution center for HarperCollins is less than a half-mile from Brodart, one of the nation's largest suppliers to libraries.

Free Speech on Death Row

Usually, a five-minute radio commentary about fatherhood wouldn't be controversial. But Temple University decided that anything a death row inmate has to say shouldn't be broadcast on WRTI-FM, its 50,000-watt noncommercial radio station that has a range of more than 100 miles.

Not only did Temple cancel the series of 13 commentaries in February 1997, it also cancelled the one-hour daily "Democracy Now" program—a magazine-format show that includes news, features, and commentaries—and all of the Pacifica Network News programs.

George Ingram, Temple's associate vice president for university relations who ordered the programs cancelled midway through its \$6,000 contract, said the decision had been "under consideration for some time," but acknowledged that the abrupt termination was "accelerated" by the commentaries. None of the station's executive staff had input into the decision.

The new programming, said Ingram, reflected more classical jazz and gave the university the opportunity "to provide audiences with a window into the academic excellence and enormous educational resources that Temple University offers." Since the radio station is under control of the university's PR office, the university apparently believed airing diverse views wasn't the proper image for an urban university, but that using a radio station as a PR vehicle is.

Although Temple cancelled "An Alternative View" in 1997, apparently listeners of the 24 stations that didn't cancel the programs, including those in New York, Los Angeles, and Washington, D.C., had no problem with the commentaries. Coughlin said the response had been "8 to 1" in favor of the commentaries.

Steve Geimann, president of the 14,000-member Society of Professional Journalists (SPJ), called Temple's action "censorship." In response, George Ingram emphatically stated, "we can program what we want to program." Many legal purists agree with Ingram, claiming censorship exists only when the government tries to stop publication or broadcast. However, if the news and programming divisions of a station had no voice in the

cancellation, as Ingram stated, and if Temple University, which received almost \$150 million of its \$565 million budget from the Pennsylvania state government in 1996–1997, made a decision while concerned about public funding issues and outside pressures, then no other word than “censorship” could apply.

At the center of the controversy is award-winning journalist Mumia Abu-Jamal, convicted in June 1982 of killing a Philadelphia police officer. He is on “death row” at the state’s Greene County prison, still maintaining his innocence. According to undisputed facts, about 3:50 a.m., December 9, 1981, Philadelphia police officer Daniel Faulkner stopped William Cook for driving the wrong way on a one-way street. Shortly after that, Abu-Jamal, moonlighting as a taxi driver, drove past, saw his brother being beaten by a police officer and stopped. Not long after that, Mumia Abu-Jamal was in critical condition at a nearby hospital, having been shot by Faulkner; Faulkner, shot four or five times, was dead. It took police about 45 minutes to get Abu-Jamal to a nearby hospital. “They beat me on the street. They beat me in the paddy wagon,” said Abu-Jamal.

At the time of his arrest, Abu-Jamal, who had that year won a Peabody award, the most prestigious award in broadcast journalism, was a Philadelphia radio journalist with no criminal convictions, nor any history of violence. In fact, he had been under both FBI and local police surveillance since he was almost 15 years old, the result of having been a member of the Black Panther party, a connection that the prosecution illegally and repeatedly used to discredit him. But, the prosecution couldn’t find anyone who claimed Abu-Jamal was anything other than a gentle and caring individual who uses words not physical violence to make his points.

In contrast, the Philadelphia police at that time had a reputation for violence, something Abu-Jamal had frequently reported, and for which Abu-Jamal’s attorneys say is why he was singled out for police revenge. Three years before the killing, the U.S. Department of the Justice sued the city and police for violating due process of the suspects. Not only did the federal government prove that the police used unreasonable force against suspects, it also brought out evidence that the Philadelphia police planted evidence and lied under oath. One of the six officers convicted of lying and planting evidence was part of the investigating team at the scene where Faulkner was murdered. The police never ran standard tests to determine if Abu-

Jamal had recently fired a gun, nor did they run ballistics tests on his own licensed gun.

Abu-Jamal's "confession" is equally suspect. Gary Bell, Faulkner's partner, claimed he heard Abu-Jamal, lying semi-conscious on a hospital gurney following surgery, shout, "I shot the motherfucker and I hope he dies." But Bell didn't report the "confession" until two months later, and only after there were questions about police brutality the night of the murder. A corroborating witness who said she heard the same confession denied knowing Faulkner, until it was pointed out she had coffee with him several times.

Even a cursory review of trial evidence reveals significant problems with the judicial system. The prosecution used 11 of its 15 peremptory challenges to exclude Blacks from the jury pool solely because of their race, leaving a jury of 10 Whites and two Blacks in a city that is 40 percent Black. Some prosecution "eye witnesses" may never have even been at the scene; those witnesses who were at the scene identified a heavy-set man with an Afro who stood over the officer's body although Abu-Jamal is thin and wore dreadlocks. Information favorable to Abu-Jamal's case was never given to his defense attorneys by the prosecution, a violation of court rules. Witnesses later claimed that police and prosecutors harassed and intimidated them, threatening to arrest them if they testified for Abu-Jamal, but would overlook their felonies if they testified for the Commonwealth.

Further, the judge who assigned Abu-Jamal an inexperienced attorney who constantly asked to be removed from the case, refused sufficient time to adequately prepare a defense, allowed only \$150 expenses for investigations, quashed subpoenas for essential defense witnesses, kept a White juror who had said he couldn't be fair to both sides, violated acceptable trial procedures, suppressed conflicting reports, allowed improper cross-examination of defense witnesses, refused to grant a continuance so the defense could bring to court a police officer who was on vacation at the time of the trial, and gave faulty instructions to the jury. He also answered questions intended for witnesses, injected his own opinions during testimony, and badgered defense attorneys. In an appeals hearing in October 1996, the judge, the same one who presided over the trial, declared that Abu-Jamal's brother would be arrested on outstanding warrants if he testified, and then allowed New Jersey police to enter his courtroom to arrest another defense witness on a

charge of having passed a bad check.

That judge was Albert F. Sabo, undersheriff of Philadelphia County and a life member of the Fraternal Order of Police before he was elected to the Court of Common Pleas. In his judicial career, he was “distinguished” only for having handed down more death sentences than any other active judge in the nation, condemning 31 persons, 29 of them Black, to death between 1976 and 1991. Appellate and supreme courts reversed 11 of those cases.

“Sabo has long since abandoned any pretense of fairness. He’s openly hostile to the defense and lavishly liberal with the prosecution,” wrote Jill Porter, a Philadelphia *Daily News* columnist. Although she has written against Abu-Jamal’s conviction being reversed, she says, “Defense attorneys barely get to voice their objections to testimony before Sabo overrules them with a snarl and threatens to throw them out if they continue to object.” Terri Maurer-Carter, a court stenographer, in a sworn statement, later declared she had heard Sabo state outside the courtroom that he was “going to help ’em fry the nigger!” Incredibly, a common pleas court judge later ruled that if Sabo was racist, it had no relevance. Sabo, who died in 2002, never answered defense questions about the racist comments he was alleged to have made.

Leonard Weinglass, a nationally-respected attorney who became Abu-Jamal’s chief counsel in 1995, argued in a 182-page memorandum of law that there were 19 critical Constitutional violations during the original trial. Both the state’s appellate and supreme courts have rejected Abu-Jamal’s appeals. Of the four justices who accepted the lower court rulings, even with their inconsistencies, was one justice who had earlier had a personal confrontation with Abu-Jamal, but didn’t excuse himself from the proceedings. Two other justices refused to participate in the decision. The state Supreme Court’s “Keystone Kops” reputation had kept it in headlines on numerous other cases before one justice was eventually impeached. In May 2002, the defense filed a petition to compel Pennsylvania Supreme Court Justice Ronald D. Castille to testify under oath about a significant conflict of interest. Castille was one of the justices who had ruled against Abu-Jamal’s claims that the jury was not representative of the community since the prosecution had deliberately made every effort to exclude Blacks. However, the Defense legal team claimed that Castille, while Philadelphia district attor-

ney, had produced a training video for the DA staff on how to exclude Blacks from juries. The video may have been produced not long after the Supreme Court of the United States ruled in *Batson v. Kentucky* (1986) that such tactics violate provisions of the 14th Amendment.

Because of innumerable trial inconsistencies, and evidence that Abu-Jamal may have been framed by police who wanted to avenge the death of a comrade by blaming a Black militant who spoke out against police abuse, thousands of Americans during the past two decades have rallied to Abu-Jamal's support.

The Rev. Jesse Jackson called the original trial "a charade, prejudicially carried out by the state for the pursuit of vengeance in the name of justice."

Amnesty International argued that "adverse inferences to [his] past political beliefs and affiliations was . . . used by the prosecution to persuade the jury to impose the death penalty." Citing human rights violations and myriad inconsistencies of evidence, several countries, churches, organizations, and thousands of individuals have formally petitioned first Gov. Robert Casey, and then Govs. Tom Ridge and Mark Schweiker to commute Abu-Jamal's sentence. Petitions were signed in Italy by 100,000 citizens, and in France by 40,000 citizens. Among other petitioners were South African president Nelson Mandela, the NAACP, Southern Christian Leadership Conference, the United Church of Christ, the Episcopal Church of the United States, the National Association of Black Journalists, and the National the National lawyers Guild, the Association of Black Police Officers; former U.S. attorney general Ramsey Clark; former New York City mayor David Dinkins; writers Maya Angelou, Angela Davis, E. L. Doctorow, Roger Ebert, Molly Ivans, Maya Lin, Gloria Steinem, William Styron, Alice Walker, and John Edgar Wideman; and actors Ed Asner, Alec Baldwin, Ossie Davis, Mike Farrell, Danny Glover, Whoopie Goldberg, Paul Newman, Tim Robbins, Susan Sarandon, Peter Sellars, and Joanne Woodward. The response of the Fraternal Order of Police was to recommend a boycott against films starring Asner, Farrell, and Goldberg.

Numerous national and international unions—including the 1.8 million member California AFL-CIO, the American Federation of State, County, and Municipal Employees, International Longshoremen and Warehouse Union, and the National Writers Union—came to Abu-Jamal's defense. Both San

Francisco and Detroit passed resolutions in support of Abu-Jamal. In October 2003, the city of Paris declared Abu-Jamal an “honorary citizen,” the first time it awarded that distinction since 1971 when it honored Pablo Picasso. France now requires all school children to study the Abu-Jamal case to better understand issues involving free speech, international criminal justice, and the use of the death penalty. In April 2006, the city of Saint-Denis, a Paris suburb, renamed a street in honor of Abu-Jamal, prompting two Pennsylvania members of Congress to introduce a House resolution demanding sanctions against the French city if it didn’t reverse its decision. The media frenzy, however, was overwhelming in support of those who wished to execute Abu-Jamal.

In December 2001, following several years of legal appeals and maneuvering, the U.S. District Court for Eastern Pennsylvania—specifically refusing to look at what the Defense tried to show as new evidence—ruled that Judge Sabo in the trial gave faulty jury instructions. Judge William Yohn, in a 272-page opinion, ordered the Commonwealth to set a new sentencing hearing within 180 days; if it failed to do so, Yohn said he would order the death penalty set aside and sentence Abu-Jamal to life in prison without possibility of parole. However, Lynn Abraham, the Philadelphia district attorney, claimed the federal court didn’t have jurisdiction. Both the defense and prosecution filed appeals with the 3rd Circuit of Yohn’s ruling, Abu-Jamal’s attorneys seeking to overthrow the original verdict, the DA seeking to assure the death penalty.

During a quarter of a century in prison, Abu-Jamal has continued to write newspaper columns, radio commentaries, and books, usually while being intimidated and harassed by prison officials. The courts have ruled that prisons may discipline disruptive inmates, but they have also ruled that Abu-Jamal was not disruptive, and most restrictions placed upon him were the result of him speaking out about a variety of social issues unrelated to his own case.

In May 1994, National Public Radio (NPR)—which prior to Abu-Jamal’s arrest 13 years earlier had broadcast his news reports and commentaries about police community relations in Philadelphia—abruptly cancelled his commentaries after succumbing to pressure from a gaggle of conservative radio talk show hosts, a handful of conservative congressmen, and Philadelphia’s Fraternal Order of Police (FOP). At the time, NPR

claimed it cancelled the commentaries because it had “serious misgivings about the appropriateness of using as a commentator a convicted murderer seeking a new trial, particularly since we had not arranged for other commentaries or coverage on the subject of crime, violence, and punishment that provided context or contrasting points of view.”

The day after NPR cancelled the commentaries, Senate majority leader Robert Dole said he was “pleased that the program was cancelled,” and demanded a “closer oversight by the Congress” of the budget for the Corporation for Public Broadcasting which funds NPR.

NPR, says Abu-Jamal, never told him it cancelled his commentaries. Fifteen months later, NPR’s Scott Simon hosted a 30 minute discussion of the case, with comments by Abu-Jamal and several persons associated with the case, but barely mentioned significant trial discrepancies although there was widespread commentary elsewhere. Temple’s George Ingram cited the NPR cancellation three years previously as one of the reasons why the university also cancelled Abu-Jamal’s commentaries. “If that position [to cancel the commentaries] was good enough for NPR,” said Ingram, “it was good enough for me.” Pacifica, however, had offered the slain officer’s family and the FOP air time for their views. They declined.

In February 1995, prison officials suspended Abu-Jamal’s family and social visitation rights for 30 days, and barred all media access to him for 90 days for “engaging in the profession of journalism.” A five page disciplinary report, issued June 6, 1995, four days after “law and order” Gov. Tom Ridge signed the death warrant, appeared to be retaliation for Abu-Jamal writing *Live from Death Row*, an eloquent series of essays that condemn the law enforcement, judicial, and prison systems for significant civil rights violations. Many of the essays had been scheduled to be broadcast on NPR a year earlier. Among his conclusions were that Latinos and Blacks were victims in 97 percent of all beatings by police officers, and that 93 percent of all police officers in such incidents were White. The book included an afterward by attorney Leonard Weinglass who pointed out innumerable judicial “outrages” at the original trial. Hours after publication, a plane trailing a banner—“Addison Wesley Supports Cop Killer,” hired by Faulkner’s widow, flew over the publisher’s Massachusetts offices. The American Booksellers Association named *Race for Justice*, by Weinglass, as Best Book

on Politics for that year. Subsequent books written by Abu-Jamal were *Death Blossoms* (1996), *All Things Censored* (2000), *Death Blossoms: Reflections from a Prisoner of Conscience* (2003), *Faith of Our Fathers: An Examination of the Spiritual Life of African and African-American People* (2003), and *We Want Freedom: A Life in the Black Panther Party* (2004).

The day after he was disciplined for committing journalism, about two months before he was scheduled to be executed, Abu-Jamal wrote, “They want me to die alone—silently. So much do they fear my words that they want me muzzled as they prepare to garrote me.”

In a “friend of the court” brief, six national journalism organizations, led by the Society of Professional Journalists, and including the American Society of Newspaper Editors, argued, “Despite incarceration, inmates maintain many of the constitutional rights afforded law abiding citizens including the First Amendment right of freedom of expression.” The organizations took no stand on Abu-Jamal’s guilt or innocence. In September 1996, a U.S. district judge, after reviewing a recommendation by a federal magistrate, ruled that prison officials violated not only Abu-Jamal’s First Amendment rights but his civil rights as well when they opened, photocopied, and widely distributed mail sent to him by his attorneys.

In October 1996, and with the assistance of the Prison Radio Project, Abu-Jamal—shackled and forced to read his scripts that were posted on the other side of a thick Plexiglas window recorded 13 three- to five-minute segments on a wide range of topics, including Mad Cow Disease, rap music, corporate influence upon the media, the use of tobacco as a drug, racism, and prison reform, but never discussed his own case. Less than two weeks later, the state’s Department of Corrections created new rules that forbid journalists from bringing cameras and audio and video equipment into the interview, required them to register as part of a prisoner’s 40 person maximum “social list,” (not as journalists), and forbid them from being on more than one prisoner’s social list. Further, if a journalist wished to talk with a prisoner, the prisoner’s allotted time with family and friends was reduced.

David Mendoza, executive director of the National Campaign for Freedom of Expression, said the ban “clearly is intended to silence Abu-Jamal.” Six other states have also severely limited prisoner access to the media. California’s Department of Cor-

rections in 1996 issued rules that forbid all face-to-face interviews with prisoners, and excluded reporters from bringing even pencils and notepads into the prison.

The Supreme Court of the United States, affirming First Amendment freedoms, has ruled that “reasonable and effective means of communication [from and to inmates must] remain open, and no discrimination in terms of content be involved.” Pennsylvania’s Department of Corrections appears to have violated that Supreme Court ruling.

“We went ahead with the commentaries,” says Dan Coughlin, “Democracy Now” producer, “because we wanted to take a stand against growing restrictions on media access to prisoners, and to affirm the right of prisoners to talk with the media and to the public.” But there was a third reason—“they were just good commentaries.”

The PEN American Center, an organization of writers and editors, argued that Abu-Jamal’s work “and that of other inmates like him . . . has had enormous value, both in its own right as literature, and insofar as it has alerted audiences to conditions prevailing in our country’s jails. Were this means of communication to be broken, prisons would become even more than they are already, an opaque and forgotten part of our society, a place where living conditions would deteriorate still further without provoking any public concern.”

In a related case, a federal magistrate revoked the one-year probation for C. Clark Kissinger and sentenced him to 90 days in the federal Metropolitan Detention Center in Brooklyn, beginning in December 2000. Kissinger’s crime was that he also committed journalism. An activist and journalist, Kissinger had written and spoken out against the court system, and had previously been convicted for failure to obey a lawful order during a protest for Abu-Jamal in Philadelphia. Among terms of his conviction, he was to get court permission for any public speeches and to stay away from the City of Brotherly Love. In August 2000, while still on probation, Kissinger returned to Philadelphia to cover the Republican National Convention and to give a speech to several thousand protestors, where he was arrested and subsequently sentenced for a violation of probation terms. In revoking Kissinger’s probation, the federal magistrate declared, “Past behavior shows that his speech ends in civil disobedience.” Similar language had been used three decades before in the South to imprison civil rights workers.

Abu-Jamal was the June 2000 graduation speaker, and again at the center of controversy, at Evergreen (Washington) State College. The students had selected him as their speaker, a decision backed up by the administration. President Jane L. Jervis pointed out that Abu-Jamal had a right to be heard because of his social activism as a journalist “to galvanize an international conversation about the death penalty, the disproportionate number of blacks on death row, the relationship between poverty and the criminal justice system.” Rep. Tom DeLay (R-Texas)—at that time House majority whip before becoming majority leader and then indicted on federal charges that included money laundering—called the invitation “socially irresponsible.” Gov. Gary Locke was also a scheduled speaker, but since he was running for re-election he cancelled. Abu-Jamal’s 13-minute pre-recorded audiotape graduation speech was met by cheers and hostility throughout the state. Abu-Jamal—who had earned both B.A. and M.A. degrees in prison—also gave graduation speeches at Antioch College, Occidental College, and the University of California at Santa Cruz.

Reflecting the views of Thomas Jefferson, author of the Declaration of Independence, and James Madison, principal author of the Constitution, SPJ president Steve Geimann argued in 1996, “In our American democracy, broadcasters and news organizations seek to offer numerous points of view. Our democracy is strong because we protect everyone’s right of free speech, even those whose views we may find objectionable or discomforting.”

At Temple University, the departments of journalism, broadcasting, history, philosophy, political science, and religion all teach about the First Amendment and the necessity for all views, even controversial ones spoken by controversial individuals, to be heard. Students learn that denying freedom of speech to others often means we are afraid to face the truth. The university administration has demonstrated to its students, and to the world, that it is uncomfortable with the philosophy that shaped our democracy.



“If large numbers of people believe in freedom of speech, there will be freedom of speech, even if the law forbids it. But if public opinion is sluggish, inconvenient minorities will be persecuted, even if laws exist to protect them.”—George Orwell, 1945