

CFAR Holds Town Meeting On First Amendment Challenges in Schools

The Center for First Amendment Rights, Inc.'s (CFAR) 10th anniversary high school conference scheduled for October 5th at Saint Joseph College's Hoffman auditorium in West Hartford will present options and resolutions on first amendment challenges in schools. The program includes a town hall meeting where students, teachers and administrators are able to discuss solutions to real life situations in a non-confrontational environment.

Principal Nelson Beaudoin of Kennebunk High School in Maine and national spokesperson on creating open school cultures, will moderate the tightly scheduled annual half day event that includes presentations by high school students who have been involved in first amendment challenges in their schools. CFAR recruited Principal Beaudoin to highlight this year's conference objective of offering students faced with first amendment challenges in their schools options for building better communications channels and consensus and so avoid a legal confrontation.

For the first time, students will meet in break out sessions to evaluate hypothetical and real life challenges culled from questions posed in previous years and current issues in the press. Last year one girl asked whether her princi-

Continued on Page 2

From The Palmer Raids To The Patriot Act

By Christopher M. Finan

A Book Review By
Mitchell W. Pearlman



Mitchell Pearlman

Mitchell W. Pearlman is an attorney and government information consultant. He was formerly the Executive Director of the Connecticut Freedom of Information Commission.

From the Palmer Raids to the Patriot Act: A History of the Fight for Free Speech in America (Beacon Press 2007), by Christopher M. Finan, is a must-read for everyone who cares about civil liberties, and particularly about the First Amendment.

Finan is president of the American Booksellers Foundation for Free Expression and chairs the National Coalition against Censorship. So the reader knows where he stands on First Amendment issues. Consequently, I was skeptical that the book would be a fair "history" of the subject. I was pleasantly surprised, however, at its objectivity, as I was at its easy-to-read prose and the clever means it uses to make its points.

Although the book is first and foremost a history of the fight for free expression in the United States from essentially the 19th Century to the present, it does advance twin theses: individual rights and liberties are most at risk during times of crises, whether real (as in the times of war or terrorism) or perceived (as during the "red scares" and the cold war); and free expression is a most vulnerable right that requires constant safeguarding.

A reader, even one somewhat familiar with the history Finan reviews, will find the book rewarding in a number of significant ways. It not only presents a chronological survey of events, it also fairly elucidates, in an entertaining way, the points of contention between the pro and anti free speech antagonists. Through its portrayal of the key advocates and actors in the various dramas described, it also places a human face on many of the battles waged over civil and political rights.

For example, Finan traces the history of what is now the American Civil Liberties Union (ACLU) through the life and challenges faced by Roger Baldwin, one of its founders and a leading light through much of its history. This somewhat biographical history illustrates the strong -- yet sometimes not so apparent -- First Amendment connection among the major issues undertaken by the ACLU throughout its existence, including support for:

- the right to organize trade unions and for workers to strike for better wages and working conditions;
- freedom of, and freedom from, religion;
- the right to demonstrate by such unpopular groups as socialists, communists, the Ku Klux Klan and the Nazi Party;
- the free expression rights of authors, publishers, artists, photographers and film makers, including those who write, communicate, portray, photograph, film, and even exploit, race, sex and other sensitive subjects;
- the civil rights movement for minorities and women;
- academic freedom for both faculty and students; and

Continued on Page 2

CFAR's 15th Anniversary Campaign

It is now 15 years since CFAR's founding by Milton Sorokin, then Dean Hugh Macgill and Ethel Sorokin. CFAR started with a gut feeling about the need for First Amendment education. Today that need has been documented by much research and several extensive surveys. The lack of knowledge about the First Amendment is alarming. It threatens the world of our children and grandchildren.

CFAR's efforts are primarily directed to educating youths, but we are all beneficiaries. Each educational program we offer is free to students, and costly to CFAR. The experts, who usually accept modest honoraria, the sound, the facilities, the materials, the breakfast to keep the students energized — each modest in cost, but together they add up to quite a lot. And the need is never over; every program and activity requires these

Town Meeting

Continued from Page 1

pal could ask her to leave a school football game for wearing a T-shirt with the words, "Sexy Back," the title of a Justin Timberlake song advocating bringing back courtship to dating. The answer was yes, based on the broad latitude allowed to principals to inhibit speech that can cause school disruptions. How would this same T-shirt be viewed today in light of the Supreme Court's ruling in *Morse v Frederick*? Is this T-shirt advocating sex and contrary to a school abstinence policy? Sam Chaltain, former director of The First Amendment Center and author, and Martin Margulies, First Amendment litigator and constitutional law professor at Quinnipiac Law School will respond by offering the legal background and history limiting and extending the recommendations proposed by students on ten of the hottest first amendment topics in schools today. Andrew Mangino, a junior at Yale, former news reporter for the *The Caldron*, his New Jersey high school's newspaper, describes the path he took to get his banned

expenses over again. Even though CFAR's administrative costs are still amazingly low, nevertheless there are always those program costs.

To support its growing work, CFAR is embarking on a 15th Anniversary fund-raising campaign. We hope supporters will give generously. About two hundred citizens attend the Symposium each year. If each one sent CFAR a "Thank You Contribution" it would serve very important needs and be much appreciated.

And then there are those 8,000 who read *The First Voice* but don't attend the Symposium. We hope they will also contribute. Can you imagine how much CFAR would raise if each of its *First Voice* recipients made a contribution along with our other supporters? It would be stupendous.

Please think generously and act for CFAR. It will benefit the vital needs of our youth and our nation.

— **CFAR Directors & Advisory Directors**

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article published.

"Our goal is for students to leave with a greater appreciation and understanding of the complex issues surrounding first amendment challenges, and how to best frame the discussion within their school communities so that their voices will be heard. CFAR's conference promotes civic education. After all the Constitution is a living document and how the first amendment is viewed in schools is subject to interpretation." said Anita Peters, CFAR's Acting Consulting Director and conference organizer.

CFAR's Conference is made possible by the very generous grants and contributions from **Paul Newman**, the **William Casper Graustein Foundation**, the **Connecticut Bar Association** and several Connecticut daily newspapers including the *Norwich Bulletin*, the *Hartford Courant*, *The Day* of New London, the *Journal Inquirer* of Manchester, the *Record-Journal* of Meriden, *The Chronicle* of Willimantic, the Stamford *Advocate* and the *Greenwich Time*. CFAR is most appreciative of these committed efforts to educating the youth of our nation.

Palmer Raids

Continued from Page 1

• those, such as journalists, librarians and booksellers, who refuse to accede to government demands for information about their sources or patrons.

When one looks at the long, and not so distinguished history of civil and political rights in the United States -- as has the author of this book -- one inevitably must conclude that there's been a consistent pattern. The pattern is that of persistent attacks against these fundamental rights, mostly -- but not always -- by people motivated by principle, followed by spirited defenses to those attacks by people equally motivated -- but not always -- by principle. No matter the initial outcome of these attacks, they nonetheless continue in one form or another over time, either by the same people or by their ideological successors. Thus, the history presented here can be seen as a series of pendulum swings between the extremes of an overbearing government on the one hand, and, on the other, a robust civil society generally free from governmental intrusion into the personal lives and activities of its citizens, and free from the censorship of ideas and expression.

The book demonstrates that especially in times of war and other emergencies, government often seeks to suppress some civil and political rights as an expedient measure to address security concerns. It's often politically acceptable to do so because of popular support for any security measure. As the author points out, the so-called "USA PATRIOT Act" is but the latest example in a line of legislation starting with the Alien and Sedition Acts of 1798. He cautions that during such perilous times it's hardest to achieve the proper balance between security for society as a whole and respect for the rights of the individual.

"In the end," Finan writes, "free speech depends on the courage of the individuals who fight for their rights. . . . We are fortunate to live in a country that includes many brave souls. They have made freedom of speech one of the glories of American civilization."

To that, I say Amen! But the fight undoubtedly will continue into the future, as it has in the past. Hopefully this book will inspire other brave souls to carry on that fight.

The Language of Free Speech

A Commentary by
Anita O. Peters

Consulting CFAR
Executive Director

George Carlin's old comedy routine about those "7 bad words" banned from everyday speech because they are, "off color, slang, inappropriate, disrespectful, risqué" seems a bit old school. For those unfamiliar with this routine, Mr. Carlin proceeds to discuss the seven expletives in what purports to be a serious commentary. During the course of this discussion Carlin uses all seven expletives repeatedly, thereby poking fun at the attitudes of the times.

In the 60's when this routine was written, profane language was still "in the closet." Today, like it or not, music, radio, television, movies, books, all reflections of our popular culture, regularly depict "us" using a cruder vocabulary in our everyday speech. And, in 2007 we do. That's why when Bono exclaimed at the

2003 Golden Globes "This is really, really <expletive> brilliant," no one really batted an eye- we knew exactly what he meant because we may have said the same thing in an off the cuff spontaneous remark. Yet, still it was surprising...shouldn't he, of all people, have known better? The FCC thought so and in 2004 over ruled its earlier decision and fired off an indecency ruling against NBC for airing "fleeting expletives." But how we speak isn't any different from what we say- it's all free speech and deserves the protection of the first amendment. Thankfully, the 2nd Circuit Court of Appeals agrees and ruled this June that the FCC had not justified its decision to rule as indecent, "fleeting expletives" used by celebrities on 2 live Fox music awards shows in 2002 and 2003. The 2003 Bono incident was also cited in the ruling.

Maybe some of us are appalled by the "breakdown in civility." I know there are times when I am. Our sensibility is shocked, but does that warrant censorship? You can always change your friends, turn off the radio, choose a different movie, turn the dial on the TV, read another book or use any of the new technological screening programs, right? Language restrictions in schools are arguably acceptable because educators have a pedagogic responsibility to model proper social behaviors and discourse. Otherwise, barring slander, libel, and endangering the public, first amendment protection covers both what I say and how I choose to say it, damn it!

The truth is language changes over time according to changing customs and usage. Where there are no words, new ones are created or old ones are given new meanings. For example, Google used to be thought of as a number. Today it is synonymous with search engine and a verb like Xerox- "Did you google it?" The trouble is, as often times the case, not everyone likes the new colloquial. Wordsmiths argue vehemently on the bastardization of the language. In a country as diverse as the United States, different ethnic groups use different slang. And then there are generational and business languages- teenage speak is as different from adult speak as corporate speak is from geek speak.

However when slang words cross over into our daily vernacular such as f-k, the reactions are usually explosive.

Consider the on going social debate on the use of the "n-word." and the word n-ga. Do students have the right to use n-ga as a friendly greeting to their friends, or should it be banned from their vocabulary because of its older, original meaning as a derogatory term. The "n-ga-word" commonly appears in movies, music, and other media today. Is contextualized use of this form of the "n-word" appropriate, or should its use be shunned altogether for its strong negative associations and great potential to injure and offend? Whose view prevails?

Enter the Internet with its far reaching circulation measured by hits in chatrooms, blogs and websites. A policy of self governance rules over public discourse on the net but it is

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High School Essay Contest
See webpage for details.**

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impossible to supervise and everyone knows it. Instead, there is the unspoken gentlemen's agreement that peer pressure will push out uncivil behaviour. This appears to be not working from the number of cases lining up in the courts. In June, two female Yale law students filed a case in U.S. District Court in Connecticut against AutoAdmit, a chat room for law school students. Can we equate the raw gossip of an Internet chat reaching hundreds of eavesdroppers to neighborhood gossip? If I don't want to listen to the conversation around the water cooler, I can walk away or ask the person to stop talking. But on the web, unless I erase the conversation, my gossipy news which may be slanderous can remain indefinitely. That is one of the issues being considered in this case.

Let us know your views. Email your letters to info@cfarfreedom.org

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First Amendment Briefs

The following are brief highlights of recent events of First Amendment importance

By Cecil J. Thomas, Esq.

U.S. District Court Finds for Plaintiff in First Amendment Challenge to Federal Policy Barring Prisoners from Publishing News Articles in Their Own Names: Mark Jordan, an inmate serving time for a bank robbery and fatal stabbing, was punished in 2001 for publishing several articles in a New York publication. A U.S. District Court in Colorado has ruled that this punishment, and the federal policy behind it, violated the First Amendment. The lawsuit was filed by three law students at the University of Denver School of Law.

9th Circuit Upholds "Vote Swapping" Sites as Constitutional Under the First Amendment: In a decision issued in early August, the 9th Circuit Court of Appeals held that "vote swapping" websites, which were in operation during the 2000 presidential election, are protected by the First

Amendment, and do not violate "vote-buying" statutes preventing the sale of votes for money. These websites purported to allow individuals to "exchange" their votes for candidates in "safe states" for votes in which the candidate had less assurances of success.

Reading of Hindu Prayer During Senate Meeting Raises Ire, Finds Support: On July 12, Mr. Rajan Zed, an interfaith director of a Hindu temple in Nevada, read a Hindu prayer in Sanskrit to commence that day's Senate meeting. It is the first time in the history of the U.S. Senate that such a prayer has been read. Three individuals disrupted Mr. Zed's prayer with loud denunciations of the Hindu deities as "false gods" and references to Biblical commandments regarding idolatry. The three individuals were promptly removed and arrested for their disruption. The event sparked significant debate and outrage across the country.

Mr. Zed, in a piece published in *The Washington Post* in early August, commented as follows:

"My experience delivering the opening prayer at the United States Senate on July 12 can be summed up in one word:

overwhelming. The idea that a roughly 90-second opening prayer, which usually goes unnoticed, would spark so much discussion and protest was unprecedented. The prayer and protest generated a lot of attention, but the affection I received after the prayer was astonishingly moving. I am humbled at the love expressed by the people of this great nation."

Connecticut Senior Files Suit Against School District: A rising senior at Lewis S. Mills High School in Burlington, Connecticut has filed a lawsuit against her school district after she was removed from her position in student government and barred from running for a position in the senior elections. The student was given this punishment after making derogatory statements against the school's administration on LiveJournal.com, a popular "blogging" site. The statements were precipitated by the school's cancellation of a concert the student and her peers had been instrumental in planning, and was discovered by the school's principal a few weeks later. The student's suit seeks an injunction ordering the school to hold a new election and to allow her to participate as a candidate.



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First Amendment
Rights, Inc.**

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