GHOSTS IN THE MACHINE: When do books go out of print? Simon & Schuster's Rights Grab; Roy Blount Glimpses the Future
Dead Celebrities & Free Speech

Literary Blogging

Plus: Garrison Keillor, Lawrence Wright, Robert Whitaker & James T. Campbell on Nonfiction Storytelling
LETTERS TO THE EDITOR

Readers who enjoyed Cynthia Crossen’s article on Max Perkins, “The Wizard Behind the Curtain” (Spring 2007 Bulletin), might also enjoy (do I sound like Amazon.com?) some of the published collections of Perkins’s letters to his authors. The most recent is Max & Marjorie: The Correspondence between Maxwell E. Perkins & Marjorie Kinnsn Rawlings, edited by Rodger L. Tarr (University Press of Florida, 1999). It reveals how Perkins not only improved writing but encouraged his authors in their less productive moments.

Beth Luay
Fairhaven, MA

I just finished reading the Spring issue (including Roy Blount’s amusing piece that he expected to be unread). As I approached the end, it struck me that Along Publishers Row gave a disproportionate amount of attention to fiction and poets. I wasn’t really sure that this was true, though, until I reached Deaths and Books by Members. I didn’t do a detailed study of the latter, but the page 29 obituaries show that a clear majority of those listed wrote nonfiction—and was then followed by two full pages of poetry contests! It seems to me that the Bulletin rarely reflects anything

Continued on page 48

ALONG PUBLISHERS ROW

By Campbell Geeslin

“Does literary talent, as well as all that goes with it, run in the family?” That’s the question Charles McGrath asked in a Sunday Times Magazine article.

“It’s not unheard of for the child of an author to try his hand at writing. Stephen King’s two sons are writers, and so is one of John Updike’s. Hilma Wolitzer’s daughter Meg is a novelist, as is Anita Desai’s daughter Keran... But writers’ offspring tend to go into the family business with far less regularity than, say, the children of doctors or lawyers, and it seldom happens that over the long haul, and in the deepening shade, the younger equals or outstrips the elder—the way that Anthony Trollope, to take a famous example, bested his mother, Fanny.” And there are the Dumas, father and son.

McGrath went on to write in praise and awe, perhaps, about the careers and lives of the late Kingsley Amis (Lucky Jim) and his son Martin, a producer of bestsellers in both England and the U.S.

Let’s let Martin Amis have the last word. The following is from Experience, his autobiography published in 2000. Martin wrote: “What usually happens is that the child is productive for a while, and then the filial rivalrousness plays itself out. I think literary talent is strongly inherited. But literary stamina is not.”

NO SINNER: Henri Troyat, who died in March at the age of 95, was the author of 105 books. The Russian-born French writer won the Prix Goncourt when he was 27 years old. The obituary in Le Figaro said, “the favorite writer of the French is dead.”

Troyat once told how he had acquired his style: “I would read a paragraph of Flaubert out loud and rewrite it from memory. Then, by comparing my version with the original, I would try to understand why what I had written was an affront to what I had read.”

Troyat wrote popular biographies of Flaubert, Maupassant, Verlaine, Baudelaire, Alexandre Dumas, Zola and Balzac. He also tackled Tolstoy, Pushkin, Gogol, Chekhov and Boris Pasternak. Many of his books were translated into English and published in the U.S.

A fellow member of the Académie Francaise, Maurice Droun, was quoted in The New York Times: “He wrote a simple and clear language, a language that lasts, eternal French.

“A day without writing made him feel like a sinner. For a long time he wrote standing up. The carpet in front of his desk was full of holes.”

FINALLY: After weeks of hype and big book sales, Oprah Winfrey’s interview with Cormac McCarthy finally appeared. It shared an hour on TV with Bono admiring photos of Oprah on a cover of Vanity Fair and

Continued on page 30
Summer 2007

Articles

Opening Lines
Cinderella's Story
By Nicholas Weinstock
Page 5

JT LeRoy: A Contract for What?
By David Curle
Page 7

A Permanent Legacy:
Barbara Goldsmith's Paper Drive
Page 8

“Republish or Perish”
Campaign Hinders Rights Grab
By David Curle
Page 9

Contracts Q&A
By Mark L. Levine
Page 10

Graveyard Threat to Free Speech
By David Bornstein
Page 11

David Baldacci Wants Your Books: Feeding Literacy
One Book at a Time
By Isabel Howe
Page 12

Everybody’s a Critic:
The Ever-Expanding World of Literary Blogging
By Isabel Howe
Page 13

Symposium
Nonfiction: The Art of Getting the Story Right
Page 19

Departments
Along Publishers Row ......................2
Letter from the President .....................4
Censorship Watch ..........................15
Legal Watch ..................................16
Books by Members ...........................42
Bulletin Board ..............................44
Members Make News ......................47

Copyright © 2007 The Authors Guild, Inc.

About the Cover

Andy Hammond comes from an advertising background in London and has been a successful cartoonist for over 30 years. He has created many characters for animation and press ads and is a prolific children's book illustrator.

Contact: illustrationweb.com
From the President

BY ROY BLOUNT JR.

Traditionally, the rights to a book have reverted to the author if the book fell out of print or if its sales fell below a certain level. When Simon & Schuster altered its standard contract recently to provide that the author could not claim the rights to a book so long as it was available in any form, including through its own in-house database, the Authors Guild protested. S&S backed down. Many authors and agents thanked the Guild heartily. Here's why:

Say it's 2017. I'm the author of a couple of suspense novels that were published under a contract including a clause like the one S&S slipped into their standard boilerplate before relenting. The publisher hasn't promoted these books or even printed any copies since 2012. It has understandably forgotten about me and my books, but it's holding onto all rights.

Suddenly I'm kidnapped by terrorists. I'm all over the news for a couple of cycles, and then I make a dramatic escape right out of one of my novels. So now it's worth the publisher's while to print some more copies—maybe even run an ad. Or maybe, since by then we've moved into a brave new world of publishing, they don't even have to print any copies, they can sell them electronically or through print-on-demand outlets.

All I have to do, while I'm recovering from my wounds and working up my nonfiction proposal, is fly all over everywhere flogging these books personally, so that eventually—in a year or so—S&S will, after subtracting the outstanding deficit from my old advances, dole me out 10 or 12 percent of the cover price of the number of copies it reckons have been sold, minus the number it estimates might be returned.

I say, forget it. I take a nice advance from another publisher to write my nonfiction story. But I'm blocked. I'm too close to the experience, the memories are traumatic, I'm being badgered for interviews. People magazine gets most of the best bits of the story from my brother-in-law, the terrorists tell their side of it through al-Jazeera, and frankly neither the terrorists nor I are as interesting as we would be if I were making us up. And as my old novels rise on the bestseller list, I am so mad at the publisher that I can't concentrate on anything else. Eventually, after my new publisher threatens to take back the advance (and my old publisher sends me a royalty statement saying I owe them $37.50), I deliver a manuscript, but by now there's no buzz, nothing new here really, and Library Journal says, "Most libraries will not need this book, if they already have the author's novels."

Or say it's 2017 and I'm the author of a book on suburban composting published under such a restrictive contract. It sold moderately well, for a book on suburban composting, but the publisher has forgotten about it by now. What I might like to do is take an artisanal approach: go around giving talks about composting and selling copies of the book that, thanks to new technology, I've printed up myself. I can carry copies around in the back of my car, or I can offer them online and print them on demand. If I can clear 10 bucks a book, I can float this little operation. But the publisher is sitting on all the rights, so I can't. They're not getting anything out of my book and neither am I. And solid wastes that could be composted are piling up in the world's suburbs.

We don't know what the future of bookselling is going to be. But we don't want to be denied an active stake in it. ♦

Getting Your Rights Back

Most publishing contracts state that they shall remain in effect for the duration of a copyright in a work. They also generally include a reversion of rights clause, which allows an author to reclaim the rights granted to the publisher under certain conditions—as when a publisher has let a book go out of print—long before copyright expires.

Even if your particular contract does not contain such a clause, federal copyright law provides that all transfers and licenses of a copyright may be terminated 35 years after the grant was made, if certain procedures are followed in time.

The Authors Guild provides legal assistance, including sample letters and forms, to members who wish to request a reversion of rights. For advice or information, contact Legal Services at 212-563-5904 or staff@authorsguild.org.
Opening Lines
Cinderella’s Story
BY NICHOLAS WEINSTOCK

Every author, to the casual observer, is Cinderella. No matter how lengthy the project or how tortuous the literary labors, it tends to appear to the outside world that the mystical Prince of Publication has stooped to anoint another lucky writer in fairy-tale fashion, and overnight.

Anna David might appear to be just such a giddy princess. A writer for style and fashion magazines since she was in college and a pretty practitioner of California nightlife after that, David was recently on a panel to discuss the publication of her first novel, Party Girl, when she heard it again. “Someone in the audience said, ‘Wow—you’re such a Cinderella story!’” David, 37, recalls. “And all I could think was, ‘Oh, really?’”

The truth is that David’s path to publication has been anything but storybook. Professionally, the tale is one of hapless flailings and painful firings. And personally, it’s been a nightmarish story of addiction, regret and self-redemption. Having written for magazines since she was an undergraduate at Trinity College in Connecticut, David went to work after graduation as an intern at Entertainment Weekly in New York—until an editor there was selected for the top job at Parenting magazine, based in San Francisco (David’s hometown), and took her along. Although 22 years old, single, and with admittedly “zero interest in parenting,” David worked at the magazine for three years before moving to Los Angeles and becoming a full-time freelancer for People—at which point she also became a nearly full-time drinker and drug user.

“I was a practicing alcoholic long before I ever landed in L.A.,” she considers. “I will say, however, that I found more people who drank the way I did in L.A. than I did in San Francisco, and the open bars at the events I went to certainly helped me to get where I wanted to go. But addicts will find what they’re looking for whether they’re at a Hollywood premiere or on a farm in Des Moines. In certain places, the search is just a bit easier.”

As a result, by the time she was fired from People “for alcoholism” in 1997, she had become, by her estimation, “a total nightmare. I was uncontrollable. I had no self-esteem, but an enormous sense of entitlement.” Often exhausted, frequently irritable, and always “ridiculously self-centered,” David decided to try to enter the film business under the assumption that she’d ruined any chance of working in magazines again. She became the assistant to a film producer at Disney. After several months of reading scripts, she decided to try to write them herself—with no luck. As her failure at screenwriting continued, so did her addiction to cocaine, sleeping pills and alcohol—and with it, her downward spiral into despair.

“When you’re so obsessively focused on yourself, there’s a lot to find in yourself that’s depressing,” she reflects. “So I was depressed a huge amount of the time. I was completely unemployable.” And then, all of a sudden, she was employed. With the boom of Internet businesses in the early 2000s, came widespread demand, as David puts it, for “any person who could string sentences together,” and she found herself with a plentitude of online writing jobs. Given the boost of productive employment, as well as her realization that “I no longer cared about anything, including living,” she resolved at last to sober up.

“Sobriety always seemed like the end of the world. But gradually it started to seem a better option than, say, dying.”

Still, the road to the writing life continued to be uphill. The websites David wrote for paid far too little to make a living. She landed a job at Premiere magazine, where a new editor in chief hired her to write a “Party Girl” column about the L.A. social scene, but her boss was abruptly let go, and with him her position. She freelanced for Details, Cosmopolitan, Vanity Fair and other magazines; she wrote more screenplays that didn’t sell and had more lame meetings with uninterested movie studios. Meanwhile, she had entered Alcoholics Anonymous and even sworn off romantic relationships as she worked to purify her life. At which point, while writing a sex column for Razor magazine, the irony of it hit her.

“There I was, a sex columnist who was not having sex, shortly after writing a ‘Party Girl’ column with-
out partying. And it occurred to me that that could be the main character of a novel.”

So David started to write, and the rest was—if not exactly a fairy tale—a story of halting and gradual success. The good news was that two different book agents happened across David’s website, perused the posted magazine clips, and inquired as to whether she’d ever be interested in writing a book, both within 24 hours of her finishing the manuscript. The bad news was that shortly after she went with one of those agents and sold the book to HarperCollins, her editor was fired—within 24 hours of David’s meeting her. Eventually, this past June, Party Girl was published, and the honest, moving and yet buoyant story of addiction and recovery has earned praise for its candor and its campy flair.

David, however, now seven years sober, is not reveling in the accomplishment. She has already completed a second novel, working hard and with the perspective that her hell-and-back experience has granted her.

“I’ve definitely had other writers say things to me like, ‘God, you’re so lucky you’ve been through so much,’ because their essentially charmed lives haven’t left them with a lot of grist for the mill,” she says. “Given the choice, I think I’d trade good material for an easier life. But I also believe that everything happens”—eventually—“the way it’s meant to.”

$537,000 in Dutch Library Lending Right Royalties to Go to U.S. Authors

The Authors Registry, the not-for-profit organization founded by the Authors Guild and others, has received $537,000 for distribution to U.S. authors from LIRA, an authors’ rights organization in the Netherlands. The payment is for Public Lending Right (PLR), a right recognized in 19 countries worldwide, including much of Europe, but not the United States. PLR represents the right of authors to be paid for the free lending of their works by libraries. In this case, payment is for English-language (un-translated) works by U.S. authors that are loaned by libraries in The Netherlands.

Payment information is author-specific; no title information has been made available. Individual payments to authors average $10 to $50, with the highest amount due any one author expected to be $19,449.49.

Records of loans of English-language books began in The Netherlands in 1997. The current payment covers the years 1997–2001. The Authors Registry expects to receive payment for the year 2001 through the present in the near future, with annual payments being made on a regular basis thereafter.

The Authors Registry has distributed more than $4.5 million to U.S. authors since it was founded in 1995. Payment comes primarily from foreign rights organizations, most notably the Authors’ Licensing & Collecting Society in London.

For more information on the Authors Registry, please visit its website at www.authorsregistry.org.

For more general information on PLR worldwide, consult www.plrinternational.com.
JT LeRoy: A Contract for What?

BY DAVID CURLE

In late June, a federal jury determined that Antidote International Films was entitled to damages for fraud and breach of contract after a highly publicized lawsuit and trial against author Laura Albert, who wrote the novel Sarah under the pseudonym JT LeRoy. The film company had purchased film rights to the novel, a coming-of-age tale about a young man growing up in the sleazy world of truck-stop prostitution in Appalachia. Part of the appeal of this book, Antidote argued at trial, was the similarity between the protagonist in the novel and what was presumed to be the real-life identity of the author LeRoy. Starting in 2005, however, a series of articles exposed JT LeRoy as a hoax and identified Albert as the real author behind LeRoy’s books. Albert, who is actually a reclusive 42-year-old woman, has a troubled psychological past and has often used alternative male identities to help her cope with her various demons.

The suit and its outcome raise interesting questions about what exactly publishers, filmmakers and others are contracting for when they acquire the rights to a book. Is it just the book itself, or is it a book by a specific author, and all the publicity and buzz that the author’s identity brings to the deal?

Frauds and hoaxes are nothing new to the literary world, the most spectacular recent example being the scandal following the publication of James Frey’s memoir A Million Little Pieces. In that case, Frey was found to have fabricated portions of a supposedly autobiographical account. The issue here, however, was not that the book itself was fabricated; Sarah was a novel, after all. Rather, it was that the identity of the author himself had been fabricated. After the publication of Sarah, JT LeRoy became something of a literary sensation because of what was thought to be a compelling real-life identity. As the disturbed son of a truck-stop prostitute in Appalachia, LeRoy’s persona was carefully protected and cultivated. Albert and various friends and stand-ins, including a boyfriend’s half-sister, regularly donned disguises and altered voices in interviews and appearances in order to perpetuate the deceit. Along the way, LeRoy was said to have been befriended by a number of high-profile celebrities, including Marilyn Manson, Susan Dey, Courtney Love, Tatum O’Neal, Winona Ryder and Susan Sarandon.

Once the hoax became known, Antidote cancelled its plans to make a film based on the novel—and sought monetary damages of $110,000 on the grounds that by signing the contract and obtaining copyright registrations in LeRoy’s name, Albert had defrauded the company and violated the terms of the contract. At trial, Albert’s attorneys argued that the case was really fairly straightforward: The film company had bargained for the rights to a novel, and that is exactly what it received.

For Antidote, however, the contract was for more than the novel. Its lawyers pointed out that the film’s director intended to make the film a blend of JT LeRoy’s biography and the novel, exploring the idea of art emerging from a ruined childhood—before learning, of course, that there was no such childhood. It clearly believed that the value of this work was not just the novel itself, but also the public’s interest in the intriguing life of its supposed author.

The jury sided with Antidote, and awarded it $110,000, plus $6,500 in punitive damages. Judge Jed Rakoff will rule later on Antidote’s claim for legal fees.

A number of legal implications of this case might influence future film rights contracts. Rights-acquiring parties could begin drafting contracts that stipulate that the author of the work is who he or she says she is, in order to protect themselves from similar deceptions. There are marketing implications as well; Antidote likely expected JT LeRoy to help publicize the movie, which would have added to its authenticity, even though it was a work of fiction. It didn’t get what it bargained for, so the movie rights were less valuable as a result. From Antidote’s perspective, JT LeRoy’s mystique was part of the deal, and it would likely have paid less money had it been aware that it was only a pseudonym. Future rights contracts might include more specific marketing expectations in order to protect against similar losses in value. ♦
A Permanent Legacy

Barbara Goldsmith’s
Paper Drive

Author and philanthropist Barbara Goldsmith was presented with the Authors Guild Award for Distinguished Service to the Literary Community at the Authors Guild Foundation’s 13th Annual Benefit, held May 21 in New York.

Goldsmith, the historian and best-selling author of Johnson v. Johnson; Little Gloria . . . Happy at Last; Other Powers: The Age of Suffrage, Spiritualism, and the Scandalous Victoria Woodhull, and Obsessive Genius: The Inner World of Marie Curie, was honored for her enlightened and persistent contributions to book preservation and conservation, which were recalled by fellow author Robert Caro, who presented the award on behalf of the Foundation.

Goldsmith has been a major donor of preservation and conservation facilities in the U.S. and abroad. The citation for the Distinguished Service award reads: “She originated and spearheaded a successful campaign culminating in a $20 million contribution from the Federal Government to convert to acid-free permanent paper, thus helping preserve our literary heritage for 300 years and saving untold millions in future conservation costs.”

A consistent and generous supporter of writers, and writers’ causes, Goldsmith also originated the PEN/Barbara Goldsmith Freedom to Write Awards, to draw attention to the fate of writers of conscience around the world.

The host for the evening, which benefited The Authors Guild Foundation and the Authors League Fund, was political satirist, author and proprietor of the online BorowitzReport.com, Andy Borowitz.

What Would Abbie Hoffman Say?

For a respectable member of the publishing industry, Macmillan CEO Richard Charkin made an unusual public confession recently. Writing on his newly inaugurated blog on June 2, beneath a photograph of Google’s booth at BookExpo America, then in its second day, he called attention to the fact that “There’s no computer where a computer should be to the left of the gentleman’s arm. You will also notice that there is no sign saying ‘please do not steal the computers.’ I confess that a colleague and I simply picked up two computers from the Google stand and waited in close proximity until someone noticed. This took more than an hour.

“Our justification for this appalling piece of criminal behaviour? The owner of the computer had not specifically told us not to steal it. If s/he had, we would not have done so. When s/he asked for its return, we did so. It is exactly what Google expects publishers to expect and accept in respect to intellectual property.”

The Google booth staff members were reported to be speechless when they realized what had happened on their watch but, quite sensibly, no charges were pressed.

“I felt rather shabby playing this trick on Google,” Charkin added, if not especially convincingly. “They should feel the same playing the same trick on authors and publishers.” Touché.
“Republish or Perish” Campaign Hinders Rights Grab

BY DAVID CURLE

After a quick response from the Authors Guild and a number of allied organizations, Simon & Schuster has softened its approach to new contract language that would have given it indefinite control of book rights—books that would be out of print by traditional standards, and only available in S&S databases.

The dispute arose in May, when the Guild became aware of new Simon & Schuster contract language stating that “The Work shall not be deemed out of print as long as it is available in any U.S. trade edition, including electronic editions.” The new language would have given S&S control over rights for the entire life of the copyright, even if the book were available only in S&S’s electronic database. This would be a departure from traditional contract practice, in which rights revert to the author if a book is out of print or its sales fall below a minimum level. The new language would effectively keep books in print indefinitely; S&S would retain the right to earn the minimal revenues from occasional print-on-demand or other electronic sales, while precluding the author from republishing and re-promoting the work.

The attempted contract change came to light just before the annual BookExpo America show, and the Guild quickly mobilized a campaign to inform authors and agents about the S&S rights grab. Flyers, T-shirts and buttons carrying the motto “Republish or Perish” brought the issue to the exhibit floor. An e-mail campaign kept members in the loop, and press coverage of the Guild’s position from Publishers Weekly, The New York Times and the Associated Press helped put the pressure on S&S. Other organizations such as the American Society of Media Photographers, the Graphic Artists Guild, and the Science Fiction and Fantasy Writers of America joined the Authors Guild’s position and sent alerts to their members.

Just before the opening of BEA, representatives of Simon & Schuster met with Association of Authors’ Representatives executives, and the AAR alerted its membership that S&S had apologized for early miscommunication and would agree to negotiate with authors on a case-by-case basis to determine a revenue-based threshold for determining when a book would be considered out of print. This is a significant softening of the publisher’s position, but it leaves a number of issues open, including (1) whether revenues would be measured by income to the publisher or the author, (2) what level of revenues would meet the threshold, and (3) how unagented authors (particularly children’s book authors) would fare under this policy.

The Guild’s quick response to Simon & Schuster’s actions helped head off what could have become a significant erosion of authors’ rights to control their copyright and to republish works after they go out of print. The Guild urges authors to explore options with other publishers, or to insist on industry-standard terms with clear thresholds for determining when a book is deemed out of print. The Guild believes that republication can bring significant additional revenues to an author, and we’ll soon be surveying our membership on their experiences with republication. Watch for that survey and please help us gather valuable information by completing it. ♦
Q. I recently received a letter from Columbia University Press about a contract I signed in the early 1980s which, understandably, says nothing about electronic rights. If I authorize them now to publish my book as an e-book and to license other electronic rights in my book, they will pay me a royalty of 5% of net proceeds on e-book sales and 10% of all income received from any electronic rights they license. Are these terms fair?

A. The letter you received reminds me that Columbia was originally chartered as Kings College in 1754. The terms offered are feudalistic at best. The minimum percentage of proceeds that an author should receive from a license of electronic rights is 50%. For certain types of electronic rights licenses, a split of 90% to the author and 10% to the publisher (as is typical for licenses of movie and other performance rights) may even be proper. For e-books published by the book’s original publisher, the minimum royalty an author should receive is 15% of list, with 25% of list a fairer one. Columbia’s offer is woefully substandard, and the fact that it is a university press rather than a trade publisher does not excuse it.

I note that the letter is also silent about the effect, if any, that granting these rights might have on the out-of-print provisions of your contract. For an author to simply sign the letter at the bottom, as requested by the publisher, to indicate the author’s agreement with its terms, could well result in an ambiguity in the contract that will create unnecessary problems later for both author and publisher.

Q. Is a book out of print if it is available only in a POD (print-on-demand) edition?

A. Unfortunately, the answer to your question in large part depends on how “out of print” or “in print” is defined in your contract (assuming it is defined at all). Some contracts, even from 20 years ago, specify that the book will not be considered in print simply because of the publisher’s ability to reproduce single copies of the book. Others state that copies only have to be “available” or “offered for sale,” which, if the literal words of the contract are to be given a contemporary meaning, may well be satisfied by the mere availability of a POD edition. (Discussions about the proper way to interpret certain language in old contracts in light of subsequent technological changes can easily mirror those between followers of Supreme Court Justices Scalia and Ginsburg about how to properly interpret the United States Constitution.)

I believe authors should be able to argue successfully, at least for many contracts signed in pre-electronic days, that neither publisher nor author ever intended that a book be considered in print solely because future technology made it possible to intermittently print single copies upon a customer’s request, and that “out-of-print” clauses in those contracts should be construed that way. The argument should be even stronger when the contract also contains a clause stating that “all rights not granted to the publisher are reserved to the author.” A court could well differ, however. Authors whose publishers assert that a book is in print solely because of the availability of a POD edition should contact the Authors Guild Legal Service Department.

If your publisher is taking that position, emphasize to it that the section in virtually all publishing contracts giving the publisher 6–12 months to put the book back in print would be meaningless if a book could simply and quickly be put into print at minimal cost (and no risk) via POD. Also investigate whether the publisher has separately notified booksellers that the traditional editions of the book are out of print. Virtually all publishers do this, frequently by publishing a notice in Publishers Weekly, to advise booksellers that they have a limited time to return unsold copies for credit. Publishers will find it difficult to legitimately assert that your book is still in print when it has sent a notice to the book trade that it is out of print. You can check on the status of a publisher’s editions of your book in R. R. Bowker’s Books in Print, available in many libraries.

Note that, increasingly, publishing contracts now avoid “in print” definitions that relate to a book’s availability. They focus instead either on (i) the amount of royalties paid to an author during the most recent royalty period or two, or (ii) the number of copies of the book (regardless of format) sold during the last one or two royalty periods, in each case setting a specific dollar amount or number as the sole criterion. Whichever criterion is used, make sure that it relates only to English-language editions of the book.

Mark L. Levine, a lawyer practicing in New York, is a graduate of Columbia College and the Columbia University Graduate School of Journalism. A revised edition of his Negotiating a Book Contract: A Guide for Authors, Agents and Lawyers will be published later this year.

Continued on page 52
Graveyard Threat to Free Speech

BY DAVID BORNSTEIN

Since 1909, New York law has protected the commercial right of publicity of all living persons in order to safeguard their names and likenesses from unwanted intrusion. Following the law of defamation, these rights have always been understood to terminate at death, though some states have chosen to extend limited post-mortem rights to the heirs of certain deceased. Just last month, however, there was a sudden and alarming push in the New York State Legislature to enact legislation that would create unprecedentedly broad post-mortem “rights of publicity” at the expense of our free speech.

The bill, introduced by State Assemblywoman Helene Weinstein (D-Brooklyn) and State Senator Martin Golden (R-Brooklyn) on May 31, would vest in heirs and legatees the right to control the “advertising” and “trade” uses of the “name, portrait, voice, signature or picture” of anyone whose death falls between the years of 1937 and 2008. Unauthorized uses would be criminally punishable as misdemeanors, and the deceased’s heirs and legatees would also have the right to sue for actual and punitive damages. Yet the bill fails to provide a clear exemption for literary works, political speech, and the news media, among other legitimate uses.

With the close of the legislative session only three weeks away at the time the bill, A.8836/S.6005, was introduced, many commentators feared that the bill’s sponsors would try to railroad it through the State Assembly and Senate without adequate time for either review or debate. Thanks in part to the concerted effort of Authors Guild members, the bill was tabled shortly before the legislature adjourned on June 21; but we understand that the bill will return to the floor later this summer when a special legislative session will be convened.

Supporters of the bill claim that it will bring to New York only such rights as already exist in California, but a comparison of the bill’s provisions with those in the relevant California statute, Civil Code § 3344.1, belies this assertion. If anything, the comparison demonstrates just how drastically the New York bill would restrict freedom of speech if passed into law.

The Post-Mortem Publicity bill could make every publisher, broadcaster and bookseller in New York vicariously liable for the content they carry. Courts have held that the term “use” encompasses acts as dispensed as the sale and commercial transfer of an object that itself commits an unauthorized use. Whereas the California statute requires scienter as a condition of guilt—i.e. knowledge that the use at issue is unauthorized—the New York bill would make the crime one of strict liability, thereby amplifying the chilling effect inherent in the criminalization of speech. Furthermore, by neglecting to exempt news media, political speech, and the arts from criminal liability, this bill threatens to cast a dark cloud over writing, reporting and other forms of expression in New York.

Although the California statute is far from perfect, it purposefully limits post-mortem publicity rights in order to make them more palatable to our First Amendment protections. Furthermore, regardless of when registration occurs, publicity rights automatically expire 70 years after death. The New York bill, on the other hand, would allow the heirs and legatees of anyone—famous or not—who dies in the 70 years preceding New Year’s Day 2008 to wield perpetual control over any expressive activity that either references or uses their ancestor’s likeness for the purposes of “advertising” or of “trade”—crucial terms that the bill leaves undefined.

Since the bill would make these rights retroactive, Gerald Clarke and Random House could soon find themselves criminally liable for Clarke’s biography of Truman Capote, which is titled Capote and whose original trade editions have a photograph of Capote on their jacket cover—unless these uses were pre-approved by Capote’s estate. The same concerns would apply to Nancy Horan’s forthcoming novel Loving Frank, a fictionalized account of the affair between Mamah Borthwick Cheney and Frank Lloyd Wright. Under the bill as originally proposed, if either set of heirs object to Horan’s depiction of this relationship, the promotion of her book could face tremendous difficulty, at least in New York.

Assemblymember Weinstein and Senator Golden have said they intend to revisit their bill in order to strengthen its free speech provisions and exemptions. Hearings on the bill are scheduled to occur in New York City later this summer. ✪

David Bornstein, a legal intern at the Authors Guild, is a second year student at Columbia Law School.
David Baldacci Wants Your Books

Feeding Literacy One Book at a Time

BY ISABEL HOWE

Anyone who has volunteered or worked at a food bank or soup kitchen knows the familiar scenes of shelves stacked high with packaged food, or groups of people lined up for what may be their only meal that day. Add hundreds of books to the picture—piled alongside canned beans and mashed potato mix—and you have David Baldacci’s Feeding Body & Mind program.

Bestselling author David Baldacci has long been involved in philanthropy, but in 2002 he and his wife, Michelle, decided to focus on a single issue: eradicating illiteracy in the United States. Together, they founded the Wish You Well Foundation, named after Baldacci’s novel, Wish You Well, a tale infused with hope and the love of storytelling. The foundation’s primary function is to distribute money to charities and nonprofit organizations that teach children and adults to read. In recent years, they’ve also had grant requests from public schools that received funding to build a library, but not enough money to fill it with books. And, Baldacci says, “We’ve had some crazy requests. We had one woman who wrote in and said, ‘I’d like to be paid forty thousand dollars a year so I can quit my job, stay home, and read.’” (The application was turned down.)

The Foundation was also receiving requests from organizations seeking funding not only for tutors and books, but for food. When he got in touch with these groups, Baldacci learned that many literacy centers struggle because they cannot get people to come in and learn how to read without offering them food and childcare. “We knew literacy and poverty went hand in hand,” says Baldacci, “but that was sort of a blunt wake-up call that maybe we can do more.” He and his wife contacted America’s Second Harvest–The Nation’s Food Bank Network, the largest group of surplus food distributors in the U.S., and the Feeding Body & Mind Program was born.

The donation process for books is simple: Baldacci began bringing large white boxes, capable of holding over 70 pounds of books, to his readings. He’d give a brief talk about Feeding Body & Mind and invite the audience to donate new and used books to the program. The books go in the box, a mailing label is slapped on the top, and the box is shipped to a local food bank or other charity. (The bookstore simply calls UPS or FedEx to pick up the box.) Other authors have begun collecting books at readings; Feeding Body & Mind provides the box and pre-paid shipping label, and the author just has to let the audience know that it’s there. Those giving books are happy to learn that donations are sent to local organizations, and bookstores support the program in part because they sell books to people who arrive empty-handed.

Baldacci hopes to expand the program, including not only author appearances but state book festivals. He emphasizes the importance of adult literacy pro-

"If the government acknowledges that there’s an adult literacy problem in the United States, then they acknowledge the K–12 reading program is a failure. They’re never going to do that."

For information on the program, and how to order books for book collection, visit: www.feedingbodyand-mind.com
Everybody’s a Critic
The Ever-Expanding World of Literary Blogging

BY ISABEL HOWE

If you haven’t started your own blog yet, you’ve surely read one. If you haven’t read one, you’ve definitely read about them. One of the largest developments in new media, blogs—or weblogs—are often thought of as personal journals, another manifestation of today’s self-absorbed, celebrity-obsessed culture. More and more, though, the term simply refers to a specific website format, in which the writer posts daily or weekly entries that visitors to the site may comment on, thus continuing the dialogue with both the blogger and other readers.

The proliferation on the web of blogs on all topics—literature, politics, music, finance, or simply daily life—is a result not just of the meteoric rise in the number of people who go online regularly, but the availability of the simple, cheap programs used to create blogs. Blogspot.com and WordPress.com, two of the most commonly used options, offer free blogging software or the choice of paying for a more sophisticated website. With a few short steps, anyone can register a site with the name of her choice—provided no one has beaten you to it—and start writing immediately. Whether you will be read is another question, but a well-written, thoughtful blog with a unique perspective may slowly gain readership. The key is to update the site frequently; update it enough, and you’ve got something closer to a daily or weekly publication than a regular website.

Literary blogs, which feature book reviews and news or gossip about the publishing industry, are gaining prominence among writers, readers, editors and publishers. Who writes literary blogs? The vast majority are writers looking to fill free time, or sidestep writer’s block. Others turn to blogging when they can’t seem to get anything into print the traditional way. Still others are enthusiastic readers who use their blogs as public journals, chatting about their personal lives or favorite books, sometimes adding more literary elements as their interest blossoms. Some have evolved into fully fledged magazines—Bookslut.com is a prime example—while others stray from their literary musings to ruminate on social issues or to post photographs of their pets.

But the greatest number of lit bloggers are simply old-fashioned book lovers who see traditional print media as monolithic and exclusive. “On any given Sunday, we see the same books reviewed in many publications,” writer Callie Miller—whose blog Counterbalance (counterbalance.typepad.com) chronicles the Los Angeles literary world—told Newsweek, “and then you see another similar block of books the next week.” Eager to discuss books and trends from a less orthodox perspective, more and more writers are turning to the web, usually with the idea of communicating mostly with friends at the start. In contrast to most print media, bloggers tend to review a wider range of books, and their entries tend to be written in a less restrained manner than more traditional print reviews

“The greatest number of lit bloggers are simply old-fashioned book lovers who see traditional print media as monolithic and exclusive.”

are. Those that draw the most readers are, of course, entertaining and witty, and offer thoughtful perspectives on contemporary literature.

Jessa Crispin’s Bookslut is cited with regularity for a reason. Started as a blog five years ago, her site quickly evolved into a monthly online magazine featuring reviews and regular columns, with a personal blog by Crispin, aka “Bookslut,” attached. Crispin often jokes about why she started the site, telling the Guardian in 2005 that it was “in the hopes that publishers would send me free books.” More recently she said, “I was really bored at my day job.” She takes her work very seriously, though, spending most of her time these days editing and writing for Bookslut, while continuing to write freelance and appearing on panels with writers and editors. She remains the central writer for the blog, although she recently added three new “voices” to the site and hopes to add more.

Crispin, who is on the board of the National Book Critics Circle, thinks that blogs have caused a stir in recent years largely because “nobody knew what to do with them; publishers didn’t know if they should take them seriously or not.” She acknowledges the criticism editors and writers have lobbed at blogs—that they’re “more opinionated, more flippant” than traditional reviewers—but she points out that the casual, personal voice most bloggers adopt isn’t necessarily new: Op-
eds and columns in which a particular viewpoint is expressed are mainstays of every newspaper, and most news and literary magazines.

Blogger Maud Newton (maudnewton.com) approaches her blog with a bit less formality. She began in 2002 using a BlogSpot.com site, "because it seemed like an interesting form, a way to talk about books and culture and politics informally, but intelligently." She admits that she often writes about her personal life, but points out that she maintains the blog as a hobby, intentionally keeping it small and personal rather than allowing it to become a full-time job (she has an "unrelated day job"). Like Crispin, attention generated by her blog has led to freelance writing gigs.

While print media outlets are nearly all physically based in large cities, blogs have expanded the literary world for readers and writers by offering news, event listings, and voices from around the world. Novelist

Yang-May Ooi, who was born in Malaysia and is now based in the U.K., published two books with British publishers before she began her blog, FusionView (fusionview.co.uk). In a recent interview with Communication World magazine, she talked about how the type of writing she adopted for her blog helped her "to develop a more personal, informal style" for her third book. She also notes that writing books was "a long, isolating experience," a contrast to the constant e-mails and phone calls she's received in response to her blog. Like Crispin and Newton, Ooi's blog has also brought her freelance jobs and a presence in the literary world that she wouldn't have had otherwise.

A blog's reach is potentially limitless, and thus it can be as broad or as narrow as the writer chooses. FusionView is a cross-cultural website, "an East/West view on writing, culture and the arts," as its tagline proclaims. Encouraged by the fluidity of the blog format, FusionView and blogs like it foster diverse perspectives and, equally important, provide readers who live elsewhere with links to foreign book reviews and coverage. At the other end of the spectrum are blogs that have sprouted like wildflowers in ever narrower niches of literary interest, giving small communities of readers a deeper insight into a genre or subject, while the writers are spared the financial stresses usually associated with "niche" print journals.

Civil War Books and Authors (cwba.blogspot.com) is one such blog, maintained by Andrew Wagenhoffer. Wagenhoffer regularly posts his own reviews of Civil War authors' books—especially the genre's "lesser known and underappreciated" writers—along with interviews and links to Civil War websites, magazines, journals and publishers. Black Artemis (blackartemis.blogspot.com) is maintained by the Bronx-based "Hip Hop novelist" Sofia Quintero, whose blog lies somewhere between a journal and an author website. Moroccan-born novelist Laila Lalami's blog (LailaLalami.com), initially titled MoorishGirl.com, focuses on writing and news from the Arab world.

The big question on many bloggers' minds these days is the constant slimming down of book coverage in print media, a concern throughout the publishing industry since the early 2000s. (Included in Salon.com's 2001 series on "the consolidation of power and ownership in the media landscape" was a piece entitled "The Incredible Vanishing Book Review.") Writers, publishers, editors, and organizations such as the National Book Critics Circle are expressing increasing alarm at the number of major newspapers that have reduced or eliminated their book sections in recent months, among them the San Francisco Chronicle, the Chicago Tribune, the Raleigh News & Observer, the Atlanta Journal Constitution, the Arizona Star and LA Weekly.

Many of the responses to the downsizing of reviews that have appeared in traditional outlets—Op-eds, magazine articles, and panel discussions—have suggested that bloggers are partly to blame for having lowered standards of criticism and scholarship, and drawn readers away from the more studious, reputable book reviews of newspapers and magazines. While most of the people involved in this conversation agree that downsizing has at least as much to do with the changing role of the newspaper in our time (book coverage is not the only reportage being cut these days) and the financial ascendance of the Internet over print media, there seems to be a consensus among bloggers that the debate touches on the truth, even if it's not exactly fair.

Crispin—who describes herself as a "double agent" because she sympathizes with both sides—says that

Continued on page 51
CENSORSHIP WATCH

Trees Axed, Paper Burns. Academy X, one of several novels about high jinks at upper-crusty private schools and the lives of richy-rich kids published in the wake of Curtis Sittenfeld’s best-selling Prep, may have jumped to the head of the class in terms of real-life notoriety. Academy X, a send-up of teachers and students at an exclusive prep school, was written by Andrew Trees, a history teacher at the exclusive Horace Mann School in New York, and published by Bloomsbury last year. Shortly before the book was released, Trees wrote a letter to the Horace Mann newspaper, in which he explained that the book was meant to be a satire of “the follies that occur at virtually every elite private—and many public—high schools these days.” During a prerelease interview, Trees reiterated that Academy X was not meant to be the Horace Mann School. At that time, he indicated that the head of the school had been supportive. In the year since, something changed. In May 2007, just before the school year ended, Trees was fired, and the editor of the school paper, The Record, claims it was banned from publishing letters of support.

Attitudes toward Academy X had divided the Horace Mann community ever since its May 2006 publication. Even though Trees emphasized the fictional nature of his imaginary school, Bloomsbury marketed the book as a roman à clef, and prepublication copies attributed authorship of the work to “Anonymous.” When word leaked out that Trees’s teaching contract with Horace Mann would not be renewed for the upcoming school year, teachers and students protested. A student petition boasted 150 signatures.

One of Trees’s history department colleagues defended him in the school newspaper. In a follow-up edition of The Record, a note by the editor, Elyssa Spitzer, daughter of New York’s Governor Eliot Spitzer, stated that the head of Horace Mann, Thomas M. Kelly, had forbidden the students from publishing two letters and an essay written in response to the earlier piece. The note said Kelly killed the publication because he didn’t feel “personnel issues” should be examined in the school paper. News sources such as The New York Times and Gawker, a popular Manhattan media gossip blog, were able to obtain a copy of one of the letters alleged to have been banned. The letter of support was signed by more than 60 academics from various universities.

Bad Trip. A few years ago, Canadian psychotherapist Andrew Feldmar published an article about having used LSD several decades earlier. Now, because a United States border guard pulled up the article on the Internet during a routine check, Feldmar has been banned from the United States. Feldmar is 66, hasn’t used illegal drugs since 1974, wrote the article for an interdisciplinary journal, and has paid numerous peaceable visits to the United States, where his two children live. None of that matters. The American consulate in Vancouver has told Feldmar that he won’t be permitted to enter the U.S. unless and until he gets a waiver from U.S. Customs, a formal process that requires a lawyer and an outlay of several thousand dollars.

Feldmar’s troubles started last August during a car trip to collect a friend from the Seattle airport. When he arrived at the U.S./Canada checkpoint in Blaine, Wash., a guard did an online search of his name. The results brought up a 2001 article Feldmar had written for a journal called Janus Head, in which he reminisced about studying with his mentor, R. D. Laing and taking LSD and other drugs during the psychedelic 1960s. When Feldmar confirmed that he’d written the article and taken the drugs, he was fingerprinted, held for four hours, asked to sign a statement admitting to the drug use, and sent packing.

Seven Chinese Journalists 86’d Over Ad Commemorating 64. Recently a Chinese newspaper fired seven employees for printing a one-line ad, and the crackdown may not be over yet. Three editors and four advertising staffers at Chengdu Wanbao, a daily newspaper published in the Sichuan province of China, have gone down in the wake of the June 4 publication of an encoded ad. A translation of the ad—a one-liner that appeared in a corner of page 14 of the June 4 edition of the paper—reads: “Saluting the strong mothers of victims of 64.” Because even newspaper ads are vetted in China, a young clerk phoned the person placing the ad to ask about the meaning of “64” or, as translated, June 4. She accepted the explanation—the ad was being placed as a tribute to the families of victims of a June 4 mining accident—and cleared the ad for publication.

Then the ax came down. Others recognized the message as a reference to the Chinese army’s June 4, 1989 massacre of pro-democracy demonstrators in Tiananmen Square. In fact, the ad is properly interpreted as a message of support to the mothers of the protesters. The government continues to ban all references to the massacre and forbids any public discussion or images of the incident. So “June 4” has become common usage in China as a veiled reference to the

Continued on page 55
Legal Watch

Did Somebody Step on a Duck?

JCW Investments, Inc. v. Novelty, Inc., 482 F.3d 910
U.S. Court of Appeals for the Seventh Circuit

“Somewhat to our surprise, it turns out that there is a niche market for farting dolls, and it is quite lucrative.”
—Circuit Judge Diane Wood

The Seventh Circuit Court of Appeals in Chicago recently considered whether a plush doll named Fartman, produced by Novelty, Inc., infringes Tekky Toys’ copyright in a similar Pull My Finger® Fred doll. Both dolls depict a balding, white, middle-aged, overweight man lounging in his armchair. To the naked eye, a certain family resemblance can readily be discerned. For starters, Fred and Fartman have the same fashion sense: white tank tops, blue jeans and sneakers. For men of such modest ambition, they have fared unusually well. More than 100,000 units are sold each year on the domestic market at roughly $15 apiece.

Fartman was designed by Mary Burkhart, Novelty’s art director, based on an idea offered to her by Todd Green, the company president. Green testified that his “idea” was inspired by a visit to the Hong Kong showroom of a doll manufacturer, where he spotted a copy of Tekky’s Fred, which had been on the market since 1999. According to Burkhart, Green instructed her to create a plush doll of “a hillbilly-type guy, sitting in a chair, that would fart and be activated by actually pulling his finger.” Green approved her design. Fartman went into production in October 2001; Tekky sued the following June.

The district court found Novelty guilty of copyright infringement, trademark infringement (Novelty also produced a Pull-My-Finger Santa) and unfair competition. In addition to lost profit damages of nearly $250,000, the court awarded Tekky $50,000 in punitive damages and over $575,000 in attorneys’ fees. At issue on appeal was whether Novelty had indeed infringed Tekky’s intellectual property rights; whether Tekky should have been awarded punitive damages, which federal law does not provide for; and whether the district court’s grant of attorneys’ fees was properly calculated.

Tekky’s copyright in Fred was undisputed, so the central question for the court of appeals was whether Fartman illicitly copied original elements of Fred’s design. Although Novelty admitted access to Fred (via Green), the company denied having actually copied him, and Tekky had no direct evidence to refute this claim. Yet illicit copying need not be proved directly; it may be inferred where the accused work is “substantially similar” to the copyrighted work. But only expressions of ideas—never the ideas themselves—can be copyrighted. Furthermore, certain expressions are so elemental or standard to their subject matter, e.g. big red noses and curly hair for clowns, that federal common law refuses to protect them under copyright. Is there such a thing as the idea of “a hillbilly who farts when his finger is pulled” or is the finger-pulled fart an expression of the idea “hillbilly”? How about white tank tops and blue jeans? Are those details part of the unprotected idea, an unprotected standard expression of the idea, or a protected original expression of the idea?

Novelty argued that it could not have copied Fred because Burkhart, Fartman’s designer, never had access to him. Only Green did. The court nonetheless held that Green’s supervision of Burkhart’s work constituted sufficient access to Fred. Even if Burkhart had created Fartman on her own, the court would still have found access and denied Novelty the defense of “independent creation” because of the corporate receipt doctrine. Since Burkhart and Green are both employees of the same small business, Green’s possession of knowledge, if not photographs, of Fred would warrant the finding that Novelty had reasonable access to Fred for the purposes of copying, even if Green had not been directly involved with Burkhart’s work.

Even if access is assumed, can we infer that Fartman illicitly copies Fred? The Seventh Circuit employs an “ordinary reasonable person” test to determine whether an objective observer would conclude that the dolls are “substantially similar” expressions of the same idea. Of course, much depends on the court’s definition of this idea. Novelty contended that its doll expresses the idea of “a typical man wearing jeans and a T-shirt in a chair doing the ‘pull my finger’ joke.” The district court, on the other hand, believed that the relevant idea is that of a “plush doll that makes a farting sound and articulates jokes when its finger is activated.” The fact that Fartman is a man in a tank top and jeans sitting in an armchair thus became a potentially actionable similarity of expression, rather than a perfectly legal similarity of idea.

Might it nonetheless be the case that these similarities of expression do not fall within the ambit of copyright protection because they are so common to the idea of someone playing the “pull my finger” joke that it would be impractical to express this idea without them? After all, how incongruous, not to mention
creepy, if Novelty’s farting doll had been a young woman dressed for a night on the town. Yet the court of appeals insisted that these very details, no matter how common when viewed separately, comprise the heart of Tekky’s creative expression when viewed as a whole. “Novelty could have created another plush doll of a middle-aged farting man that would seem nothing like Fred,” the court held. “He could, for example, have a blond mullet and wear flannel . . . be standing rather than ensconced . . . and be wearing shorts rather than blue pants.” The court concluded that the district court properly granted summary judgment to Tekky on the copyright infringement issue.

The court of appeals also affirmed the district court’s finding that Novelty’s Pull-My-Finger Santa infringes Tekky’s trademark in the phrase “Pull My Finger®” for plush dolls. Although the federal Lanham Act does not provide for punitive damages against trademark infringements, the court held that lower courts may nonetheless grant such damages under state law provisions. Finally, although Tekky had a contingent-fee arrangement with its attorney—meaning that the attorney would only be paid a certain percentage of the damages awarded to Tekky, if any—the court held it was appropriate to require Novelty to reimburse Tekky’s attorney based on a normal hourly fee.

This case demonstrates how important the line between idea and expression is to the question of substantial similarity, and how slippery these concepts can be. At one point, the court states that wearing a hat and shoes of a different color represent “small cosmetic differences.” Yet later, as we have seen, the court suggests that if Fartman had only worn flannel and had a different color hair, he might not have infringed Tekky’s copyright in Fred.

—David Bornstein
Legal Intern

Free Style

U.S. Court of Appeals for the Second Circuit

Viewfinder Inc. operates the Internet fashion magazine “firstView.com,” which allows users to browse photographs of the current season’s fashions taken at runway shows held by designers around the world. When French design houses Sarl Louis Feraud International and S.A. Pierre Balmain became aware that firstView.com was posting photos of designs from their upcoming collections without authorization, they (along with several other fashion houses) filed suit against Viewfinder in the Tribunal de Grande Instance de Paris, seeking money damages for alleged unauthorized use of their intellectual property as well as for unfair competition.

Viewfinder was properly served in New York in December 2000 in accordance with the terms of the Hague Convention on the Service of Judicial and Extraterritorial Documents in Civil or Commercial Matters. It failed to respond to the suit, and the French court issued a default judgment against Viewfinder, holding that the use of the photographs lacked necessary authorization and constituted counterfeit violation of royalties under French law. It also found that Viewfinder had committed “parasitism” under French law because it had taken advantage of the plaintiffs’ reputations and commercial efforts creating confusion between the two companies.” The court ordered Viewfinder to remove the offending photos from its website and awarded damages of 500,000 francs (about $100,000) for each plaintiff, reimbursement for the costs of the action, and a fine of 50,000 francs a day for each day Viewfinder failed to comply with the judgment.

In December 2004, Sarl Louis Feraud International and S.A. Pierre Balmain filed separate complaints in the U.S. District Court for the Southern District of New York to enforce the French judgments. Both corporations brought the enforcement action under the New York Uniform Foreign Money Judgment Recognition Act, which provides that, “subject to certain exceptions, foreign judgments are ‘final, conclusive and enforceable’ in the country where rendered and are deemed conclusive between the parties and are enforceable by New York courts.”

On January 18, 2005, Viewfinder filed alternative motions for dismissal or summary judgment and a motion to vacate the attachment order of the French court. The U.S. District Court concluded that enforcing the French judgments would be repugnant to the public policy of New York because it would violate Viewfinder’s First Amendment Rights under the U.S. Constitution. The court held that the First Amendment does not permit the plaintiffs to stage public events, in which the general public has considerable interest, and then control the way in which information about those events is disseminated to the media. The district court also noted that to the extent the plaintiffs’ designs were protected by copyright, the fair use exception for republication of newsworthy matters protects such use. Accordingly, the district court dismissed the case.

On appeal, the U.S. Court of Appeals for the Second Circuit was required to evaluate whether the district court properly concluded that the French judgments were unenforceable under New York law. At the

Authors Guild Bulletin Summer 2007
outset, the court noted that “foreign country judgment(s) need not be recognized if ... the cause of action on which the judgment is based is repugnant to the public policy of this state.” The court first determined that it was obligated to accept the conclusion that Viewfinder’s practices did indeed violate French law, because Viewfinder’s own pleadings failed to dispute whether the French court’s judgment was proper.

The court then turned to evaluating whether the French judgment was repugnant to New York’s public policy, and thus unenforceable there. The court noted that such an inquiry rarely results in a court’s refusal to enforce a judgment unless the judgment is “inherently vicious, wicked, or immoral, and shocking to the prevailing moral sense.” However, the court pointed out that foreign laws considered in violation of the First Amendment would be found to be “repugnant” to New York public policy. It held that the district court failed to conduct a full analysis in reaching its conclusion that the French judgments were unenforceable because they impinged on Viewfinder’s First Amendment Rights. Specifically, the court of appeals found that the district court’s decision rested solely on the wrongful assumption that Viewfinder, being a news magazine that was reporting on a public event, had an absolute First Amendment defense to any attempt to sanction its posting of the plaintiffs’ fashion show photographs. To the contrary, the court of appeals concluded that the First Amendment does not provide such categorical protection, and the mere fact that Viewfinder may be characterized as a news magazine would not, standing alone, render the French judgments repulsive to public policy.

Accordingly, the court of appeals concluded that the district court should have first determined the level of First Amendment protection required by New York public policy when a news entity engages in the unauthorized use of copyright protected photos. Next, the district court should have evaluated whether French intellectual property law provides comparable protections. Because the lower court summarily assumed the fair use defense to copyright infringement protected all news entities from all infringing uses, the court of appeals remanded the case so that all of the statutory fair use factors could be considered and evaluated as a whole. Likewise, it found the record was unclear as to the manner of protection afforded the plaintiffs’ fashion shows by French law, as well as the protections generally afforded to the infringers and photographers under French law. In order to resolve

Continued on page 49

Funding Evil Update

Rachel Ehrenfeld, author of Funding Evil: How Terrorism Is Financed—and How to Stop It, finally received a favorable ruling in her case against Saudi Prince Khalid Salim Bin Mahfouz. As we have reported in past issues, Bin Mahfouz brought a libel action in British court against Ehrenfeld for her portrayal of him as a financier of terrorism in Funding Evil. Ehrenfeld defaulted in the English action and subsequently tried to obtain a declaratory judgment from the U.S. District Court of the Southern District of New York that Mahfouz could not prevail on his libel claims under the laws of New York and the U.S., and that the English judgment would not be enforced against her in the U.S. The district court dismissed her case for lack of personal jurisdiction. Ehrenfeld appealed to the Court of Appeals for the Second Circuit.

However, the Court of Appeals for the Second Circuit refused to rule on her appeal because it believed there were “long arm” jurisdictional questions that only the New York Court of Appeals could answer. (The federal appellate court found that no controlling precedent had been issued by the New York Court of Appeals.) The federal court asked the New York Court of Appeals to rule first on whether New York’s long arm statute would provide for jurisdiction over Bin Mahfouz given the established facts of the case:

- Bin Mahfouz sued Ehrenfeld, a New York resident, outside of the U.S.;
- Bin Mahfouz’s own contacts with New York stemmed from a foreign lawsuit that he initiated;
- The judgment favorable to Bin Mahfouz in the foreign suit resulted in acts that must be performed by Ehrenfeld as a result of the suit brought in New York.

The New York Court of Appeals has the right to deny certification, which would likely end the case, but we anticipate it will rule on these issues, and remand the case back to the court of appeals for further consideration.

—Michael Gross
SYMPOSIUM

Nonfiction: The Art of Getting the Story Right

The J. Anthony Lukas Prize Project Awards were created in 1998 to honor the late Tony Lukas, a longtime reporter for The New York Times, the award-winning author of Common Ground; Nightmare: The Underside of the Nixon Years and Big Trouble, and president of the Authors Guild 1996–1997. Lukas served as inspiration and mentor to a generation of writers of narrative nonfiction, and the awards that bear his name honor that difficult vocation—in particular The J. Anthony Lukas Prize for a Work in Progress, a prize after Tony’s own heart, and that of any writer of serious nonfiction.

The Lukas prizes are jointly administered by Columbia University’s Graduate School of Journalism and the Nieman Foundation at Harvard University. The annual award ceremony, followed by a panel discussion at which the three winners talk about their work, is held in New York and Boston in alternate years. This year’s ceremony was held at Columbia University, where Nicholas Lemann, dean of the Journalism School, opened the evening by stressing the importance of the discussion in terms of the larger goal of the prizes. “Tony was acutely conscious of how isolated writers are. It was very important to him to create a cultural space where nonfiction writers could gather with their colleagues and discuss their work. So in that spirit, we designed this to be not just an awards ceremony, though it certainly is that, but an awards ceremony followed by a discussion. And I think Tony would like that.”

Garrison Keillor presented the prizes and served as moderator for the panel, which included prizewinners Lawrence Wright, for The Looming Tower: Al-Qaeda and the Road to 9/11, James T. Campbell, for Middle Passages: African American Journeys to Africa, 1787–2005, and Robert Whitaker, for Twelve Condemned to Die: Scipio Africanus and the Struggle for Justice that Remade a Nation.

GARRISON KEILLOR: It’s a pleasure to be here. I try to hang out with a higher class of people; that’s why I’m here. Tonight we have the great pleasure of honoring a lonely and dangerous line of work, which is the business of nonfiction and telling the truth. Each of you, simply by being here, is doing a good deed in a dark world. I have been brought in from the other side of the tracks, from people who make up stuff—the branch of literature that this branch is defined by the fact that it is not. I do point out, though, that some of these winners here tonight have committed acts of fiction.

This morning my wife looked up from a book she’s been engrossed in for days, and she said, “I never appreciated Einstein’s genius until now. And also I never knew that he lived in Prague.” This is the sort of thing that people do who read nonfiction; they look up and they announce things. Astonishing things that are news. News is something that you want somebody else to know right away. This seldom happens in my branch of literature.

Fiction serves a purpose in the world. It comforts people who are afraid of boredom. It is a distraction for people who are afraid of knowing how high above the ground they are. We comfort people in many ways, sometimes by terrifying them, sometimes by creating intriguing puzzles for them, but I do feel that fiction reaches its high point when it veers over towards verisimilitude. When it strikes the reader as being a real world and a real place, and the reader is privileged to be in someone else’s life. People ask: “Is this story true?” And they want you to say yes. They des-
"It's like a major illness having a book in the works... You try to keep a life going, raise a child, try to be a spouse, have friendships. People ask you, 'How is the book coming?' You say, 'It's coming great.' What else are you going to say?"

—Garrison Keillor

Nonfiction has the power to turn our heads around and to shake us, to come at our mythology and give us a clearer view of the world. No movie ever really changed my mind on anything. I can't think of a single song that did. But for sure works of history and biography have. I come from Minnesota, a progressive state. I hang out with a lot of liberal Democrats. We have our own myths and it does us good to have our myths questioned and challenged. My generation is hungry for history, because we came of age at a time of convulsive historical events that were never explained to us—the war in Vietnam, the assassination of John F. Kennedy. We have grown up to distrust official accounts and to welcome unofficial accounts, especially if they might include interesting conspiracies. But my generation is very rapidly aging. We've come to feel that we will go to our graves not really understanding the major events of our own time. We would not be the first people who have faced this. But it's sad nonetheless.

I believe in writers. I believe that they are out there at work, great entrepreneurs. Ambitious writers who are not satisfied with making small displays of cleverness and intelligence but who take on enormous subjects—the bigger the better—and they are at work. They are at work all over this city, not only in universities, or the reading room of the New York Public Library; they are at work in rooms and apartments, basements in Brooklyn; they're everywhere. They're all across this country. They're working in garages, and in bedrooms in their parents' homes. And they are grappling with enormous subjects, some of them with contracts, others without, working with books stacked on the floor around them and on tables, and notes, legal pads, scribbles here, index cards, Post-it notes all over, a beautiful chaos of material. And they are trying to get their job done, as one would work at any other difficult task.

It's like a major illness having a book in the works. Good days and bad days, but you keep going and avoid the temptation of the telephone, and put off email until evening, the Internet, the enormous temptation inside your computer, you stave this off through acts of character and dedication. You try to keep a life going, raise a child, try to be a spouse, have friendships. People ask you, "How is the book coming?" You say, "It's coming great." What else are you going to say? You're sick of it? You don't want to talk about it? Your editor asks, "How's the book coming?" You say, "Well, err..." Coming slower than I thought it would. Problems. Can't make any promises but I'm hopeful." And then it comes out. It actually comes out in print. And then people ask you, "How do you feel? It must feel great." It doesn't, actually.

You were thinking it might feel great but it doesn't. You feel a sense of relief. You feel a sense of disbelief in a way. But also grief that this enormous thing has now moved on and what are you going to do with your life now? And also there are lingering thoughts about that passage in the sixth chapter. You'd really wanted to rewrite it, and then you looked at it and it looked OK, so you didn't, and now you realize you should've. It's a swamp waiting for the reader. And some people won't make it all the way through. Also there was a typo. You opened up your book and right there: a typo. God's way of showing you that no matter how hard you try, it's never quite enough. Humility comes with the territory. So all the more reason that we should give out awards, all the more reason for a few writers to stand up and be applauded, even though it's not you and it's not me.
The J. Anthony Lukas Book Prize is given every year to what the judges believe is the best work of narrative nonfiction on a topic of American political or social concern published in the last calendar year. And the Lukas Committee is especially grateful to the judges for the time and the thoughtful deliberation that they devoted to this task. This year’s judges for the Lukas Book Prize were Patricia Bosworth, Kai Bird and Nate Blakeslee, and they chose The Looming Tower: Al Qaeda and the Road to 9/11 by Lawrence Wright. Here’s what they said about the book. “In The Looming Tower, Lawrence Wright has brilliantly brought into focus the history of events leading up to the destruction of the World Trade Center. It’s a stunning example of narrative nonfiction where a master journalist, who after five years of research conducting hundreds of interviews in Saudi Arabia, Egypt, Sudan, Afghanistan, Europe, and the United States, produced an epic tale, part thriller, part tragedy, told through the lives of four men, the two leaders of Al Qaeda, the FBI’s counterintelligence chief, and the former head of Saudi intelligence. This remarkable interweaving of their stories, never fully told before, sheds new light on everything from terrorist plots and CIA failures to the tumultuous cross-currents of modern Islam.”

The judges also named three finalists: There is No Me Without You: One Woman’s Odyssey to Rescue Africa’s Children, by Melissa Faye Greene; The Inside Story: A Spin Scandal and the Selling of the Iraq War, by Michael Isikoff and David Corn, and At Canaan’s Edge: America in the King Years, by Taylor Branch.

The History Prize honors the memory of Mark Lynton, a businessman, memoirist and an avid reader of history. It’s awarded every year to a book which, in the judges’ estimation, is the best work of narrative history on any topic published in the previous calendar year. This year’s judges were Akira Ray, Michael Johnson and Bonnie G. Smith, and they chose Middle Passages: African American Journeys to Africa 1787 to 2005, by James T. Campbell. Here’s what they said about his work: “Middle Passages chronicles the search for a homecoming by Americans of African descent in the 220 years since the foundation of the United States. James T. Campbell eloquently narrates the human drama of their voyages, the creativity of their visions, and the complexity of their discoveries. . . . This brilliant, surprising, and powerful book offers compelling historical meditation on our widely shared desire to venture beyond the present, to navigate the middle passage between the mysteries of our past and the uncertainties of our future.”

The judges also named two finalists: Marcy Shore, author of Caviar and Ashes: A Warsaw Generation’s Life and Death in Marxism, and Peniel E. Joseph for Waiting ’til the Midnight Hour: A Narrative History of Black Power in America.

And now the J. Anthony Lukas Work in Progress Award, a unique prize, offered to somebody who has not crossed the finish line yet, who needs a boost. The research always takes longer than you think it is going to. When you write the outline for the book you minimize its complexity so as not to discourage a publisher. And then you find out the deeper you go the more there is to know. The peril of research: Don’t go too far; there are corners one should not turn. But anyway, your advance from the publisher is evaporated, or your grant, or whatever it is you’re working on. And if you should go to a bank and ask for a loan with the first chapter of your book as security, you will provide a moment of hilarity to someone. . . . So here is the J. Anthony Lukas Work in Progress Award, which is meant to answer this nagging question that you may have when you are a little ways into it, is this worth all the work that I have put in? And it’s meant to tell you that, yes, it is. It is worth the time. And here to prove it is some money to help you finish it.

This year brought a record-breaking number of entries for this award. The judges, Frances Kleins, Eleanor Langer and Joan Quigley chose Robert Whitaker’s work in progress, Twelve Condemned to Die: Scipio Africanus Jones and the Struggle for Justice That Remade a Nation. I only wish I could have been the fourth member of that committee so I could have voted for it too, because the chapter that I read—it’s just a phenomenal book. Here’s what the judges wrote. “Robert Whitaker’s work-in-progress presents a harrowing exploration of Hoop Spur, Arkansas, in 1919, when white mobs and federal troops converged to suppress a sharecroppers’ union, killing more than one hundred black men, women and children. With reportorial incision and a flair for both narrative and analysis, Whitaker has excavated a history that is unknown to most Americans, and yet is central to understanding our past and present. It is a tale of bravery and oppression in the rural South at the end of World War I. An epic of class and prejudice, rebellion, and bloodshed leading all the way to the U.S. Supreme Court and setting the legal stage for the civil rights movement more than half a century later.”

The judges also cited one finalist who is with us today, Michael Poncke, whose work in progress, Last Stand: George Bird Crowell, the Battle to Save the Buffalo and the Birth of the New West, was recognized by the judging panel.

The winners, as you noticed, did not give acceptance speeches, because we knew they were going to sit here and talk with us, and didn’t want to wear them out. Let’s start with you, Lawrence, and ask you about
this intense piece of research you did on Al Qaeda, which tracks it all the way from the Egyptian with the unpronounceable name, Qu—


KEILLOR: Q-u-t-b. What is the genesis of this book, which took you five years of research? What’s the germ that started you down this road?

WRIGHT: Well, like every American, I was shocked and angry and appalled on 9/11. So certainly that was a big part of it. I had taught at American University in Cairo thirty years before. I spent two years in Cairo and had studied some Arabic, so although it had been thirty years, I could get around in the language. Also I had been the cowriter for a movie called The Siege with Denzel Washington and Bruce Willis that came out in 1998, which in some awful ways prefigured the events of 9/11. It had been a very controversial movie. It had been picketed by Arab and Muslim protestors because they were appalled at being stereotyped as terrorists. Of course it was not a stereotypical movie at all. But it was a box-office failure, and then it was the most rented movie in America after 9/11, making me the first profiteer on the war on terror. But these things came in the wake of a personal thing that happened during that time when that movie came out. The movie came out in November of ’98, but in August ’98 there was a bombing in Cape Town, South Africa, at a Planet Hollywood restaurant, in which two people were killed and a little girl lost her leg. The people who had attacked it claimed they were protesting the trailers that had appeared in America for The Siege, and they struck Planet Hollywood because Bruce Willis, one of the costars, was a partial owner. I don’t feel responsible for that, but it was very upsetting to me. So it was an additional motivation to try to get to the bottom of who these people are and why they’re attacking America.

KEILLOR: What was your starting point?

WRIGHT: On 9/11, I was really getting out of journalism. I was working in the movie business then. But I sent an e-mail to David Remnick, the editor of The New Yorker, and I said who are you with? And we had a conference call. Nick Lemann was on that call that day; two o’clock. We had New Yorker reporters scattered all over the country. We were all stuck wherever we were. And we all were feeling kind of helpless, because how do you cover a tragedy of this magnitude?

I was really fortunate to track down a young man named Kirk Kjeldsen, who had been in the Trade Center that day. He had been scheduled to go to a conference at the World Trade Center, on the 106th floor. And he made the mistake, for the first time in his life, of sleeping through his subway stop, so he was running late. He got off at the next station and he ran back into the Trade Center. I was very fortunate because this young man had a photographic memory for everything that had happened. Everybody he worked with was up on the 106th floor. Just as he was getting into the elevator, the elevator operator held the door for this woman walking across the lobby. And he was really angry because he’s looking at his watch and he’s already late, and here she was walking across the lobby, taking her own sweet time and she stepped into the elevator, and he noticed that she had a rose tattoo on her ankle. And he thought, wow. And the plane hit. The elevator door didn’t close but it accordioned. He walked out. Nobody had any idea what had happened. He thought it might have been an earthquake. But he thought he was going to go outside and he walked out and instead of the exit it was a terrace, and it was covered with shoes. And something else that he thought was luggage that turned out to be torsos. And he began to hear bodies falling around him. His story about escaping the Trade Center and getting home to Queens became the bookend for the famous black issue of the New Yorker that came out that week.

So that was where I started. After that I started studying the obituaries that were streaming online. And on the Washington Post site I found this obituary for John O’Neill, who had been the head of counter-terrorism for the FBI in New York. He had been forced out of the Bureau and took a job as the head of security at the World Trade Center and died that day. I thought to myself, instead of getting Bin Laden, Bin Laden got him. I don’t know if he’s a hero or a villain, because he sounded like a villain in this two-line obit, but I thought, he’s a story. It’s a way to bring this massive tragedy down to the human scale. He can carry the reader into the world of counter-terrorism that was so vital to understanding this tragedy.

KEILLOR: Professor Campbell, you have written this book, Middle Passages, which struck me when I started in on it as just absolutely original; it had the absolute advantage of originality. I couldn’t remember having read anything remotely like this. A tale stretching across two hundred years of African Americans, and their trips back to Africa. Beginning with an astonishing story—the secret of a good book, a good first chapter, a good, good opening: a slaver who got enslaved.

JAMES CAMPBELL: The genesis of this book for me was that story, which I found in a collection of early African writing. It’s the story of a man named Ayuba Suleiman Diallo, who was an African from the region around the Senegambia, the region between the Sene-
gal and Gambia Rivers. In 1730, Ayuba set out with two slaves to sell on his father’s behalf to a British slave ship that was tied up on the Gambia River. It’s kind of a long story but you can guess the punch line. The British said, well, as long as you’re here, we’ll take you too. He ends up in Annapolis, Maryland, in 1731, and he keeps trying to communicate to people, to tell them that they’ve got the wrong guy. No one speaks any language that he can understand. He can write in Arabic, but of course they think he’s just scribbling. Eventually somebody figures out that this is writing. It’s like one of these Victorian novels—he writes a letter that passes through about ten different hands and eventually ends up with a don in Oxford who translates it, and they realize they did get the wrong guy.

Now what’s intriguing about the story is that they mistakenly identify him as a very important figure, a prince, the son of the King of Bondu, which is a region the Royal African Company was very interested in. There was a rivalry at the time between the French and the British over who would control the slave trade out of the Senegambia region, and the British feel that the best way they can promote their position is by sending back the local prince. And that’s what they do.

Ayuba actually goes first to London, where he becomes a kind of celebrity. He’s taken to meet the Queen, and the rest of the royal family. He’s sort of adopted by a guy named Hans Sloan, who’s later one of the founders of the British Museum. After several months in England, they pack him up with a bunch of gifts and send him home. One of the things he does when he arrives is to trade in some of the gifts he’d been given to acquire a slave to serve him. It was that story that provoked my book.

There’s one other part of the story that I actually left out of my book. According to a contemporary account of Ayuba’s life, many of his country people were astonished that a man who had been enslaved had come back, because this was only the second time they had ever seen it. So there’s another story out there, about another person before Ayuba who found his way home. I have no idea who that was.

KEILLOR: His story had a parallel to a popular work of fiction at the time, right?

CAMPBELL: That’s true.

KEILLOR: An African prince.

CAMPBELL: The story echoed a popular novel at the time. Scholars of literature—and there are probably some here—argue about whether it’s the first novel in the English language written by a woman, but it was called *Oroonoko*, by Aphra Behn. It’s about an African prince who is enslaved, and carried to the Caribbean, who ends up leading a great insurrection after his wife is killed. In the book, he’s a kind of Rousseauian noble savage figure. This story went through a million different editions in the 18th century. It was performed in theaters. It was very popular in the West Indies, if you can imagine. Planters would go and watch this performance. I think this was one of the reasons why Ayuba became so fashionable in London and why the aristocracy of London was competing to get him to come dine at their houses. It was like they had this real-life Oroonoko.

KEILLOR: Then your book goes on into contemporary times and you are writing about living people—African Americans going back to Africa, Maya Angelou, Langston Hughes, Muhammad Ali. And you are treading delicate ground.

“I found this obituary for John O’ Neil, who had been the head of counter-terrorism for the FBI in New York [and later] took a job as the head of security at the World Trade Center and died that day. I thought to myself, instead of getting Bin Laden, Bin Laden got him.”

—Lawrence Wright

The Looming Tower
paradoxical, complicated, often very American-ness counters that, your CAMPBELL: want from there was of ally African going to this is also ing this the fact But "One when an African American is asking that question—'What is Africa to me?'—he or she is also asking, 'What is America to me?' —James Campbell Middle Passages

CAMPBELL: I think that’s true. You never want to boil your book down to two sentences, but if I were to do that, I’d say that the book is a meditation on the American-ness of African Americans. I think that the paradoxical, complicated, often very painful relationship that African Americans have to this society is nowhere more vividly illuminated than in their encounters with Africa. In the prize citation you read there was a reference to a poem by Countee Cullen: “What is Africa to me? One three centuries removed from the scenes his fathers loved . . .” One of the points of my book is that when an African American is asking that question—“What is Africa to me?”—he or she is also asking, “What is America to me?” This is sort of what I’m trying to get at in the book.

But as you say, this can be delicate ground. I didn’t want the book to be ironic or sneer: African Americans go to Africa and find out that, you know, you’re not really African at all, you can’t go home again. In the book I tried to stay mindful of the overarching tragedy, of the fact that people whose ancestors have been in this country for three hundred years have still been denied a sense of full membership in this society and are compelled to look elsewhere, to an imagined Africa, to find that sense of identity.

My favorite story of the entire book is the episode that begins the introduction, about Langston Hughes. In 1923, he was a 21-year-old poet nobody had yet heard of. He dropped out of Columbia and signed on as a mess mate on a steamer to Africa. He sailed right out of New York Harbor. As the ship clears Sandy Hook, he looks back at the New York skyline, silhouetted by the setting sun, and goes below deck and gets the box of books that he packed, and he hurls all of these books one by one into the sea. Because now he doesn’t need this anymore, this artificial identity, because now he’s going to the place where he is will be clear. And of course what he discovers when he gets there is rather more complicated.

KEILLOR: Mr. Whitaker, you have started to write an astounding book. You have a powerful story, such a gripping first chapter: 1919 Arkansas, an act of astonishing, almost unbelievable violence against sharecroppers trying to start a union. And then the indictment, trial and conviction of 12 of the victims. And then the heroic efforts of a well-to-do black lawyer in Little Rock, Scipio Africanus Jones, who has made his peace, figured out how to operate in white society in Little Rock. He’s the hero of your tale, I assume, who finds a way to gather evidence and gather affidavits that will then astonish and convince the Supreme Court to overturn all this. How did this come to you?

ROBERT WHITAKER: It really started when I heard people talking about the high number of blacks incarcerated in the United States. Once, many years ago, I worked in Attica Prison, so I had this interest in prison life. And as we all know, the imprisonment of black men in this country is unbelievable in terms of the percentage. I don’t think there’s any ethnic group in the world that’s imprisoned at quite the same rate. So I started trying to figure out how we ended up in this place, in terms of the evolution of law, where we imprison so many black men, and thinking that somehow through that investigation I would get this tale of history. At any rate, I came upon a reference to this case, which is called Moore vs. Dempsey, as being the foundation for the modern criminal justice system. Once you start investigating the case, you learn about this riot, or perhaps it was a massacre, with historians saying they weren’t sure that it had happened. It’s still unclear. And once I started investigating it, I could see that there was an incredible case to be told. It becomes a way to understand these laws and curbs in American society—everything from the evolution of law to the application of the Bill of Rights to the states. One of the things we all think is that the Bill of Rights applied to
the states was a federally guaranteed right from the beginning. We find out that’s not so. There was no federal guarantee of the right to a fair trial. That actually comes out of this case.

So there was this mystery to be learned about. What did happen there? As Lawrence was saying, characters obviously can bring the story to life. Scipio Africanus is such an incredible character. He was born a slave in 1863. His father was a planter. His mother was a slave, and they were fleeing the Union forces. So they flee. They come back after the Civil War ends. He was actually raised by common sharecroppers. They were illiterate. Scipio was the only one in his family in the 1870 census who was literate; all his brothers and sisters are illiterate, his parents are illiterate. But there’s one person who can read. So Scipio is not part of the educated black class that came out of the Reconstruction era. At around 18 years of age he goes to New York to make his fortune. And literally he educates himself, he gets a high school degree, he gets a college degree at Shorter College. And then he applies to the University of Arkansas to be a lawyer. They say forget it. And then he says, well, let me be a janitor. They say no, because you’ll try to study. So he finally gets to study with some white attorneys, and what you see in the character of Scipio Africanus Jones is this fight for justice that stretches so long. He gets his legal license in 1889. Jim Crow laws start coming in 1891 and he starts fighting them right away. He’s fighting for the right of blacks to vote, the right of blacks to be on juries, the right of blacks to be in primaries.

So often we think of the civil rights movement as sort of flourishing in 1965, but we see, with Scipio, that there is this long stretch of fighting for rights long before. And one of the things that Scipio does is that he takes over this case where there are 12 men condemned to die. What happens is this: There is a massive arrest of sharecroppers. They round up all the blacks in the area, 700 of them, and they cram them into a schoolhouse. And then the planters call them, basically in this way: If anybody is a member of the union they imprison them, and anybody that is not gets a stay-out-of-jail card. And so 300 are imprisoned, roughly 125 are indicted for conspiring to murder the planters. The trials are held; they’re farcical trials. And then Scipio comes to appeal the verdicts, and it’s absolutely hopeless. And the reason it’s so hopeless is, again, because the Constitution says that states have jurisdiction over most criminal trials. Arkansas has the jurisdiction; the federal government does not have much authority to intercede. Scipio actually loses on his first time before the Supreme Court. Then he comes back to court, on the very last day before the men are to be executed, and raises the habeas corpus argument, saying that because the trials were so unfair, and because the trials were dominated by a mob—the state lost jurisdiction. And that argument, that the feds could yank jurisdiction from the state, is really the precedent that allows for the start of federal intervention in state trials. It’s a novel argument and it’s really the first time it’s used successfully.

KEILLOR: There’s a level of violence in this story that—maybe I’ve led a sheltered life—but I had never known that people had been burned at the stake publicly with the full complicity of sheriffs and advertised in papers—it’s beyond anything I’ve ever heard of.

WHITAKER: One of the things that you do find in this story is a level of white violence, unchecked, that is truly astonishing. Like you, I had never read about

"There was one lynching in particular that kicked off the summer of fighting. . . . The town agrees to burn him alive at the stake at five o’clock. . . . Reporters actually go and interview the governor and say, Are you going to stop this? The governor says no, because the burning’s going to be done in a respectful way."

—Robert Whitaker

Twelve Condemned to Die

Authors Guild Bulletin 25 Summer 2007
this. So, for example, 1919 is really a horrible year for the United States. What happens is that as the United States gets ready to enter World War I, basically a promise is made to blacks. If you participate in the war—remember, this is a war to “make the world safe for democracy”—we’ll guarantee you full citizenship. We’ll be a fairer and a more just society, Teddy Roosevelt says. Woodrow Wilson says you’ll get full citizenship as well. So blacks go off, and blacks are fighting with French people and fight very heroically. Blacks are fighting under Americans and don’t do so well, but basically it’s because the commanders don’t want them to do so well. Anyway, black soldiers come back to the United States and they come back thinking that it’s time to get their due. But what happens is, in the South, they are told it’s going to be as it was—as you

“\textit{I always think of a great character being like a donkey that you can load up with all this material... a lot of times, you know, people don’t want to read about Al Qaeda, they don’t want to read about slavery, they don’t want to read about oppression in the South, but if you have a great character you’re hooked. You really want to know how it turns out.”}  
—Lawrence Wright

were, they were told. Forget about equality. But blacks are no longer willing to have that. And you start to have more lynchings. There was one lynching in particular that kicked off the summer of fighting. It happens in Mississippi. It’s a sharecropper who has killed his plantation owner in a fight. And so a posse goes out. They wound this man, John Hartfield, and they bring him back. And they agree, the town agrees, to burn him alive at the stake at five o’clock. They actually take him to the doctor to sew up his wound so he can be burned alive. You can see the papers announcing that the burning will take place at five o’clock. Reporters actually go and interview the governor and say, Are you going to stop this? The governor says no, because the burning’s going to be done in a respectful way, it’s going to be done within boundaries, there’s going to be a minister there and we’re going to keep the mob within bounds.

There were a number of these burnings in 1919—10 men were burned alive in these sort of public spectacles. It is a level of violence that is truly shocking. It certainly was to me. When you read the papers, it is sometimes difficult emotionally to confront such violence. And what that triggered was a summer of racial fighting. There was fighting in 25 cities in 1919—Washington, D.C., Chicago. And it comes up to this moment, in September of 1919, with blacks saying it is time to fight. You can see this sentiment in a famous poem called \textit{If We Must Die} by Claude McKay. He says, well then, let’s die if we have to. So blacks start arm-ing in the South because they’re just not getting any protection from the police, from the federal government, etc. And by September, if you read The Crisis [The Journal of the National Association for the Advancement of Colored People], they say it’s time to fight. Things just can’t go on any longer like this.

The sort of fever that existed in the country in September 1919 is unbelievable because you’ve got this racial clash, and you’ve got this fear that “the Reds are coming.” The whites with their investigations are now spying on the blacks. And rather than look to why blacks have reason to complain, the thought among whites is always, blacks are being riled up by unions, by socialists, by communists; they’re Reds, they’re enemies of the state. And by September 28, the feverishness is such that in Omaha, where a lot of blacks are jailed, a mob gathers, and when the mayor tries to stop them, they actually hang him up, although he is cut down before he dies. The country has reached this absolutely horrendous state, and that’s when this event happens.

The sharecroppers had a meeting. All they want to do is hire an attorney to represent them when they settle their accounts with the plantation owners that fall. They want an attorney to see that they get their fair share. They’re going to be hiring an attorney who happens to have a long history with the planters as a former federal prosecutor. Anyway, they come to their meeting in the church, and then the planters and law enforcement officers shoot up the church. Over the next couple days there is a level of white violence that is unbelievable. One of the things that I’ve done is map out the time and space where it happened. Basically, the killings took place in three waves. First, there were local posses from the county seat. They were somewhat constrained in their killing. Then there was a second group from Mississippi, and posses from neighboring counties. They started killing willy-nilly, women and children. I came upon a sort of embedded reporter
from the Memphis Press, who describes how he’s riding with a posse, and by the time he gets to the scene, there’s just dead bodies. Then the military comes, ostensibly to restore peace, and they add to the violence.

**KEILLOR:** Don’t give away the whole book here. Don’t give away the whole thing.

**WHITAKER:** OK. Trust me, the military was involved. It was a terrible thing.

**KEILLOR:** Let me ask one question and then I’m going to turn it over to the hard questioning from the audience. Just toss this out for anybody here. Here’s a roomful of people and every other person—you know who you are—is working on a book, thinking about it, sort of cooking it up. Somebody has a germ of an idea that’s sort of incubating here, especially after they see prizes given out for these things. What’s your advice?

**CAMPBELL:** Keep your day job. No, seriously, I do have one thought. To write, you have to get to a very deep place. We live in a society that makes it almost impossible to get to that place. Your phone rings, you have e-mail, you have a letter of recommendation that you have to do, a 1001 things. The image that comes to my mind when I think about my own writing process is of a vulture coming down on a carcass. It takes a long, long time for that vulture to finally settle and even longer for him to sort of get his neck stuck in there so he’s actually doing some work. And if something comes along and sort of spooks him, it’s at least another couple of hours before he gets back. And so I think you actually have to try to turn off all this other stuff so you can stay in that place where you are actually writing. And that’s a very hard thing to do in this media-saturated world in which we live.

**KEILLOR:** I’m going to give you just one word of advice, Professor Campbell. Just one word of advice. That word of advice is “Kansas.” There are towns in Kansas where you can get houses for unbelievably low amounts and where you will not be interrupted.

**WRIGHT:** One thing I note in all three of our books is that characters play a big role in telling the story. I think that there are many different kinds of books. There are books that have characters whose stories can carry a reader through some very difficult terrain. And I always think of a great character being like a donkey that you can load up with all this material because a lot of times, you know, people don’t want to read about Al Qaeda, they don’t want to read about slavery, they don’t want to read about oppression in the South, but if you have a great character you’re hooked. You really want to know how it turns out. So when I’m in the process of starting a new project, I’m always on the lookout for somebody whose personal story can take the reader inside that big room.

**KEILLOR:** But they know how your book comes out. They’re pulling for those people at the Alec Station, the little CIA unit that has Al Qaeda in their sights, but they know that it’s going to fall tomorrow.

**WRIGHT:** There are some books where you don’t know the ending, and then there are some where you know that Niagara is at the end of the river. And that provides its own propulsion. So you just trust that the reader knows where this is going. I know that the reader knows soon after I introduce John O’Neil that he’s a dead man because he doesn’t speak. There are other characters in there that I’ve spoken to, and I can’t fake that. So there’s a sense of mortality around it. I always find that when you have a character who’s going to die, that the reader’s going to forgive nearly anything. You can portray him with all his warts—and of course he can’t sue you. That’s a fine quality about a dead person. But you know that his tragedy is going to cover the whole range of sins and misdeeds that he may have committed. If he’s died in some noble fashion, then you can get away with so much. That’s one of the real secrets that I’ve learned in the movie trade, you know; you can have repulsive people who do terrible things, but if they die nobly then they’ve got a lot of latitude. You’ve got to keep your eye out for people like that.

**WHITAKER:** Just one quick thing and this goes to characters. People read books emotionally and intel-

---

**Lukas Prizes**

The Lukas prizes took shape in 1997 when J. Anthony Lukas’s widow, Linda Healey, sought advice from their close friend at The New York Times, Arthur Gelb, on how to establish a program that would honor and perpetuate Lukas’s commitment to narrative nonfiction. Gelb brought in as co-administrators Columbia’s Graduate School of Journalism and Harvard’s Nieman Foundation, where Lukas had been a fellow and spoke frequently, as he did at Columbia. Healey and Gelb then brought together a founding committee—Alan Brinkley, Ellen Chesler, Vartan Gregorian, Bill Kovach, Nicholas Lemann, Kati Marton and Brent Staples—who helped define the awards and the symposia. More about the Lukas Prize Project and how to apply for an award can be found at: www.Lukasprize.org.
lectually. So if you can, tap into both of those factors, emotionally engage the reader, give people someone to root for, or at least so that they’re emotionally engaged with the characters. I think sometimes books that really work at that emotional component, as opposed to just the intellectual component, are the ones that are most attractive to readers.

KEILLOR: Let’s get questions from this distinguished audience.

Q: When writing about a big subject, how do you decide what to include and what to leave out?

WRIGHT: I think your own level of interest is a really good key to navigating through the mound of research. I use note cards, which is, you know, a really retro ’60s graduate student sort of thing. But just labeling the note cards, you know, Bin Laden Sex, for instance—that’s an obvious one. You begin to intuitively think, as you’re going through all this material, well, that’s interesting. But other things you’re not noting. So it’s mainly, Well what interests me? And if it doesn’t interest you, it’s going to be harder to entice a reader for it, and then why do it?

Q: Have any of you ever started a book and then decided it wasn’t worth it?

WRIGHT: I’ve walked away from a book before. [To James Campbell] Have you?

CAMPBELL: No. I take too long.

WRIGHT: I withdrew one twice. I wasn’t happy with it.

Q: What was it?

WRIGHT: It was about the end of the Cold War. It was an OK thing, but it wasn’t great and I wasn’t that proud of it, so on balance I thought I’ll just—. It’s listed on Amazon as hard to find. I’ll say.

Q: [Directed to Robert Whitaker.] Do you find that there was a failure of leadership, of moral leadership on the part of Woodrow Wilson?

WHITAKER: Well, Woodrow Wilson was president while this was going on. He was the one who made the promises. And remember, he was the one who came up with “making the world safe for democracy.” If you follow what’s happening in the black press at the time, they said, OK, as we move towards the goal we’ll put aside our differences. And the promise was made: If you participate in this war, we’ll have to give you your rights. And then you know, the soldiers come back and nothing’s done. These lynchings happen and nothing’s done. One of the most horrific things is just how cold it is. The Attorney General at this time is A. Mitchell Palmer, and if you go into the archives, you’ll see these letters begging the federal government to intervene in these messes. Please stop. And these cold replies: Sorry, we can’t. And then Palmer cites a U.S. Supreme Court decision. But there’s no real engagement. I mean the betrayal at the higher levels is sometimes hard to understand.

I don’t know if you’ve all seen this movie, The Birth of a Nation, which is an incredible film. Woodrow Wilson watches it, the Cabinet, the Supreme Court justices watch it. It’s a story about the Ku Klux Klan redeeming the nation; they’re the heroes. And Wilson sees it and says, Yeah, this is history. This is the way it was.

CAMPBELL: It was the first film ever screened in the White House to the president, Cabinet and Supreme Court justices.

WHITAKER: It’s hard to understand the depth of the oppression sometimes; the depth of lack of responsiveness by people in power.

Q: I have a question for all three authors. How important was it to visit the places you were all writing about?

WRIGHT: I don’t think you can write competently or originally about a subject unless you’ve been there in some ways. I guess there is an academic tradition of doing that, but it takes a different approach; it’s at a distance. But if you’re not writing history, you’re writing about something that’s really happening, and you have the opportunity to immerse yourself in it, you have to go. I think it’s vital.

CAMPBELL: I think great writing almost always evokes a sense of place. So knowing a place is really critical. When you go to a place, you see things—that there’s an ice cream store across the street from the courthouse or whatever it might be. You see juxtapositions, and you see connections and contexts that you wouldn’t see otherwise. And this enriches your view. Now, having said that, there are parts of my book that are about places that I haven’t been. But I’ve been to a lot of them and I think it’s crucial.

WHITAKER: I was trying to recreate 1919. So one of the things that helped me was getting maps of the place, street maps, county maps of the time. Obviously I visited it today, but you can see something of what it was like then.

Q: How much had it changed since 1919?

WHITAKER: The terrain has changed quite a bit of course, because back then it was a lot of swampland, woods. I went to both Hoop Spur and to a little town called Elaine, and I walked around that town. I figured out exactly where different roads were, and walked
that. The railroad was still there. So yes, I tried to see as much as possible of how it is today and then tried to figure out how it was back in 1919. I wanted to know things exactly, like, OK, one mile north of Elaine is where military troops go when they surround blacks in the woods.

Q: Are you shocked by the acts that were committed or are you shocked because they’re committed in this country?

WHITAKER: You know, the history that is told us is sort of a mythical history. And the mythical history is that we have this great founding moment, with the Bill of Rights, and we have this problem with slavery but still there’s this sense of freedom. And it’s partly a myth. What happens when you come to this moment in our history is you see that it’s a predictable end and it’s striking in the sense that the degree of hatred is shocking. For we know that human beings can be pretty awful. And tribal identifications lead to awful things and we see that that’s part of it. But I think what was most shocking to me was that by the time I got to what happened it seemed almost inevitable. In other words, once the blacks start unionizing and once they start challenging white authority, and given how things were done and that there was this history of white violence, it’s no longer so surprising that the massacre happens. Does that make sense? In other words, once you understand what led up to this fact, it seemed like there was a long path to this moment, in which white violence went unchecked by default.

Q: Wasn’t there a change in the Constitution after the Civil War that allowed for federal protection of basic rights?

WHITAKER: Yes, that’s right. There’s a second constitution that happens with the 14th Amendment. That’s the moment when the United States Constitution switches from being a pro-slavery document to a pro-freedom document. That’s the moment where we said the federal government is going to protect basic rights. And then you see the Supreme Court kneecap the 14th Amendment. And you see the absolute betrayal of those values by the nation’s leaders, and this white violence that goes unchecked. Remember the Ku Klux Klan is what “redeems” the South. I mean that’s what leads to the end of Reconstruction. And to see that white violence as such an everyday element for so long, unchecked by the federal government and tolerated is unbelievable. As Garrison said, they would advertise burnings in the paper, and people would go and watch people be burned alive, go watch people be mutilated. So what’s shocking was not finally what happened in Arkansas, but that there’s this long string of incredible, incredible sadistic violence, tolerated by authorities. No intervention. Congress does not pass an anti-lynching law. And just how deep that was in America’s soul. So that was the shock. Does that answer your question?

Q: How do you deal with contradictory information when you are working on a book? When you try to process a broader story, you may have a primary source, a document, but then you look at another source that says another thing. How do you correlate the two to say, This is it? Or do you just kind of mention that there is another source that says something else.

KEILLOR: A contradiction I remember being mentioned in Mr. Whitaker’s account was that there were black and white variations of these massacres.

WHITAKER: For me, the central challenge of the book was this sense that there was a white narrative and a black narrative, and they couldn’t be reconciled. But what I found is that by digging deep enough, the two narratives could be reconciled — through documents basically. The way you can finally reconcile the two was finding the time and the place of events and discovering that they were often describing the same thing but with different points of view. Once you actually understood what the action was, it could be done. For example, at one point there are these blacks who are hiding in this ditch. And the question is, are they firing back at the whites or not? If you get enough sources, you find out what’s happening is that there are white posses on each side of the ditch; they’re firing away, shooting across the ditch at each other. There are white sources that document this. So finally, with enough research, the white and black versions actually merged in terms of the basic facts.

WRIGHT: I found I was interviewing terrorists and intelligence agents, so they were all at odds with each other. It was a struggle as a journalist and a historian to evaluate the truth, with people who were in many cases professional liars. But journalists run into this all the time. Reporters get lied to daily, and the rules of journalism are there to protect you against that. You talk to everybody, you look at all the documents, and then if Jim tells me one thing and Garrison tells me something else that contradicts it, I go back to Jim. I say, Garrison said this. And they get a chance to correct the record and so on. Or I find a document that sheds some light on it. But it’s a sifting process. And it’s very laborious because the truth doesn’t all pour out of one mouth.

KEILLOR: We congratulate these fine writers. Congratulations all around.
Along Publishers Row

Continued from page 2

Michael Moore promoting his movie Sicko.

Just the fact that McCarthy had submitted to this TV interview (“his first ever!” Winfrey kept saying) overshadowed anything said. The soft-spoken writer, 73, wore a new blue shirt and slumped in a big chair opposite the show business powerhouse. Winfrey hyped The Road as “a story of survival, a warning, a fable, a love story.”

McCarthy looked embarrassed. About writing, he said that he never wanted someone telling him what to do. “I always knew I didn’t want to work. I like what I do. It’s sometimes difficult. You have to take it seriously.” When Winfrey asked if The Road was a love letter to his eight-year-old son, he said that he didn’t know where a book came from. Winfrey ask why, after having had three wives, he wrote so little about women. McCarthy explained, “Women are tough.”

LESSON: Jennifer Brice is an assistant professor of English at Colgate and author of The Last Settlers about homesteaders in Alaska. She teaches creative nonfiction writing, and a memoir, Unlearning to Fly, is due out in the fall.

In an article for The Colgate Scene, the college alumni magazine, Brice wrote, “To be a nonfiction writer is never to let a story get in the way of good facts.”

TREES: A New Yorker cartoon by Robert Leighton showed two men in a forest looking at a tower made of stacked hardcover books. One of the men says, “We used your unsold copies to build a tree, but it’s not the same.”

BUBBLES TO START: John Mortimer, author of the Rumpole series and other novels and plays, told The New York Times, “Before I begin writing, I have a glass of Champagne. It sets my brain racing . . .” On his desk he has “statuettes: Shakespeare, Freud, Oscar Wilde, Moses, Don Quixote and a bouncy Jesus on springs.”

Mortimer’s favorite book is Charles Dickens’s Bleak House. Mortimer owns a letter written by Dickens to a writer who complained that Dickens had lost his manuscript. Dickens’s reply: “Really, I am far too busy to worry about people’s manuscripts. Please keep quiet.”

DIGITAL NERVES: Last year at BookExpo, John Updike stirred up things with a warning about the digital future. This year, at the annual meeting in New York, Google and Microsoft were very much on hand along with 35,000 publishers, booksellers, authors, agents and librarians.

The New York Times reported that “Vendors offering to digitize books proliferated,” and the industry “continued to grapple with its evolving techno-future with a mixture of enthusiasm, anxiety and a whiff of desperation.”

Eamon Dolan, editor of Houghton Mifflin, told The Times, “There is a huge undertaking ahead. It’s going to be rocky.”

ROCK ON: Also on hand at this year’s BookExpo was the Rock Bottom Remainders, a group of writers who like to rock together. The outfit includes Amy Tan, Stephen King, Scott Turow, Ridley Pearson and Dave Barry. Roy Blount Jr. is a founding member. Near the end of their performance Mitch Albom did an Elvis impersonation.

After their appearance, as they were packing up, King told The New York Times, “You never know for certain, but I’m pretty sure we never sounded better.”

The headline on the article: “Rock On, But Hang On To Your Literary Gigs.”

THE PROBLEM: Gregory Maguire is the author of Wicked, a novel that became a Broadway hit musical. After writing 10 books for children, Wicked was Maguire’s first novel for adults. PW said that it has sold more than three million copies.

Maguire’s mother died when he was born, and he said, “there’s almost no central character in any of my twenty-four books who doesn’t have a dead mother or a lost parent.” He explained: “I can’t seem to start a novel unless the character doesn’t have a mother. If the mother is still alive, if the mother was there—what’s the problem? There’s nothing to write about.”

NEW PRESS: Tina McEnroy Ansa, a novelist, has become publisher of DownSouth Press. She told PW that she is committed to serious contemporary African-American authors. She believes that serious literature is being neglected to publish popular writing like street or urban fiction. She said, “I want DownSouth Press to be a haven that values authors’ great story telling and beautiful writing.”

The press, located in St. Simons Island, Ga., will consider agented manuscripts after July 1.

AT HARPER’S: Jennifer Szalai is senior editor in charge of book reviews at Harper’s magazine. A talk she made about her job was shown on C-Span’s BookTV. She began by mentioning that newspapers were cutting down their book reviews at a time when there were more books published than ever before—about 20,000 a year was her estimate. A superstore these days can carry as many as 150,000 titles.

Szalai said she believes that a review of a book should be a form of storytelling. We read a novel “to find
out what will happen to this character. In nonfiction, we read to find out what will happen to this idea."

She noted that publishers and their publicists were aware that a scandal could sell more books than any review.

BLUNT: Flannery O'Connor's short stories are often described as gothic, grotesque, melodramatic, powerful and shocking. She knew what she was doing and explained, "I am interested in making a good case for distortion, as I am coming to believe it is the only way to make people see."

Another time she said, "I can't write about anything subtle. You have to be able to dominate the existence you characterize. That is why I write about people who are more or less primitive." She didn't count on a reader's imagination. She wrote, "With the hard of hearing you have to shout, and for the blind you draw in large and startling pictures."

WINNERS: Terry Shaw, 44, won $5,000 for The Way Life Should Be, a mystery novel set in Maine. The contest, "First Chapters," was sponsored by Gather.com, Borders and Simon & Schuster.

No runner-up prize was planned, but Geoffrey Edwards, 30, was given $2,500 for Fire Bell in the Night, a thriller set in the old South. Both books will be published in the fall. There were 2,600 manuscripts submitted in the competition.

WARNING: "As more and more museums and archives become digital domains, and as electronic resources become the main tool for gathering information, items left behind in nondigital form, scholars and archivists say, are in danger of disappearing from the collective cultural memory, potentially leaving our historical fabric riddled with holes."

That warning appeared in the business pages of The New York Times. The article added: "At the Library of Congress, for example, despite continuing an ambitious digitization effort, perhaps only 10 percent of the 132 million objects held will be digitized in the foreseeable future. Scanning alone on smaller items ranges from $6 to $9 for a 35-millimeter slide, to $7 to $11 a page for presidential papers, to $12 to $25 for poster-size pieces."

When it comes to recent material, there are copyright restrictions. Composer Leonard Bernstein's papers were donated to the Library of Congress and more than a thousand items have been digitized and placed on the library's website. There is much more material but, because of volume and copyright concerns, it is available only to researchers who go to the library. An example is a seven-page letter that Jacqueline Kennedy wrote to Bernstein at four a.m., the day after Robert F. Kennedy's funeral, thanking the composer for conducting Mahler's Requiem at the ceremony. The library would have to have permission from Mrs. Onassis's estate to digitize her letter.

AMEN: Antonio Machado once wrote, "The unpublished manuscript is like an unconfessed sin and festers in the soul, corrupting and contaminating it."

LONG CAREER: Guild member E. James Lieberman wanted other members to know about Philip Freund, 98, a novelist, playwright, critic, poet, anthologist and historian.

Freund is professor emeritus of communication arts at Fordham University. He is the author of more than 40 books—novels, plays, essays, criticism and eight volumes of short stories. These include Myths of Creation (1964), The Art of Reading the Novel (1965) and a trilogy entitled The Volcano God (1956–1959).

Freund also spent 30 years working on a history of the theater that is now 600 pages. "I kept writing without any expectation of seeing it in print," Freund told Lieberman. The Volcano God was turned down by 52 publishers before W. H. Allen took it. Freund said, "The most important quality of a writer is not talent but persistence."

BEACH BOOK: Hilma Wolitzer's new novel is not a book for all seasons. The title is Summer Reading, and it is about a book club, called the Page Turners, in Amagansett.


Jamie Brickhouse, head of the HarperCollins program, told The New York Times, "It's a way for authors to continue to raise their profiles and reach new audiences. It's great for the frontlist and for the backlist, and has brought new life to authors who don't have an ongoing book push."

If a group cannot afford the standard fee ($5,000 to $7,000), publishers sometimes offer a discount based on a guarantee of a certain number of book sales.

Then there are stars like Anna Quindlen, who is handled by the Royce Carlton lecture agency. She gets $35,000 per talk.

FREE RIGHTS: Jonathan Lethem's new novel is You Don't Love Me Yet. He plans to give away the film option to the book because, he said on his website, he had "become fitful about some of the ways art is commodified."

The New York Times said Lethem planned to select a filmmaker who agreed that 2 percent of the
budget would be paid to him when the film gets a distribution deal, and that the ancillary rights to the film would be released five years after its premiere so that they can enter the public domain.

CREATOR: “I created a cosmos of my own,” William Faulkner once told The Paris Review, describing his novels. “I can move these people around like God, not only in space but in time.

“I like to think of the world I created as being a kind of keystone to the universe; that, small as that keystone is, if it were ever taken away the universe itself would collapse. My last book will be the Doomsday Book, the Golden Book, of Yoknapatawpha County. Then I shall break the pencil and I’ll have to stop.”

REPORT: In 2006, publishers sold 3.1 billion books, up .5 % from the 3.09 billion sold in 2005. Because of higher retail prices, revenue climbed from $34.6 billion to $35.7 billion, an increase of 3.2 %.

It was considered a lackluster year because there was no new Harry Potter or Dan Brown blockbuster.

Religious books were strongest, up 3.1% from the previous year. Sales of Bibles, testaments, hymnals and prayer books were down, but there were hot titles like Rick Warren’s The Purpose Driven Life and Your Best Life Now by Joel Osteen that more than made up for the slide.

CONVERSATIONALIST: Mohsin Hamid is a Pakistani novelist. His The Reluctant Fundamentalist took the No. 1 spot on the bestseller list almost on publication.

Hamid told The New York Times, “The novel is not supposed to have a correct answer. It’s a mirror. It really is just a conversation, and different people will read it in different ways. ... Camus taught me how to have a conversation that implicates the reader.”

Hamid is a graduate of Princeton. “I was one of two or three Pakistanis in the class of ’93, and I didn’t feel homesick for a second. I took two writing workshops with Joyce Carol Oates, and I wrote the first draft of my first novel in a long-fiction workshop with Toni Morrison, both of whom encouraged me. ...”

BOOKISH: Tracy Chevalier’s new bestseller is Burning Bright. In an interview in London’s Independent, she described her childhood: “I was not particularly sporty or active. I was quite fat. I used to lie on my bed and read. Also my mother was sick. When I was three she got a heart condition. She died when I was eight. It was in the 1960s, and there was no counseling or helping kids cope. ... Reading was a kind of refuge.”

MOVING ON: Joan Didion, 72, was interviewed for the AARP magazine just before the theatrical version of her best-selling memoir, The Year of Magical Thinking, opened on Broadway.

Asked how she could have written a book after the sudden death of her husband, John Gregory Dunne, Didion said, “I never quite know what people mean when they talk about being strong. I mean, you don’t have an option. I felt some responsibility to Quintana [her daughter, who also died, after a long illness] and to John to not let myself go. What’s the choice?”

The interviewer, Mark Matousek, wrote, “Didion wrote the memoir with unprecedented speed—88 days from start to finish—deliberately leaving the manuscript ‘raw’ as she traveled back through the loops and tangles of her fractured thinking.”

Didion said, “The only way I get things is by writing them down.”

IRREVERENT: Ann Lamott is author of the best-selling Grace (Eventually). She said on PBS-TV’s Religion & Ethics NewsWeekly: “Evangelical Christians and I can sit down and talk one on one about how much we love Jesus, and yet I’m not carried in Christian bookstores. You know, a typical Christian bookstore would not carry Traveling Mercies, Plan B or Grace (Eventually), because I’m irreverent. I have a very dark sense of humor. I swear. I have a very playful relationship with Jesus.”

HE LOVED NY: Poet W. H. Auden once told a friend, “I adore New York as it is the only city in which I can live and work quietly.” The British poet spent about half of his 66 years in the U.S. New York helped celebrate the 100th year of his birth by posting one of his poems on Manhattan’s subways and buses.

The Poetry Society of America and the Metropolitan Transportation Authority selected the last verse of “O Tell Me the Truth About Love.” The New York Times quoted it:

When it comes, will it come without warning Just as I’m picking my nose? Will it knock on my door in the morning Or tread in the bus on my toes? Will it come like a change in the weather? Will its greeting be courteous or rough? Will it alter my life altogether? O tell me the truth about love.

WITH A CUPPA: Starbucks, the coffee shop chain, went into the bookselling business with Mitch Albom’s novel For One More Day. They sold 92,000 copies in three months.

Their second choice, A Long Way Gone: Memoirs of a Boy Soldier by Ishmael Beah, sold 62,000 copies in its first three weeks.
STAMPED: Henry Wadsworth Longfellow's 200th birthday was celebrated on a postage stamp. Behind a portrait of the bearded poet is Paul Revere on horseback and Boston's North Church.

MEDICAL ASSAULT: Once upon a time, doctors who wanted to write—Anton Chekhov, Somerset Maugham, Walker Percy and many more—turned to fiction. Now doctors who suffer from author-itch gaze into their own navels and write about doctoring.

The New York Times reported, "The last six months alone have seen the publication of a half-dozen volumes of memoir and opinion by doctors at every stage of professional life." The "strongest voices at the moment" are those of Dr. Jerome Groopman (How Doctors Think) and Dr. Atul Gawande (Better: A Surgeon's Notes on Performance). Both write essays for The New Yorker.

Kathryn Montgomery, professor of literature at Northwestern University, said, "Doctors are storytellers. They spend all day long listening to stories and telling stories."

IN THE BEGINNING: Mary Higgins Clark's books have sold more than 80 million copies, and her Two Little Girls in Blue is a bestseller. On her website she said: "At a writing course at New York University (in the early 1950s), I got this advice from a professor—'Write what you know. Take a dramatic incident you are familiar with and go with it.' I thought of my experience on the last flight from Czechoslovakia before the Iron Curtain went down and gave my imagination free rein. 'Suppose,' I reflected, 'The stewardess finds an 18-year-old member of the Czech underground hiding on the plane as it is about to leave.' The story was called 'Stowaway.' It took six years and 40 rejection slips before I sold it to Extension magazine in 1956 for $100."

SERIES: A series of brief biographies, entitled "Basic Ideas," was announced by Basic Books. The first will be out in the fall.

Subjects include Andy Warhol's soup cans, Alfred Hitchcock's Psycho, Wagner's Ring cycle, Barry Goldwater's Conscience of a Conservative, Betty Friedan's Feminine Mystique and Pete Seeger's "If I Had a Hammer."

THANKS, TWAIN: And the Award for Favorite Book Title of the Month goes to When You Catch an Adjective, Kill It, by Ben Yagoda.

Patricia T. O'Connor reviewed the book for The New York Times and wrote: Yagoda "sticks up for the two parts of speech that authors of writing manuals dump on most: adverbs and adjectives (his title comes from a quote attributed to Mark Twain). Yagoda also defends things that drive wordies crazy, like the adjective 'fun' and the verb phrase 'try and.' He admires the 'salutarily emphatic redundance,' as in 'Raid Kills Bugs Dead,' written by the Beat poet Lew Welch in a stint as an admn.

"While some things bug Yagoda (he despises 'enthus'e, for example), he has a healthy skepticism toward language extremists. The rule-bound sticklers leave no room for change, and the descriptivists are inconsistent: they sneer at Miss Grundy, 'yet in their own writing follow all the traditional rules.'"

KID STUFF: According to Ignazio Silone, "No one can ever write about anything that happened to him after he was twelve years old."

TOURS END? Is the book tour about to be a thing of the past? Powell's Books in Portland, Oreg., has started a series of short films featuring authors. They are to be shown at bookstores, movie-premiere style. The series title is "Out of the Book."

Ian McEwan, author of the new novel On Chesil Beach, was the star of the first film. It runs 23 minutes and features McEwan in an interview and has comments from critics, peers and fans. More than 50 bookstores across the country planned screenings between June 13 and 17.

The New York Times reported, "Such films could eventually take the place of in-store book readings, which attract fewer attendees all the time, many booksellers say."

After the premiere, the film was posted on Powell's website.

SURPRISED: Danielle Ganek is author of Lulu Meets God and Doubts Him, a novel about the art world.

Ganek told PW, "The people in the book-publishing world, at least the people that I've met and experienced, are the nicest people, unbelievably kind. Really, honestly—that part of it was surprising to me. It just seems loaded with smart, fun, cool, literary women—my agent is a woman, my two editors are women, the president of Viking is a woman, all the publicity and marketing people who worked on the book are women. I've really enjoyed that aspect of it."

IMPRINT: New American Library has added an imprint, Obsidian Mysteries. The first title, due out in September, will be a hardcover, Trashed, by Alison Gaylin. The imprint will also publish paperback originals.

PW said senior editor Kristen Weber was in charge.

ROLL THE DICE: What does it take to make a bestseller? Publishers are dependent on bestsellers because an estimated 70 percent of titles fail to earn any money at all. The New York Times concluded that no one knows what makes a bestseller and asked why.

Al Greco, professor of marketing at Fordham University, said, "The Newspaper Association of
America has a staggering amount of data on people who read newspapers. The book business has, basically, nothing. They're not going into the marketplace and doing mail intercepts and asking people, as they leave the bookstore, 'What did you buy? Did you find what you're looking for? What motivated you to choose that book?'

The industry depends for its profits on perennial sellers and on bestsellers, but sure-fire bestsellers by well-known authors cost a lot to acquire and market. The big money is made from books that are surprise bestsellers. *Marley and Me* was bought for $200,000 and sold 2.5 million copies. *The Secret* was bought for less than $250,000 and sold 5.25 million copies.

Bill Thomas, editor in chief of Doubleday Broadway, said, "It's guesswork. Nobody in publishing is smart enough to know which of the big books will be fiascos, which of the little books will be successes and which in the middle might go up or down."

Another editor is quoted: "People think publishing is a business, but it's a casino."

PRICKLY: Novelist Lionel Shriver is an American who has lived in London for the last 20 years. Her latest book is *The Post-Birthday World*. When one of her books won the Orange Prize, she created a stir by declaring that she had wanted to win the prize, open only to novels written by women.

The New York Times said, "Her observation that women—meaning her fellow nominees—are generally 'uncomfortable with naked ambition, trained to have low expectations, embarrassed by head-to-head competition, and virtually obliged to act abashedly when they win,' was seen as embarrassingly direct."

Shriver grew up in North Carolina. She was christened Margaret Ann but renamed herself Lionel.

She told The Times that her provocative comments were "obviously a ploy, but I don't think it's an obligation. I do think I have the reputation increasingly as someone who is insufferably arrogant. I don't want to be, . . ."

"Perhaps, owing to my national- ity, I tend to be more forthright and less apologetic. For Pete's sake, I have been utterly obscure for most of my life. I'm supposed to apologize now?"

ON WRITING: Jonathan Kellerman's best-selling *Obsession* is the 21st Alex Delaware mystery. The author called it "a whodunit, a whodunit and something more: a 'did it even happen?'"

Kellerman was interviewed on CourtTV and said about writing: "I love everything about it: I love research, I love outlining, I love the actual writing, and because of my somewhat perfectionist nature, I even like rewriting. It's an extremely difficult job, very, very hard, but I like that, too, because I hate being bored."

NATURE MAN: John Burroughs is gone and almost forgotten. When he died in 1921, he was one of the best known writers of the time. His work was compared to that of Walt Whitman and Henry Thoreau. He was the author of 23 books, with a few more published after he died, some finished by others. The New York Times said that "he all but invented a form of nature writing—descriptive, lyrical and personal—that is still in vogue today."

The cabin where he wrote is on a 180-acre sanctuary in Ulster County, New York, just west of the Hudson River. Twice a year it is open to the public, in May and October. The grounds and trails are always open.

Two years ago, a visitor wrote in the guest book, "September 11, war, the new millennium and terrorism. And here it still is quiet, perfect, un-touched, a serene paradise. Spring is coming. I can feel it in my bones."

COMING ATTRACTION: According to her publisher, Farrar, Straus & Giroux, the first of three volumes of the late Susan Sontag's journals will be published early next year.

FOR DIALOGUE: In *Conversations with American Writers*, novelist Robert Stone told interviewer Charles Ruas, "I like to write dialogue, so I'm always listening to people talking. But there are some people that you should listen to and there are some people that you should watch, because you're going to learn more about them that way than from what they say."

LIKE FATHER: Heart-Shaped Box, a best-selling novel by Joe Hill (son of Stephen King), has been bought for a movie. Neil Jordan (*The Crying Game*) will adapt and direct.

NEW NAME: Warner Books has been renamed Grand Central Publishing. The company was bought from Time Warner by Hachette Livre of France. In April, the company moved from the Time & Life Building to 237 Park Avenue, just a block from Grand Central Terminal.

Jamie Raab, the publisher, said that the new name conveys the wide range of genres the company publishes. The New York Times reported that the first books to be published with the new imprint will be a novel by David Baldacci, a memoir by Rosie O'Donnell and a graphic novel by Anthony Lappe and Dan Goldman. Last year, Warner Books published nearly 300 titles.

NO DOG: Grand Central Publishing again made news when it paid an advance of $1.25 million for a book currently titled *Dewey, a Small Town, a Library and the World's Most Beloved Cat*. Coauthors are Vicki Myron, head librarian in Spencer, Iowa, and
Bret Witter, a former editorial director at Health Communications, publisher of the Chicken Soup for the Soul books. A cat named Dewey lived at the library and appeared in a documentary film. The 19-year-old pet died last November. Its obit ran in 250 publications.

Karen Kosztolnyik, senior editor at Grand Central, told The New York Times, "You look at Marley & Me and that book has been a publishing phenomenon. I think there are equally as many cat lovers out there. We see this as having that kind of potential."

WALL STREET: Landon Thomas Jr., in an article for the business section of The New York Times, claimed that the newest wave of books about Wall Street is not up to the old standards. He wrote, "Now a crop of books, both fiction and nonfiction, are coming out that aim to capture, if not update, this rich mix of greed, striving, intrigue and vanity."

These included The Last Tycoons by William D. Cohen, Mergers & Acquisitions by Dana Vachon, Wall and Mean by Tom Bernard, Blue Blood & Mutiny by Patricia Beard and You Will Make Money in Your Sleep by Emily White.

What's missing in these books, according to Thomas, "is the sense of human loss and demise that made stories like John O'Hara's From the Terrace, The Embezzler by Louis Auchincloss, Den of Thieves by James B. Stewart and Tom Wolfe's The Bonfire of the Vanities so memorable."

MEMORIAL: Fireman turned writer Larry Brown, who died in 2004 at the age of 53, was celebrated by a concert in Oxford, Miss. The New York Times described him as "a patron saint and friend to alt-country, anthem-folk, hillbilly, banjo-picking, Southern soliloquizing, bourbon-poisoned, frat-boy-followed and/or cop-chased musicians."

Brown was 29 years old when he began writing short stories and sending them to magazines. Finally, in 1982, one was published in a biker magazine. In the late 1980s, Shannon Revenel, an editor at Algonquin Books in North Carolina, found one of his stories in a journal and called him. This, according to The Times, was the "beginning of a long and sometimes contentious relationship."

Revenel returned one manuscript with a note that said, "Start the novel on page 134."

Brown described her, said Revenel, as "a prissy old lady." Once she asked him to cut a particularly raunchy scene. "The cow thing can go," she wrote him. "I don't know when I'm offending people unless you tell me."

KIN: Gore Vidal said that he and William Faulkner met only three or four times, but when they did, "we would talk kin. We would review what had happened to Cousin Addie and what happened after the fire. Southerners make such good novelists; they have so many stories because they have so much family."

NOW A NOVEL: Annie Dillard won a Pulitzer Prize for her nonfiction Pilgrim at Tinker Creek. Now she's produced a novel entitled The Maytrees.

Dillard told PW that the process of writing fiction and nonfiction were much the same. She said, "I gathered a whole bunch of data—I must have had 300 pages of files of historical data on the time and place. Pretty soon, the thing was up to 1,400 pages. But the story wouldn't bear it; it's a simple little story. You can't pile all this stuff on the back of a frail couple. So I cut the first half and wanted to cut it down further and further and further. I'd look at each character: do you have to be here? Are you necessary or optional? If you're optional, then off with your head!"

REPLY: The last of the many books that Leonard Woolf wrote were five autobiographies. Victoria Glendinning describes them in her new biography of the British writer who was the husband of Virginia Woolf.

Glendinning said that because critics complained about the many digressions in his books about himself, Leonard Woolf wrote in the last volume, The Journey Not the Arrival Matters: "Life is not an orderly progression, self-contained like a musical scale or a quadratic equation. If one is to record one's life truthfully, one must aim at getting into the record of it something of the disorderly discontinuity which makes it so absurd, unpredictable, bearable."

HORRORS: Justin Evans is author of A Good and Happy Child. He told PW that he grew up in a West Virginia town very much like the one in his novel.

"Everyone believed in ghosts," he said. Evans's favorite horror tales were Dracula and The Turn of the Screw. "As a kid I had a dark, miserable year, and my parents sent me to a child psychologist, which worked out great, but I took all that unhappiness from that year and packed it into the story."

Evans says he rewrote the end-
ing 15 times over one weekend. “My wife helped me,” he said, “but having read twelve versions of the ending, she woke up screaming in the middle of the night. It had freaked her out, which I found extremely gratifying.”

WHAT’S IN A NAME? Fern Michaels’s best-selling paperback is Hey, Good Looking.

She wrote on her website: “Fern Michaels isn’t a person. I’m not sure she’s an entity either, since an entity is something with separate existence. Fern Michaels is what I DO. Me, Mary Ruth Kuczki, growing up in Hastings, Pennsylvania, I was called Ruth. I became Mary when I entered the business world, where first names were the order of the day. However, I answer to Fern and people are more comfortable with a name they can pronounce.”

Hey, I can pronounce Ruth and Mary and Fern.

PUNCTUATION: The subtitle to Lynne Truss’s Eats, Shoots & Leaves is “The Zero Tolerance Approach to Punctuation.” Despite an endorsement by Frank McCourt (“Oh, to be an English teacher in the Age of Truss”) and the book’s best-selling status, much of the e-mail that I see these days is being produced with a zero approach to punctuation.

There was an old legend among late, lamented (by me) typesetters that went: “Set type as long as you can hold your breath without getting blue in the face. Then put in a comma. When you yawn, put in a semicolon. When you clear your throat, put in a period. When you want to sneeze, that’s time for a paragraph.”

SERMON INSPIRED: Barbara Beasley Murphy of Santa Fe, N.M., is a Guild member and author of Miguel Lost and Found in the Palace. She wrote us that the name of a character in her novel had triggered a letter from Joseph R. Jeter Jr., a professor at TCU in Fort Worth.

The nonfictional Jeter wrote that he had always been called “Joey Jeter” and had discovered that the fictional Joey Jeter in Murphy’s novel was a bully and “not a very nice boy. Could the author have had an old grudge against a Joey Jeter? Against me? I could not remember ever having bullied anyone, but one person’s fun can be another’s painful bullying.” Their paths had never crossed.

Murphy said, “I spoke to him later on the phone, and he sent me the sermon he’d developed from the discovery of his namesake, Joey Jeter Cortez, in my book.”

In an e-mail, Murphy explained that the book’s character was named by his fictional father, a border agent named Cortez (for the Spanish conquistador). Cortez thought that Joey sounded “American.” Jeter came from the baseball star.

HOW TO SURVIVE: Michael Auberry, a 12-year-old Boy Scout who was lost in the North Carolina woods for four days, may have survived because he had read Gary Paulsen’s 1987 novel Hatchet. When Auberry’s father told that to the Associated Press, the book jumped onto the bestseller list.

LOVE LETTERS: The Kennedy Library and Museum in Boston unsealed 30 letters that Ernest Hemingway wrote to Marlene Dietrich from 1949 to 1958. There are also 31 letters from Dietrich to Hemingway in the collection. One of Hemingway’s letters began: “What do you really want to do for a life work? Break everybody’s heart for a dime? You could always break mine for a nickel and I’d bring the nickel.”

The New York Times described the letters as “reflecting their deep, intimate, flirtatious, yet apparently platonic relationship.” Hemingway told a biographer, A. E. Hotchner, “The thing about the kraut and me is that we have been in love since 1934, but we’ve never been to bed. Amazing but true. Victims of unsynchronized passion.” He ended one of his letters by writing, “I can’t say how every time I ever put my arms around you felt that I was home.”

AFTER LIFE: Horror novelist V. C. Andrews died more than 20 years ago, but new titles with her name on them just keep on being published.

When she died, she left two finished novels and 63 synopses for other stories. Her family hired Andrew Neiderman to work as a ghostwriter. His most recent novel is Finding Satan.

Scattered Leaves, the 59th book to be published under the V. C. Andrews name is a bestseller, and PW says that there are more Andrews books to come.

COMPETITION: A subdivision of the current wave of celebrity authors includes the daughters of big-name politicians. Among these are Alexandra Kerry (daughter of the senator and presidential candidate), Doro Bush Koch (daughter of ex-President George H. W. Bush and sister of the current president), Kristin Gore and Kareena Gore Schiff (daughters of the ex-senator and presidential candidate), and Mary Cheney (daughter of the vice president).

The latest entry is Jenna Bush, one of the twin daughters of the current president, who has written Ana’s Story: A Journey of Hope. The New York Times says the book “chronicles the real-life saga of a 17-year-old single mother living with H.I.V. in Panama.”

Kate Jackson, editor in chief of HarperCollins Children’s Books, said that Jenna Bush had set out “to inspire young adults to get involved, in big ways and small ways, with helping children who are less fortunate than them [sic].”
Jonathan Wilcox teaches a course on celebrity and society at the Annenberg School for Communication at the University of Southern California. He told The Times, “By any objective measure, these books would not exist if it weren’t for their parents.”

WINNERS: The British magazine The Bookseller gave the oddest title award of the year to The Stray Shopping Carts of Eastern North America: A Guide to Field Identification by Julian Montague. Runners-up were Tattooed Mountain Women and Spoon Boxes of Dagestan and Better Never to Have Been: The Harm of Coming Into Existence.

The New York Times said that previous winners of this award included: Versailles: The View from Sweden, Green Rural Postmen and Their Cancellation Numbers and Reusing Old Graves.

Why can’t you come up with great titles like those?

FOR THE TROOPS: Actor, writer, comedian and TV personality John Fugelsang has an off-Broadway show he wrote and performed. He said onstage: “I was working on a book I’m self-publishing this summer. It’s a self-help book for the troops about George W. Bush. It’s called He’s Just Not That Into You.”

WHAT THE DICKENS: Now there’s a $15 million theme park in Chatham, England, called Dickens World.

It was described by Reuters as “a dark, dirty, dank London inhabited by thieves, murderers and ghosts.” The Dickens Fellowship, a worldwide association of Charles Dickens fans, was consulted. Ross Hutchins, the manager, said, “If we were Disneyfying Dickens we wouldn’t be talking to people like the Dickens Fellowship to ensure the correct historical facts.” A crowd of 300,000 annual visitors is expected.

In reporting on this theme park, a commentator on National Public Radio gave a nod to Dickens’s A Tale of Two Cities with, “It will be the best of theme parks; it will be the worst of theme parks . . . .”

Late night host Conan O’Brien quipped: “Experts say the Charles Dickens Theme Park is perfect for the family sick of spending every vacation at Jane Austen World.”

BANNED: Mark Mathabane’s 1986 memoir Kaffir Boy, about growing up during apartheid in South Africa, was banned from an intermediate school in Burlingame, Calif., after a parent complained about two paragraphs describing men paying hungry boys for sex. Although the book had been approved by a review committee of parents, teachers, a librarian and a member of the school board, the superintendent ordered the book banned.

Because of a child rape scene, the book is No. 31 on the American Library Association’s list of the 100 most frequently banned or challenged books. The New York Times said that the association includes Kaffir Boy on its list of Outstanding Books for the College Bound.

SUBVERSIVE: Novelist and academic Alison Lurie wrote in her 1990 book Don’t Tell the Adults: “Most of the great works of juvenile literature are subversive in one way or another; they express ideas and emotions not generally approved of or even recognized at the time; they make fun of honored figures and piously held beliefs; and they view social pretenses with clear-eyed directness, remarking—as in Andersen’s famous tale—that the emperor has no clothes.”

IN LONDON: One of the seminars at the London Book Fair in April was titled “The Cult of Celebrity: Commercial Reality and Legal Pitfalls.” The New York Times quoted publisher John Blake as noting that Internet and supermarket sales were making bookshops “sadly irrelevant.”

But Eddie Bell, an agent who specializes in celebrity books, said that such books are “not dumbing down but creating a vast new class of readers.” He added, “The cult of celebrity is throwing a lifeline to publishing.”

SHORT TO LONG: Nathan Englander is the author of a collection of short stories, For the Relief of Unbearable Urges, and a new novel, The Ministry of Special Causes. He told The New York Times, “A novel is not a long short story, and I had to learn how to write one. It was so important to me that my novel not feel like, ‘Oh, look at these linked stories that don’t crumble when you lay them side by side.'”

Asked what kind of fiction he read, Englander said, “I love the Russians—Gogol and Dostoevsky and Chekhov—and I also love Kafka and Camus’s Plague. I love 1984. I love books about people being trapped.”

PUBLICITY: Harlan Coben’s The Woods is another bestseller for him. It’s his 13th book. PW said he’s been published in 35 languages. In his hometown of Ridgewood, N.J., Coben sponsors five baseball and softball teams. The players’ jerseys have printed on them: “Harlan Coben’s Thrillers.”

NO READER: Terry Eagleton was described in The New York Times as a “Dublin-based Marxist literary critic.” He told Deborah Solomon, “I think what’s happened is that the literary critic has turned increasingly into a cultural critic because there are so many crises in our culture. . . . I don’t actually read other peoples’ books. If I want to read a book, I write one myself. I have written more than forty books. . . .”

“I have tried to stop writing. In
fact, I am looking for a ‘contrascriptive’—a tablet you can take that stops you from writing. There’s this organization called Writers Anonymous. They try to get you down from a full-length volume to a poem.’

ODD SHOTS: In her New York Times Book Review column about crime books, Marilyn Stasio wrote: “It’s always interesting to see what genre authors will get up to when they take a break from an established mystery series and write what their publishers designate a ‘stand-alone’ book. P.D. James, the queen bee of the classic British detective story, surprised her readers with a futuristic thriller, The Children of Men. Dennis Lehane wrote Mystic River, a crime novel of such astonishing emotional depth that it put his career on a whole new track. Anne Perry, with three historical mystery series up and running, undertook a Christmas tale so charming that it led to yet another series. Robert B. Parker came out with a cookbook.”

SO THERE: Former TV newsmen Bernard Goldberg’s latest book to make PW’s bestseller list is Crazies to the Left of Me, Wimps to the Right.

He said on his website: “This book is NOT a tribute to the mushy middle. I’ve had it with both sides. . . BUT for very different reasons. One side is nuts and the other side is gutless.” The all-capital words are the author’s.

HOW-TO: Poet Kenneth Koch was quoted in the Columbia College alumni magazine: “One day the Nouns were clustered in the street. An Adjective walked by, with her dark beauty. The Nouns were struck, moved, changed. The next day a Verb drove up and created the sentence.”

TO BLURB: Henry Alford, in an essay for the Times Book Review, wrote about blurring: “Taking words or sentences out of context is one level down, while extracting the sole positive comment from a negative review is at the bottom, if it’s an offense at all. ‘We have a threshold here,’ Richard Nash, the publisher of Soft Skull Press, said, ‘if it’s a B-review or above, we’ll look for the positive. But you can’t take something that’s a C+ or below and pull positive stuff out.’”

A book editor told Alford about a famous writer who was asked to provide a blurb for the debut novel of a friend’s child. Despite the novel’s poor quality, he offered up the pained encomium “A classic first novel.”

“I’ve always thought that was brilliant,” the editor said. “I would have taken that and reduced it to ‘A Classic!’”

London’s The Independent reported that the European Commission has passed legislation that makes it “illegal to advertisers to misquote reviewers by taking a positive word or phrase from a theater review if it gives a misleading sense of the whole review.” How about books?

HOW-TO: Patricia Cornwell’s latest paperback bestseller is At Risk. PW said that the writer has “received thank-you notes from prisoners who claim they have gleaned information from her books that might help them while committing crimes in the future.”

SUCCESS STORY: Johanna Lindsey’s Captive of My Desires is the eighth in her series about a 19th-century English family of “dashing rogues and spirited ladies.” PW said every one of Lindsay’s 43 books has been a bestseller, and more than 60 million copies have been sold.

SHRINKING: The Atlanta Journal-Constitution cut out the job of book editor and gave those duties to an editor in charge of all the paper’s arts coverage. The Los Angeles Times killed its book review section and combined the reduced space devoted to books with the Sunday opinion pages. The San Francisco Chronicle’s book review went from six pages to four. The Dallas Morning News got rid of its full-time book editor and, like more and more newspapers, now depends mostly on wire services and syndicates to provide reviews. The Chicago Tribune has moved its book pages from Sunday to Saturday.

The New York Times said that “literary bloggers argue that they do provide a multiplicity of voices. But some authors distrust those voices. [Novelist Richard] Ford, who has never looked at a literary blog, said he wanted the judgment and filter that he believed a newspaper book editor could provide. ‘News papers, by having institutional backing, have a responsible relationship not only to the publisher but to their readership,’ Mr. Ford said, ‘in a way that some guy sitting in his basement in Terre Haute maybe doesn’t.”

LETTING THEM TALK: Janis Agee is author of The River Wife, a historical novel and her fifth book.

In a PW interview, Agee said, “I tend to write short stories as relief from working on a novel. There are often a lot of extra characters whose voices come up and want to be in the novel. They all want their stories told, so the only thing I can do is write a book of stories with these characters and give them a say about their lives. . . .”

MEMORY: Mark Singer is the author of five books, including Somewhere in America. He talked to Norman Mailer for The New Yorker.

Mailer, now 84 and working on a new novel, said, “For a novelist, you really have to retain a memory of how things felt even if you’re not reporting them directly. My memory
for details of where something took place, when it happened, is very spotty. What I will remember is the emotional tone of a meeting. Facts you can always look up somewhere. If you’re writing a novel, you try to keep the navigator going. If it veers off course, you’re in trouble. **Henry James** used to talk about ‘the keeping up.’ He was referring to **Zola.** I knew exactly what he meant. On a given day, if you take the wrong turn you can lose six months. You try to steer it out of instinct.”

**HANDIWORK:** Sci-fi novelist **Philip K. Dick** died in 1982 at the age of 53. The New York Times called him “a prince of pulp.” More than 30 of his novels are in print, and four of them have been reissued by the Library of America, a major stamp of approval by U.S. literary judges.

Dick is quoted as once having said, “The words come out of my hands, not my brain. I write with my hands.”

**BAD IS GOOD:** **Robert Ellis** began his writing career working for movies and TV. His new novel is *City of Fire,* about an L.A. detective he calls Lena Gamble.

Ellis compared movies and books for PW and said, “Novels are still the closest thing to real experience because we’re inside the character’s head. In *City of Fire* we can see what the main character is doing. But because it’s a book, we also know what she thinks, believes and guesses. Because it’s a book, we can peel layers of experience away until we get to her fears and doubts and know how fast her heart is beating. And I’m not just talking about the hero. How many times have you heard an actor talk about how great it is to play a really bad, bad guy? Let me tell you something. It’s a million times greater writing one.”

**AUDIO:** What do you do if **Oprah Winfrey** invites you to be on her program and talk about your book when your book hasn’t yet been written?

**Mignon Fogarty** immediately recorded an audiobook and had it ready by the time Oprah’s show was shown. After Fogarty’s TV appearance, the audiobook climbed to the top of iTunes’ best-selling books list. The printed book is not scheduled to appear until next year.

The New York Times said, “Because audiobooks are so fast, inexpensive and easy to record, the dynamic seems to be changing, with publishers looking to the audio format to fuel interest in paper books that aren’t quite ready for the printing press.”

Fogarty is the host of a podcast called Grammar Girl. Her hour-long audiobook is entitled *Grammar Girl’s Quick & Dirty Tips to Clean Up Your Writing* and sells for $4.95.

**HIRED HAND:** **Susan Casey** is the author of *The Devil’s Teeth,* a New York Times bestseller. The former creative director at Outside magazine has a contract “for about $1 million,” said The New York Times, for a new book about the science of giant waves and **Laird Hamilton,** a noted surfer. The deal triggered an article because Casey is paying Hamilton to help her get “to the center of oceans where these waves erupt and where surfers try to catch them—an undertaking that often requires helicopters, wave runners and exquisite timing.”

About 18 months from now, when the book comes out, Hamilton will help in the promotion.

**AMBITION:** **Milan Kundera** is the author of *The Unbearable Lightness of Being* and several other books of essays and fiction. His most recent is *The Curtain: An Essay in Seven Parts.* In it he wrote: “The novelist’s ambition is not to do something better than his predecessors but to see what they did not see, say what they did not say. Flaubert’s poetics does not devalue Balzac’s, any more than the discovery of the North Pole renders obsolete the discovery of America.”

**BAD IS GOOD:** **Joe Queenan’s** most recent book is *Queenan Country: A Reluctant Anglophile’s Pilgrimage to the Mother Country.*

He claimed, in an essay for The New York Times Book Review, that he likes bad books “because they keep the brain active. We spend so much time wondering what incredibly dumb thing the author will say a few pages down the road.”

But not all bad books. Queenan said that “famous people tend to write bad books in a predictable, tastefully bad style, or to have run-of-the-mill bad books written for them by bad ghostwriters…” He detests **Jimmy Carter’s** books, and says that *Atlas Shrugged* is one of the worst books ever written and is no fun at all.

Queenan concluded: “Bad movies, bad hairdos, bad relationships and bad Supreme Court rulings merely make me chuckle. Bad books make me laugh. And if they ever stop writing books with lines like ‘Being a leader of the Huns is often a lonely job,’ I want to stop breathing on the spot.”

**WITH DIGRESSIONS:** **Stephen L. Carter** is a law professor at Yale. His first novel, *The Emperor of Ocean Park,* was a bestseller. His new novel is *New England White.*

Carter told PW: “I really like mysteries, not simply for the aspects that make them mysterious, but for the opportunity to take the reader on a journey to places the reader might not have been. My first two novels, set largely in upper-crust African America, have been about an arena that most readers don’t know much about. At the same time that I have fun crafting a thrilling mystery, I also have fun exploring
some themes that are independently interesting and even explore some interesting ideas.”


CLEANS UP: Who knows where one is going to find material for a book? Pete Jordan, 40, found his while washing dishes in restaurants for more than a decade. His book is entitled Dishwasher: One Man’s Quest to Wash Dishes in All 50 States.

Charles McGrath, in The New York Times, wrote that Jordan was “following in the steps of literary plongeurs like Theodore Dreiser and George Orwell, who, recalling his time behind the sink in Paris, once wrote: ‘This washing up was a thoroughly odious job—not hard, but boring and silly beyond words. It is dreadful to think that some people spend their whole decades at such occupations.’”

Jordan and his wife now live in Amsterdam, where they run a bike shop. He’s working on a book about Dutch cycling.

Michelle Howry is a senior editor at Touchstone Fireside.

Jason Pinter is editor at St. Martin’s Press. He will be acquiring commercial thrillers, mysteries, nonfiction and pop culture titles.

Former Putnam executive director Dan Conaway is now a literary agent at Writers House.

Beau Friedlander is editorial director of Abrams Image, an imprint of Harry N. Abrams.

Chrys Howard is senior editor and creative director at Howard Books, an imprint of Simon & Schuster. She will handle gift book acquisitions.

Brigitta Rhein has been promoted from acquisitions editor in history to editor in chief at Princeton University Press.

Emily Griffin is associate editor at Grand Central Publishing.

Liz Scheier is senior editor at Random House’s Del Rey imprint.

*From Publishers Weekly

DEATHS

Lloyd Alexander, 83, died May 17 in Drexel Hill, Pa. He was the author of more than 40 books. He won two National Book Awards and a Newbery Medal. Titles include his first children’s novel, Time Cat (1963), The Prydain Chronicles (a series, 1964–1968), My Love Affair with Music (a memoir, 1960) and The Golden Dream of Carlo Chuchio, due out in August.

Sheila Ballantyne, 70, died May 2 in Berkeley, Calif. She was the author of two novels, Norma Jean, the Termite Queen (1975) and Imaginary Crimes (1982) and a short story collection, Life on Earth (1988).

Edward S. Behr, 81, died May 26 in Paris. The former war correspondent was the author of Hirohito: Behind the Myth (1989), Kiss the Hand You Cannot Bite: The Rise and Fall of the Ceausescus (1991), Bearings (1978), several novels, and a history of Prohibition in the U.S.

Alfred D. Chandler Jr., 88, died May 9 in Cambridge, Mass. The business historian was author of The Visible Hand: The Managerial Revolution in American Business (1977), which won both a Pulitzer and a Bancroft prize. Other titles are Henry Varnum Poor: Business Editor, Analyst and Reformer (1956) and Strategy and Structure (1962).


Charles Einstein, 80, died March 7 in Michigan City, Ind. He was the author of Willie’s Time: Baseball’s Golden Age (1979) and edited four volumes of The Fireside Book of Baseball.

Paul Erdman, 74, died April 23 in Healdsburg, Calif. The economist was regarded as the leading popularizer of financial fiction. His best-known novels were The Billion Dollar Sure Thing (1973), The Crash of ’79 (1977) and The Panic of ’89 (1987).

Reginald H. Fuller, 92, died


Douglas Holmes, 73, died May 23 in Weston, Conn. The social psychologist was coauthor of Handbook of Human Services for Older Persons (1979), The Language of Trust: Dialogue of the Generations (1971) and The Therapeutic Classroom (1974).

Carolyn Hougan, 63, died February 25 in Charlottesville, Va. She was the author of four novels, including The Romeo Flag (1989). Writing with her husband, Jim, as John Case, she was coauthor of six other books, including a 1997 bestseller, The Genesis Code.

Clark Howell, 81, died March 10 in Berkeley, Calif. The professor of anthropology was the author of many scholarly publications and a Time-Life volume, Early Man (1965).


William Meredith, 88, died May 30 in New London, Conn. The Pulitzer Prize-winning poet was author of Love Letter from an Impossible Land (1944), Partial Accounts: New and Selected Poems (1987), Ships and Other Figures (1948), The Open Sea and Other Poems (1958) and Hazard, the Painter (1975). In 1997, a poem collection, Effort at Speech, won a National Book Award.

William Peters, 85, died May 20 in Boulder, Colo. The documentary film producer was author of several books, including The Southern Temper (1959). He was coauthor of For Us, the Living (1967), A Class Divided (1971) and A More Perfect Union (1987).

Richard S. Prather, 85, died February 14 in Sedona, Ariz. The mystery writer was author of Find This Woman (1951), Always Leave 'Em Dying (1954), Joker in the Deck (1964), The Kubla Khan Caper (1966), Gat Heat (1967) and many other novels.

Marian Radke-Yarrow, 89, died May 19 in Bethesda, Md. She was the author of They Learn What They Live: Prejudice in Young Children (1952), Risk and Protective Factors in the Development of Psychopathology (1989) and Children of Depressed Mothers (1998).


Terry Ryan, 60, died May 14 in San Francisco. She was the author of The Prize Winner of Defiance, Ohio: How My Mother Raised 10 Kids on 25 Words or Less (1998).

Elliott Skinner, 82, died April 1 in Washington, D.C. The former ambassador was author of a dozen books, including The Mossi of Upper Volta (1964) and African-Americans and United States Policy Toward Africa 1850–1924 (1992).

Marjabelle Y. Stewart, 82, died March 3 in Kewanee, Ill. Among her many books are Marjabelle Stewart's Book of Modern Table Manners (1981) and Can My Bridesmaids Wear Black? and 325 Other Most Asked Etiquette Questions (1989). She was also coauthor of Executive Etiquette in the New Workplace (1996).

Emily Sunstein, 82, died April 21 in Philadelphia. She was the author of A Different Face: The Life of Mary Wollstonecraft (1973) and Mary Shelley: Romance and Reality (1989).

Eugen Weber, 82, died May 17 in Los Angeles. The historian, teacher and dean at UCLA was the author of more than a dozen books, including Action Francaise: Royalism and Reaction in Twentieth-Century France (1962), Peasants Into Frenchmen: The Modernization of Rural France, 1870–1914 (1976) and Paths to the Present: Aspects of European Thought from Romanticism to Existentialism (1960).
BOOKS BY MEMBERS


Natalie Babbitt: Jack Plank Tells Tales; Beth Baker: Old Age in a New Age: The Promise of Transformative Nursing Homes; Ibistam Barakat: Tasting the Sky: A Palestinian Childhood; Aileen G. Baron: The Gold of Thrace; Dave Barry: Dave Barry's History of the Millennium (So Far); Paul Batista: Death's Witness;

Marion Dane Bauer: Killing Miss Kitty and Other Sins; The Secret of the Painted House; Emily Benedek: Red Sea; Amy Bloom: Away; Joan W. Blos: Letters from the Corrugated Castle: A Novel of Gold Rush California, 1850–1852; Debra Borden: A Little Bit Married; Louise Borden: The John Hancock Club; Kimberly Brubaker Bradley: The Lacemaker and the Princess; Leap of Faith;

Betsy Byars (and Betsy Duffey and Laurie Myers): Dog Diaries: Secret Writings of the WOOF Society;

Meg Cabot: Queen of Babble in the Big City; Pants on Fire; Wayne Caldwell: Catoalochee; Stephanie Calmenson: May I Pet Your Dog?: The How-to-Guide for Kids Meeting Dogs (and Dogs Meeting Kids); Birthday at the Panda Palace; Jan Carr: Greedy Apostrophe: A Cautionary Tale; Betsy Carter: Swim to Me; Mary Higgins Clark: I Heard That Song Before; Steven Cleaver: Saving Erasmus; Andrew Clements: Dogku; No Talking; Amy Cohen: The Late Bloomer's Revolution: A Memoir; Suzanne Collins: Gregor and the Code of Claw: Book Five in the Underland Chronicles; Barbara Coloroso: Extraordinary Evil: Why Genocide Happens; Michael Connely: The Overlook; Cynthia Cotton: Fair Has Nothing to Do with It; Caprice Crane: Forget About It; Doreen Cronin: Bounce; Ronald Culp (and Judy Culp): The Search for Freedom; Ronald Culp: The First Black United States Marines: The Men of Montford Point, 1942–1946; Ron Currie, Jr.: God Is Dead;


Margery Facklam (and Peggy Thomas): New York: The Empire State; Elizabeth Fackler: Lucinda's Summer Vacation; Peggy Moss Fielding: Foxy Statehood Hens: And Murder Most Foul; Charles Fleming (and Howard Dully): My Lobotomy: A Memoir; Susan Fletcher: Dadblamed Union Army Cow; Ronald Florence: Lawrence and Aaronsohn: T. E. Lawrence, Aaron Aaronsohn, and the Seeds of the Arab–Israeli Conflict; Betsy Franco: Summer Beat; Jeffrey Frank: Trudy Hopedale;


Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!

Mary Mackey: The Notorious Mrs. Winston
Kerry Madden: Louisiana’s Song
David Magee: The South Is Round: Contemplations of a 21st Century Redneck
Wendy Markham: Secrets, Lies, and Algebra
Lois Lowry: Gooney the Fabulous
Lois Lowry and Meg Cabot et al.: Shining On: 11 Star Authors’ Illuminating Stories
Lisa Lutz: The Spellman Files
George Ella Lyon: Trucks Roll!
Fellowships

The Christopher Isherwood Foundation is offering annual Fellowships for Fiction Writing to writers who have published at least one book of fiction, including both novels and short story collections, but not young adult novels. The fellowship carries a $3,000 prize, and is meant to allow fiction writers time to set aside for writing. The foundation also offers two scholarly grants of $2,000 each. For detailed application requirements, visit www.isherwoodfoundation.org/application_form.htm or e-mail james@isherwoodfoundation.org. Applications will be accepted between September 1, 2007 and October 1, 2007. James White, Christopher Isherwood Foundation, 1708 21st Ave. South #301, Nashville, TN 37212.

The Dorothy and Lewis B. Cullman Center for Scholars and Writers at the New York Public Library offers 15 fellowships a year to outstanding scholars and writers whose projects require access to the collections at the NYPL’s Humanities and Social Sciences Library. Each fellow receives a $60,000 stipend, an office, a computer, and full access to the library’s physical and electronic resources. The fellowship lasts from September through May. Applications must be received by September 28, 2007; letters of recommendation are due the following Friday, October 5. For information and to download an application, visit www.nypl.org/research/cshss/scholars/fellowship.html. The center also gives up to five fellowships in conjunction with the American Council of Learned Societies. For more information on applying, e-mail grants@acls.org. The Dorothy and Lewis B. Cullman Center, The New York Public Library, Room 225, Fifth Avenue and 42nd Street, New York, NY 10018-2788.

Applications are being accepted for the Alicia Patterson Foundation fellowships. The foundation will award six $35,000 one-year grants to full-time print journalists, including both U.S. citizens and non-U.S. citizens who work full-time for U.S. print publications, either in America or abroad. Full guidelines and application forms are available at www.aliciapatterson.org/APF_Application/APF_Application.html Deadline: October 1, 2007. For more information, visit www.aliciapatterson.org, call (202) 393-5995, or e-mail info@aliciapatterson.org. The Alicia Patterson Foundation, 1730 Pennsylvania Ave N.W., Suite 850, Washington, DC 20006.

The Loft Literary Center in Minneapolis, MN, awards five McKnight Arts Fellowships for Writers each year, including four $25,000 awards for poetry and one $25,000 award for Children’s Literature/Younger Children. Applicants must be residents of Minnesota. Guidelines for the 2008 Fellowships will be available at www.loft.org on October 1, 2007, or can be obtained by sending a self-addressed stamped envelope to McKnight Artist Fellowship for Writers, The Loft Literary Center, Open Book Suite 200, 1011 Washington Ave. S., Minneapolis, MN 55415. Check www.loft.org for deadline to be announced in late summer.

Fifteen Napa Valley wineries will offer fellowships for wine, wine/food, and wine/travel writers to attend the Symposium for Professional Wine Writers, at Meadowood, Napa Valley, CA. Each $1,600 fellowship covers the cost of registration as well as lodging at Meadowood. For a list of last year’s fellows, an entry form and full submission guidelines, visit www.winewriterssymposium.org and click on “Fellowship Opportunities.” Applications will be accepted no earlier than October 2007. Deadline: November 1, 2007. Antonia Allegra, 3085 St. Helena Highway North, St. Helena, CA 94574. (707) 963-0777; antonia@fcs.net.

The University of East Anglia, Norwich, UK, awards the David T.K. Wong Fellowship annually to a writer planning to produce a work of prose fiction, in English, that deals with an aspect of life in the Far East (see website for list of included countries). Applicants may be published or unpublished, and of any age and nationality. The fellow takes up his or her appointment on October 1, and will be a member of the School of Literature and Creative Writing, living at the university for the academic year and taking part in Creative Writing Research Seminars. The stipend for the year is £25,000. Applicants should submit an application form (available online), along with an unpublished piece of fiction of up to 2,500 words, which should be a sample of the project the applicant plans to undertake if selected. The application fee is £10. Visit www1.uea.ac.uk/cm/home/schools/hum/lit/awards/wong for full guidelines, application and payment forms, and a list of previous winners. Deadline: January 31, 2008. The David T.K. Wong Fellowship, School of Literature and Creative Writing, University of East Anglia, Norwich, NR4 7TJ, United Kingdom. dvidtkwongfellowship@uea.ac.uk

Short Fiction Contests

Open City is accepting submissions for its annual short story contest, the RRofihe Trophy award, named after the contest's judge, writer and editor Rick Rofhi.
The winner will receive a $500 cash prize, publication in Open City, and the RRofihe Trophy. Visit www.opencity.org/rrofihe.html or call (212) 625-9048 for application guidelines. Authors must not have been previously published in Open City and can submit just one story. Deadline: September 15, 2007. RRofihe, 341 Lafayette Street, #974, New York, NY 10012.

Every year American Short Fiction, a journal published by Badgerdog Literary Publishing, holds a Short Story Contest. The winner will receive $1,000 and publication. To enter, send an unpublished story of up to 6,000 words and a $20 entry fee, which includes a copy of an upcoming issue of the journal. Enclose a cover letter with the author’s name, address, phone number, and the work’s title; the author’s name should not appear anywhere else. All entries will be considered for publication. For full guidelines, visit www.americanshortfiction.org. Entries are accepted between September 15 and December 1, 2007. Short Fiction Contest, American Short Fiction, PO Box 301209, Austin, TX 78703.

The Baltimore Review, a journal of poetry, fiction and creative nonfiction, is holding a Short Fiction competition for unpublished stories of up to 6,000 words. First place is $500 and publication in the Review, second place is $250, third place is $100. All submissions will be considered for publication. Submit double-spaced manuscripts with author’s name, address, phone number and e-mail address on the first page. Number and staple all pages. Include $20 for each story, or $25 to enter and receive a one-year subscription to the journal. Deadline: December 1, 2007. The Baltimore Review/Short Fiction Competition, PO Box 36418, Towson, MD 21286. baltimorereview.org.

The Ruth Hindman Foundation and the University of Alabama in Huntsville (UAH) sponsor the H.E. Francis Award, a short story competition. Submit three copies of an unpublished manuscript, up to 5,000 words, and $15. (Multiple submissions are allowed; send an additional fee for each submission.) Do not include author’s name on the manuscript; send a cover sheet with the story title, author’s name and address, and word count. Winner will receive a $1,000 cash prize. Deadline: December 31, 2007. Department of English, University of Alabama in Huntsville, Huntsville, AL 35899. www.uah.edu/colleges/liberal/english/whatnewcontest.html.

Highlights Magazine’s annual fiction contest will focus on stories set in the future this year. Three winning stories will win $1,000 and publication in Highlights. All submissions will be considered for publication. To enter, send stories of up to 800 words in length, or up to 500 words for stories for beginning readers, and a self-addressed, stamped envelope. Indicate the word count in the upper right-hand corner of the first page of the manuscript and write “Fiction Contest” on the manuscript or envelope (required). There is no entry fee. Deadline: Between January 1 and January 31, 2008. For more information, visit www.highlights.com and click on “About Us” on the bottom of the homepage. Then click on “Contributor Guidelines.” Highlights for Children, 803 Church Street, Honesdale, PA 18431.

Poetry Contests

The prestigious Hollis Summers Poetry Prize, sponsored by Ohio University Press, will award a cash prize of $1,000 and publication by the press. To enter, send an unpublished manuscript, in its final form, of 60 to 95 pages with the author’s name, address and phone number on the title page. Include acknowledgements on a separate page and a $20 fee. For full submission guidelines, visit www.ohioswallow.com/poetryprize.php. Deadline: October 31, 2007. Hollis Summers Poetry Prize, Ohio University Press, 19 Circle Drive, The Ridges, Athens, OH 45701.

Truman State University Press in Missouri holds an annual T. S. Eliot Prize for poetry. Submit previously unpublished manuscripts of 60–100 pages, in English, with two title pages, one with the manuscript title and author’s contact information (name, address, phone, e-mail), the second with manuscript title only, plus a $25 reading fee for each manuscript. Deadline: October 31, 2007. Visit isup.truman.edu/TSEliotPrize for guidelines and more information about the award. T. S. Eliot Prize for Poetry, Truman State University Press, 100 E. Normal Street, Kirksville, MO 63501-4221.

Perugia Press is offering its annual First or Second Book by a Woman Prize, which awards a cash prize of $1,000 and publication for an unpublished manuscript of poems by a woman who has had one or no books published. Visit www.perugiapress.com/contest.html for contest guidelines. Each submission must include a $22 entry fee. Applications will be accepted between August 1, 2007 and November 15, 2007. Perugia Press Prize, PO Box 60364, Florence, MA 01062. info@perugiapress.com.

The Orphic Prize for Poetry, sponsored by Dream Horse Press, carries a cash prize of $1,000 and publication, plus 15 copies of the work. To enter, submit 48 to 80 pages of poetry, a table of contents, acknowledgments, a bio, and e-mail address, along with a $25 reading fee for each manuscript. The writer’s name should not appear on the manuscript; include name and biographical information on a separate cover let-
offer awards, started in for Applications ber’1, 2007.

Entries should have poetry Prize, author Mississippi in fiction @gmail.com. Center, both previous

Deadline: October 31, 2007. For full submission guidelines and more information about the award’s mission, visit www.danaawards.com, call (336) 644-8028 or e-mail danaawards @pipeline.com. Dr. Mary Elizabeth Parker, Chair, Dana Awards, 200 Fosseway Drive, Greensboro, NC 27455.

The Bread Loaf Writers’ Conference of Middlebury College sponsors the annual Bakeless Literary Publication Prizes, an annual book series competition for new authors of literary works in poetry, fiction and creative nonfiction. Winners will be published by Houghton Mifflin’s Mariner Original Paperback line, and each winner will receive a fellowship to attend the Bread Loaf Writers’ Conference in August 2009. For manuscript submission guidelines for each genre, visit www.middlebury.edu/academics/blwcc/bakeless or e-mail bakeless@middlebury.edu. Entries are accepted between September 15 and November 1, 2007. Ian Pound, Contest Coordinator, The Bakeless Contest, c/o Bread Loaf Writers’ Conference, Middlebury College, Middlebury, VT 05753. (802) 443-2018.

Each year Crazyhorse offers the Crazyhorse Fiction Prize for a single short story and the Lynda Hull Memorial Poetry Prize for a single poem. Both winners receive $2,000 and publication in Crazyhorse. To enter, send a manuscript of up to 25 pages of fiction or up to three poems (no more than 10 pages). Send $15 per manuscript as a reading fee, which includes a one-year subscription to the journal; if you have entered this competition before, send a $12 fee for each manuscript and mention your earlier entries. (New manuscript fees will extend entrants’ subscriptions to Crazyhorse.) Include a cover letter with name, address, e-mail address and phone number; exclude personal information from the manuscripts. Visit crazyhorse.cofc.edu for further submission guidelines. Manuscripts are accepted between September 15 and December 15, 2007. Crazyhorse Fiction Prize/The Lynda Hull Memorial Poetry Prize, Crazyhorse, Department of English, College of Charleston, 66 George Street, Charleston, SC 29424.

Once again, BkMk Press of the University of Missouri-Kansas City is accepting applications for The G. S. Sharat Chandra Prize for Short Fiction and The John Ciardi Prize for Poetry. Winners will receive $1,000 and publication of their book. To enter, send a single-spaced book-length manuscript of 50 to 110 pages for poetry;
for short fiction, a double-spaced manuscript of 150 to 300 pages. Include two title pages: one with the author’s name, address and phone number, a second without any author information, and a $25 reading fee. Deadline: January 15, 2008. For full instructions, visit www.umkc.edu/bkmk/poetry.html or e-mail bkmk@umkc.edu. BkMk Press, University of Missouri–Kansas City, 5100 Rockhill Road, Kansas City, MO 64110-2499. (816) 235-2558.

The Stanford University Libraries and the William Saroyan Foundation jointly award the William Saroyan International Prize for Writing, a competition for newly published books. Two winners, one a work of fiction and one a work of nonfiction, will receive $12,500 each. (Poetry will not be considered this year.) Competition is limited to works published during 2005, 2006 and 2007. Applications must include an entry form, five copies of the publication, and a $50 entry fee. Anyone, including the author, may submit an eligible entry. Deadline: January 31, 2008. Entry forms are available online at library.stanford.edu/saroyan/entryform.html and should be mailed to Sonia Lee, Administrator of the Saroyan Prize Committee, Green Library, Stanford University, Stanford, CA 94305-6004. (650) 736-9538; sonialee@stanford.edu.

The Ledge Magazine is holding a fiction contest for previously unpublished short stories. Three winners will receive $1,000, $250 and $100, as well as publication in the magazine. To enter, send stories of up to 7,500 words with an entry fee of $10 for the first story and $6 for each additional story. Or send $18 for a two-issue subscription and free entry for one story. Include name, mailing address and e-mail address on each story. Deadline: February 29, 2008. The Ledge 2008 Fiction Awards Competition, 40 Maple Avenue, Bellport, NY 11713. www.theledgemagazine.com.

MEMBERS MAKE NEWS

The 2006 WILLA Literary Awards, sponsored by Women Writing the West, were presented at the organization’s annual conference in October 2006. Linda Crew won in the Original Softcover Fiction category for her book A Heart for Any Fate: Westward to Oregon, 1845, and Paula Paul was a finalist in Contemporary Fiction, for Crazy Quilt. The awards are given annually to books featuring stories about women set in the American West and carry a cash prize of $100 each.

The 2007 Eric Hoffer Book Awards were announced on April 18. Winners and runners-up included Donna J. Gelagotis Lee, for her poetry collection, On the Altar of Greece, in the Notable in the Art category; Thomas E. Kennedy, author of Greene’s Summer, winner in the Micro Press category and Dasnish Fall, 1st Runner-Up, General Fiction; A. Louise Staman, Loosening Corsets: The Heroic Life of Georgia’s Feisty Mrs. Felton, First Woman Senator of the United States, 1st Runner-Up, Reference; and E. M. Schorb, Time and Fevers: New and Selected Poems, Notable in the Legacy category. The awards, formerly the Writers’ Notes awards, honor the memory of the philosopher Eric Hoffer.

Malice Domestic, an organization that celebrates mystery books, held its 2007 Malice Domestic Mystery Convention on May 5 in Arlington, VA, to present the Agatha Awards. Nancy Means Wright won in the Best Children’s/Young Adult Category, for Pea Soup Poisonings. Andrew Clements received a nomination in this category, for Room One: A Mystery or Two. Roberta Isleib was a nominee in the Best Short Story category for “Disturbance in the Field,” which appeared in the anthology Seasmoke. Carolyn Hart, author of 39 mysteries, received the Lifetime Achievement Award. Hart has received nine Agatha nominations and has won three times.

The 2007 Southern Independent Booksellers Alliance (SIBA) Book Award winners were announced on June 19. Among the finalists were Angela Davis-Gardner, Plum Wine, and John Hart, The King of Lies, both in Fiction; Nathalie Dupree, Nathalie Dupree’s Shrimp and Grits Cookbook, in the Cookbook category; Robert Inman, The Christmas Bus, in Children’s books; and Hampton Sides, Blood and Thunder: An Epic of the American West, in Nonfiction. The awards will be presented at SIBA’s trade show in Atlanta, on September 28.

The Maryland Association of School Librarians sponsors the annual Black-Eyed Susan awards, in which Maryland students in four different grade levels vote on their favorite books from a list nominated by a committee of librarians. Nominees for the Picture Book List include Kate Banks, Max’s Words; Nikki Grimes, Thanks a Million; Kathleen Kudlinski, Boy, Were We Wrong About the Dinosaurs; Ellen Levine, Henry’s Freedom Box; and Diane ZuHone Shore, This Is the Dream. Nominees for Grades 4–6 include Betty Birney, Seven Wonders of Sassafras Springs; Candace Fleming, Louiji Discovers America; Claudia Mills, Trading Places; Jennifer Stewart, Close Encounters of a Third-World Kind; and Stephanie Tolan, Listen! Nominees for Grades 6–9.
include Elise Broach, Shakespeare’s Secret; Will Hobbs, Crossing the Wire; and Lois Lowry, Gossamer. Nominees for the High School List include Elaine Marie Alphin, The Perfect Shot and Maureen Johnson, 13 Little Blue Envelopes. The 2006–2007 winners included Red Kayak, by Priscilla Cummings, and My Sister’s Keeper, by Jodi Picoult. This year’s winners will be announced in 2008.

Jerry Apps received the Council for Wisconsin Writers’ Major Achievement Award in honor of his life’s work as a writer. The award is presented every other year at the Council’s annual meeting in May, and carries a cash prize of $1,000 and a month-long residency at the creative arts residence Edenfred, in Madison, WI.

Nick Arvin, author of the novel Articles of War, received the 2006–2007 James C. McCormick Fellowship presented by the Christopher Isherwood Foundation. The Foundation has awarded grants of $3,000 to six or seven published novelists each year since 2001.

Howard Camner was named Best Poet of 2007 in the “Best of Miami” readers’ poll issue of the alternative weekly newspaper New Times.

Dale Carlson’s Talk: Teen Art of Communication is a ForeWord Magazine 2006 Young Adult Nonfiction Book of the Year Finalist.

Ellen Chesler was appointed Distinguished Lecturer at Hunter College of the City University of New York, and Director of the Eleanor Roosevelt Initiative on Women and Public Policy at Roosevelt House, the college’s new public policy institute.

Roberta Isleib has been nominated for a Macavity Award, presented by Mystery Readers International, for her short story “Disturbance in the Field.” The story appears in the anthology Seasmoke: Crime Stories by New England Writers, co-edited by Susan Oleksiw.

Escape!, by Sid Fleischman, was named an honor book, Nonfiction, in the 2007 Boston Globe–Horn Book Awards, announced June 4. The ceremony will be held October 12 in Boston.

Barry B. Longyear received Analog Science Fiction and Fact magazine’s 2007 AnLab Award, in the Best Novella category, for his book The Good Kill. The Analytical Laboratory (“AnLab”) Awards, voted on by the publication’s readers, were presented May 12 at a ceremony in New York.

Celeste Davidson Mannis received the 2007 John and Patricia Beatty Award for her children’s biography, Julia Morgan Built a Castle. The award, sponsored by Book Wholesalers, Inc., and presented by the California Library Association, is given to a children’s or young adult book that best represents California, its people, culture and history. Mannis also received the 2007 Southern California Children’s Literature Council award for Outstanding Nonfiction, for her photographic picture book Snapshots: The Wonder of Monterey Bay.

The University of Texas at Austin and the Texas Institute of Letters presented Alison Moore with the Ralph Johnson Memorial Fellowship for 2007–2008, one of two annual Dobie–Paisano Writing Fellowships named for the writer J. Frank Dobie that are located at his ranch in Texas, Paisano, which the university now owns.

Barbara Novack’s poem “Human Form with Light” was a winner in the Long Island Poetry Collective/Xanadu Poetry Contest. The poem will be published in the next issue of Xanadu.

Maxine Rose Schur’s travel memoir, Places in Time, was named the 2006 Best Travel Book of the Year by the North American Travel Journalists Association.

Elizabeth Winthrop’s Counting on Grace is an American Library Association Notable Book, a Notable Trade Book in Social Studies, an IRA–CBC Children’s Choice Selection, a Massachusetts Honor Book, a Dorothy Canfield Fisher Award Nominee as well as a Jane Addams Children’s Literature Honor Book and the 2007 Vermont Reads Selection.

Letters

Continued from page 2

about those of us who write history, even though Books by Members is full of historical titles.

Please think about a little more balance between nonfiction and novels or poetry, and especially please give more attention to history, particularly women’s history. Except for Elizabeth Fox-Genovese’s obituary, there is nary a word about women’s history—and that, unfortunately, is the rule, not the exception.

Doris Weatherford
Seffner, FL

Thanks so much for “Ulysses Without Guilt,” by Stacy Schiff. I found myself nodding and laughing as I read.

Peggy Fielding
Tulsa, OK
Legal Watch

Continued from page 18

those issues, the case was remanded back to the district court for further proceedings.

—Michael Gross
Staff Attorney

When the Old Publisher Keeps Publishing

Vincent v. City Colleges of Chicago
U.S. Court of Appeals for the Seventh Circuit

V

eronica Vincent is a real estate broker in Oak Park, Ill. As an adjunct professor at the City Colleges of Chicago throughout the '80s and '90s, she taught a course of her own creation entitled Smart Foreclosure Buying, for which she had written a textbook of the same name. A few years after she stopped teaching the course, Vincent asked the Chicago Association of Realtors—with whom she had an oral contract—to stop publishing her book, thereby terminating their license agreement. The Association of Realtors quickly discontinued her royalty statements, but neglected to do the same in regard to its production and distribution of her book. As Vincent would later learn, not only did the Association continue to publish and sell her copyrighted work, but the City Colleges continued to offer her course—textbook and all—with a new instructor, Ezekiel Morris, at the helm. To make things worse, the City Colleges' course catalog still advertised the course instructor as one "V.V."

In November 2004, three years after she had phoned, faxed and mailed the Association of Realtors notice of termination of her license, and nearly a decade after she had quit teaching at the City Colleges, Vincent filed a series of copyright, trademark, and false advertising claims against both parties.

A federal district court judge dismissed most of these claims for failing to plead facts that, if accepted as true, would entitle Vincent to legal relief. The only claim he allowed to go forward concerned the Association's alleged infringement of Vincent's exclusive right to reproduce and distribute her copyrighted book. The Association stipulated to Vincent's account of the facts, but then argued that they should still prevail as a matter of law because Vincent could not prove beyond doubt that it had actually received written notice of the termination.

The Association had changed offices shortly before Vincent's attempts to communicate her termination of the license. Though she had telephoned, she had only left a message on the Association's answering machine. Though she had sent a fax, the Association claimed that its old fax machine had been disconnected as part of the move. Though she had sent a letter, the letter was sent to its old address. The judge ruled that Vincent could not provide proof of service of a written notice, and granted the Association summary judgment. Neither party disputed that the Association had been publishing and selling Vincent's book for years without paying her a cent in royalties, but since this contract claim was not before the court, Vincent went home empty-handed.

Both parties agreed on these facts: that Vincent had failed to 1) verify the Association's current address, and 2) send her notice of termination via certified mail, return receipt requested. If this case has a moral, however, it is that even federal judges with more than 20 years on the bench and more than 45 years at the bar can make elemental mistakes of law. Fortunately Vincent, who represented herself in the proceedings, had the gumption to appeal this adverse ruling to the federal court of appeals in Chicago. Its opinion, per Chief Judge Frank H. Easterbrook, is reminiscent of a professor patiently correcting a student's waywardness—not so much Vincent's, as the district court judge's.

First, insofar as Vincent had a valid oral contract with the Association, she had the power to either modify or terminate this contract orally. Each state regulates, via its statute of frauds, which contractual agreements, modifications and rescissions must be placed in writing as a condition of validity, and which may exist only in oral form. Since Illinois recognizes and enforces oral contracts and their oral modifications (and since federal law does not impose any distinctive requirements for the formation of contracts concerning copyrights), Vincent was never required to write her notice of termination. In fact, unless the state's statute of frauds mandates otherwise, even written contracts may be modified or terminated orally.

Second, the Association was not entitled to summary judgment of the copyright claim in their favor because a reasonable jury could have held for Vincent, inferring that the Association had in fact received notice of the termination of the license. Why else did it stop remitting Vincent her royalties? A jury could have accepted Vincent's claim that her fax went through instead of the Association's claim that their machine had been disconnected. Finally, in contract law, evidence of mailing is evidence of delivery. To the extent that Vincent could prove that she sent her phone message,
fax and letter (her own testimony would count as evidence), a jury could reasonably find that the Association had received notice, and thus summary judgment was improper.

Third, the court of appeals reinstated most of the claims that had been dismissed. Although Vincent will have to prove the facts behind those claims in order to prevail, the purpose of a plaintiff’s complaint in contemporary practice is the pleading of claims, not of facts.

The court of appeals remanded Vincent’s case for trial, with the exception of her copyright claim against the City Colleges. The Colleges may be guilty of infringing her unregistered trademark to the phrase “Smart Foreclosure Buying” and of falsely advertising that she still teaches this course, but Vincent’s copyright in her book does not allow her to control its adoption as a teaching text. Once a copy of a book is sold, its owner may do with it as he or she pleases, provided that he/she does not create another copy or a derivative work. When Vincent’s case returns to the district court judge this summer, let us hope she fares better the second time around.

—David Bornstein
Legal Intern

Who Owns Citizen Kane?

Beatrice Welles v. Turner Entertainment Company; Entertainment Acquisition Co., Inc. United States Court of Appeals for the Ninth Circuit

In 1939, Mercury Productions Inc., owned by legendary actor and director Orson Welles, entered into a production agreement with RKO Radio Pictures, Inc., which provided that Mercury would produce two motion pictures for RKO. Section 13 of the 1939 agreement designated RKO as owner of all rights in both pictures, but stipulated that if Mercury (that is, Welles) were to write an original story that was used as the basis of either movie, RKO would acquire only the “movie and television rights” to the story, while Mercury would retain all rights in the actual story. Welles also entered into a separate “actor agreement” with RKO, under which Welles was to play the lead role in both films in return for $30,000, and receive 20 percent of the net profits earned from the exploitation of the two films. Later in 1939, Welles and RKO amended their agreement by stipulating that Welles would act in a third film. In 1941, Mercury and RKO entered into a supplemental agreement, which provided that the first movie Welles and Mercury would make for RKO would be the original story Citizen Kane, which was released on May 1, 1941.

By December 15, 1944, Citizen Kane had not yet turned a profit. The second film contemplated under the 1939 agreement, It’s All True, was not finished, and production on the third film had not begun. At that point the parties decided to end their business relationship and executed an Exit Agreement, which terminated production on the second and third films and stipulated that Welles had been paid in full for services relating to the first two movies under contract. The Exit Agreement also provided that no other compensation was due to any of the parties and that all parties to all of the agreements released each other from future claims. The Exit Agreement also gave Welles the option to purchase the existing footage for It’s All True from RKO for $200,000.

Nearly 60 years later, Beatrice Welles, the daughter of Orson Welles, brought suit against Turner Entertainment Company and the Entertainment Acquisition Company, Inc., which jointly own the rights to the film Citizen Kane. She had four claims: first, she sought a declaratory relief that the Exit Agreement had restored the copyright to Citizen Kane to her father. Second, she claimed that even if the Exit Agreement did not restore all of the rights to Citizen Kane, the 1939 production agreement did not provide the defendants with the right to reproduce and distribute Citizen Kane on home video, and that she retained her father’s right to collect 20 percent of the net profits from Citizen Kane in

Legal Services Scorecard

From April 21 through July 4, 2007, the Authors Guild Legal Service Department handled 164 legal inquiries. Included were:

- 30 book contract reviews
- 9 agency contract reviews
- 11 reversion of rights inquiries
- 10 inquiries on copyright law, including infringement, registration, duration and fair use
- 6 inquiries regarding securing permissions and privacy releases
- 7 electronic rights inquiries
- 91 other inquiries (including literary estates, contract disputes, periodical and multimedia contracts, movie and television options, Internet piracy, liability insurance, finding an agent, and attorney referrals)
the future. Finally, she brought two additional claims for breach of contract and unfair business practices.

In December 2004, the U.S. District Court for the Central District of California granted full summary judgment for the defendants on all claims except for the breach of contract claim. She appealed to the U.S. Court of Appeals for the Ninth Circuit.

After holding that the statute of limitations did not bar Ms. Welles's claim, the court of appeals considered whether she owned the copyright to the *Citizen Kane* home video. The court initially noted that in 1939, none of the parties could have considered the idea of home video rights ownership, since the home video medium was not yet in existence. Further, the court found that to display or distribute *Citizen Kane*, the defendants would need both the right to display the movie as well as the right to exploit the underlying screenplay.

Looking to the production agreement for guidance, the court found that Section 13 gave RKO the rights to “distribute, exploit, record, manufacture and reproduce by any method” the finished movies. The court held that the defendants, as successors to RKO, had the right to exploit the movies produced under the 1939 contract in any manner. However, since the agreement clearly designated Mercury as having retained the rights to any screenplay written by its employees, the court of appeals concluded that RKO only acquired “movie and television rights” while Mercury controlled publication, radio and other rights in the original stories.

The court then considered whether the defendants’ “motion picture and television rights” in the *Citizen Kane* screenplay encompassed the right to distribute the same on home video. Here, the court found that while an argument could be made that distributing a movie on home video is simply an exploitation of “motion picture rights” in the *Citizen Kane* screenplay, a broad interpretation would render the addition of the term “television rights” to the contract superfluous. Obviously, if the term “movie rights” included “home video rights,” then an argument could be made that “movie rights” included the right to display *Citizen Kane* on television. The court of appeals found it unclear, at best, whether the parties intended RKO to control home video rights under the guise of “movie rights and television rights” as such pertain to the story. Summary judgment was therefore inappropriate and the issue was remanded for further proceedings and factual determinations.

Next, the court of appeals considered Beatrice Welles’s claim that the Exit Agreement rescinded the production agreement, which would have returned the *Citizen Kane* movie copyright to Mercury and Orson Welles. The court noted a difference between the language in the Exit Agreement (“terminate and cancel”) and the term “rescind,” which conveys a more retroactive effect, and restores the parties to their former position. The court determined that the Exit Agreement only terminated the royalty and other rights granted by the 1939 agreement; it held that RKO had owned the copyright in the film from the time it came into existence; those rights were not executory rights or rights created under the 1939 agreement, and thus could not be released under the Exit Agreement. Accordingly, the court concluded that the copyright to the *Citizen Kane* movie remained with RKO, and it was proper for the district court to grant summary judgment to the defendants on the ownership issue.

Finally, the court considered the claim for an accounting of future profits from the date the Exit Agreement was executed to the present. Here, the court of appeals found conflicting evidence, suggesting that Orson Welles and RKO “may” have entered into another agreement to share future profits of *Citizen Kane*. One piece of evidence favoring Welles was the fact that after 1944, RKO and Orson Welles jointly contracted to license publication rights in the *Citizen Kane* screenplay to Bantam Books. The court also found that Orson Welles’s name appeared on RKO’s post-1944 schedule of persons who had royalty rights in *Citizen Kane*. Accordingly, this claim was remanded for further proceedings and the district court’s summary judgment verdict on this particular claim was overturned.

—Michael Gross
Staff Attorney

Everybody’s a Critic

Continued from page 14

the debate is “very confusing to me. On the one hand, I agree that newspapers should have book sections. On the other hand, I don’t understand why people can’t seem to talk about why newspapers should have book sections without talking about how horrible blogs are.” Critics have been “overly insulting” to blogs and bloggers, she says, treating them like “a bunch of children screaming for attention.” Blogs aren’t serious competition, she insists, especially since much of the time they are covering authors who are overlooked by reviewers for large newspapers, or providing links to published reviews on print media websites. Newton agrees: “Anyone who thinks blogs are to blame for the
axing of book review sections needs a course in basic logic . . . If anything, blogs drive online traffic to newspapers .”

After talking with Crispin, I checked out Chasing-Ray (ChasingRay.com), the new Young Adult book blog of author and Bookslut reviewer Colleen Mondor. The post for the day? Yup, literary blogs versus print reviewers. In it, Mondor echoed Crispin’s concern that print reviewers have veered into unnecessarily abusive territory: “In the midst of all the fighting . . . I realized that most print reviewers had very little idea of what goes on in the lit blogosphere. There were the absolutely crazy things[,] like comparing lit bloggers to maggots . . . but more often than not I kept reading that lit bloggers didn’t do enough critical writing or did too much linking or wrote reviews that were too short (or too long) and most commonly that none of us had qualified ‘experience.’ (Although to date no one has been able to explain just what the academic or professional requirements are to be a book reviewer.)”

Her parenthetical comment raises the question on most people’s minds, one that relates to concerns about the growth of the Internet as a whole: Who are these people, and why should I listen to their opinions? Because anyone can start a blog, there is no vetting process, no CV that boasts of published reviews in Bookforum or the New York Review of Books to prove that long established publications have approved of this author’s writing.

The answer is that, while anyone can start a blog, not everyone can start a blog that becomes widely read and respected. Further, many blogs aren’t as scrappy as critics make them out to be; The New York Times launched its excellent book blog, Paper Cuts (papercuts.blogs.nytimes.com) in May, and a number of publishers, magazines and organizations have blogs. As with most innovations on the web, what began as a novelty is quickly becoming the norm.

For struggling writers hoping to bypass the usual route to publication, or catch a publisher’s eye with a brilliant blog, a final word of advice from Maud Newton: “I would probably be finished with my novel if I didn’t spend so much time on [my blog].” Not to mention reading everyone else’s.

---

CONTRACTS Q&A
Continued from page 10

sold in the United States (or the United States and Canada). If using one of the older versions of the clause (relating to the book’s availability, e.g.) in a new contract, however, make sure to have a sentence specifically stating that the book will not be considered in print solely because of the availability of e-book editions or because of POD or other technology enabling single copies of the book to be produced.

Q. I wrote a nonfiction book 10 years ago with two friends. It sold a moderate number of copies and is no longer available. A manufacturer of a product mentioned in the book recently approached me and said it wanted to print around 500 copies to distribute as a promotion for its product. Do I have to share the money it pays me with my two friends? The book was my idea and I did most of the work on it, so I think I’m entitled to all the money.

A. The legal obligation is the same as your ethical obligation: Unless you have a separate agreement with them that they are not entitled to anything, you must share the proceeds with them in whatever proportions you previously agreed. Moreover, before you grant any rights to the new company, you should check your agreement with the book’s original publisher to make sure the rights to the book have reverted to you and your friends. Under the typical book publishing contract, unless you have asked the publisher to put the book back in print and it has not done so within the period specified in the contract, or unless you have obtained a written reversion of rights from the original publisher, it is likely that neither you nor your colleagues will be able to legally authorize the new company to print the book without the original publisher’s consent (and, if that publisher is aware of the situation, probably sharing revenues from the new company with it). You should also check whatever agreement you may have with your friends (including the publishing agreement) to make sure nothing there prohibits you from licensing publication of the new edition without their consent. Under copyright law, in the absence of a written agreement to the contrary, a coauthor does not need the consent of the other coauthors to grant nonexclusive rights in their joint work.

E-mail questions to QandAColumn@authorsguild.org.

The answers in this column are general in nature only and may not include exceptions to a general rule or take into account related facts that may result in a different answer. You should consult a lawyer for information about a particular situation. No question submitted, or answer provided, creates an attorney-client relationship with the column’s author.
Supporters of the Authors Guild Endowments

We are grateful for the generous support of the Authors Legacy Society members and all those who contributed to the endowments of the Authors Guild and Authors Guild Foundation. These gifts help to ensure that the Authors Guild and the Authors Guild Foundation will continue their work in behalf of writers for years to come.

Authors Guild Legacy Society
Professor Alan P. Akmakjian
Robert Asprey
Eric and Barbara Carle
Anne Conover Carson
Neil Davidson
Inga Dean
Nelson DeMille
James Duffy
Aaron Frankel
Mrs. Shirley Glubok-Tamarin
Bernice Grohskopf
Sid Gustafson
Sussy Komala
Patricia Lauber
Tom Lee
Elmore Leonard
Gillian McCain
Gloria Bley Miller
Morton A. Mintz
Joseph Woodson Oglesby
Sheila Payne
Sophie Rawls
Mary Lyn Ray
Frances Rickett
V.G. Smith
Barbara Lang Stern
Mary Walton
Patricia Weenolsen, Ph.D
Robert Wells
Stuart Woods

Authors Guild Endowment
Lisa Alther
Sylvia Auerbach
Rosalind Avrett
Natalie Babbitt
Susan Bean
Thomas Bender
Doris Bickford-Swarthout
Suzanne Birchard
Richard Broughton
John Camp
Miriam Chaikin
James C. Clark
Regina Cooley
Lucy Daniels
Charles Dickinson
Jonathan Dolger
Patrick Durantou
Amy Ehrlich
Ella Ellis
Ann Elmo
Aaron Frankel
Laurel Goldman
Noah Gordon
Laurie Graff
Don Green
Kristin J. Hannah
Muriel James
Caroline Janover
Francine Klagsbrun
John R. Knaggs
Carol R. Law
Burgess Leonard
Elizabeth Lerner
Howard Lewis
Leila Hadley Luce
Hilary Masters
B. J. Mitchell
Craig Moodie
Kay Murray
Valerie J. Naso
Patricia O'Toole
Doris Ober
Robert S. Ogilvie
Susan Phillips
Nicholas Pileggi
Barbara Robinson
La Vergne Rosow
Malcolm Ross-MacDonald
Mary Helen Samsot
Annette Sanford
Meghan N. Sayres
Richard Schmitt
Beatrice Siegel
Al Silverman
Betty Smith
Leora S. Smith
Richard Smith
Carla Stevens
Donald Street
Leora Tanenbaum
Deborah Tate
Peter Tompkins
June True
Edward Tufte
Robert Turner
Katherine Vaughan
Kate Walbert
Gary Wassner
Judith E. Weber
Richard Whalen
Dennis Wholey
Bari E. Wood

Authors Guild Foundation Endowment
Robert Abel
Laila Abou-Saif
Bruce Aidells
Sandra Alonzo
Judith Amorosa
John Annenino
Robert Asprey
P.M.H. Atwater
Lorraine Avocato
James Bagley
Miriam Baker
Russell Banks
Benjamin Barber
Dr. Annie Barnes
Charlene Ann Baumbich
Terry Richard Bazes
Roger A. Beaumont
Robert S. Becker
Jeanne Bendick
Constance Bennet
Hal Zina Bennett
John Berendt
Elizabeth Bibb
Kathy Biehl
Robert P. Bigelow
Suzanne Birchard
Martha Blue
Gary Blum
Tom Bodett
Hendrik Booraem
Helen W. Brann
Barbara Brett
Andree Brooks
David Brown
Anthony Bruno
Clyde W. Burleson
Janet Burroway
Mary Pratt Cable
Carey Cameron
Kenneth M. Cameron
Louis S. Cannon
Lorenzo Carcaterra
Lynette Carpenter
Gladys Justin Carr
Claudia Caruana
Dominic Cerio
Susan Chace
Charles Champlin
Victor Chase
Helen Chasin
Margaret Cheney
Beth Clements
Nadine Cohodas
Annemarie Colbin
Paul Colvinax
Bernard Conners
Alan L. Cook
Catherine Cornberg
Ralph Cotton
Sandra Cuza
Ariane Dewey Dannasch
Richard Dannay
Peter Dans
Marie Diane Davidson
Peter Davis
Marguerite Davol
Gavan Daws
Michael De Guzman
N. Charles DeLuca
Alice Denham
Henry Denker
Leo Dillon
Ivan Doig
Virginia R. Dominguez
Tiananmen Square massacre. How did the ad slip past censors at Chengdu Wanbao, especially when it was later revealed that two other papers in the area refused to publish the same ad? The answer lies in the Chinese government’s blood-chilling efficiency as a censorship machine. Reports have indicated that the advertising clerk is young enough to have no personal memory of the tragedy and, perhaps as a result of the government’s relentless censorship efforts, had no knowledge of the connection between June 4 and the anniversary of the Tiananmen Square massacre. There has been no word on whether the man who placed the ad has been identified, but there are fears that he will be found and arrested. ✷
Membership Application

Mr./Ms. ____________________________ Pseudonym(s) ____________________________
Address __________________________________ City ____________________________ State __ Zip __________
Phone ( ______ ) ____________ Fax ( ______ ) ____________ E-mail ____________________________
Agent Name ____________________________ Agency ____________________________ Agent phone ( ______ ) ____________

How did you become interested in joining the Guild? (check one)  
[ ] Invitation  [ ] Writing journal
[ ] Referred by ____________________________  [ ] Other

What is your primary reason for joining?  
[ ] Support and advocacy efforts  [ ] Legal services  [ ] Health insurance
[ ] Site-builder and other Web services  [ ] Other

Writers may qualify on the basis of being book authors or freelance journalists. **Book authors** must have been published by an established American publisher. A writer who has a contract with an established publisher for a work not yet published may join as an associate member. **A contract with a vanity press does not qualify a writer for membership in the Guild.** **Freelance journalists** must have published three works, fiction or nonfiction, in a periodical of general circulation within the last eighteen months.

**Book(s)**

<table>
<thead>
<tr>
<th>Title</th>
<th>Publisher</th>
<th>Year</th>
<th>Field/Genre</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Freelance articles**

<table>
<thead>
<tr>
<th>Title</th>
<th>Publisher</th>
<th>Mo./Year</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Please enclose a check for your first year's dues in the amount of $90 payable to "The Authors Guild" or charge your Visa or Mastercard.  

Account # ____________________________ Expiration Date ___ / ___ Amount: $90

Mail to:  
The Authors Guild  
31 East 32nd Street, 7th Fl.  
New York, N.Y. 10016

Bulletin, Summer 2007