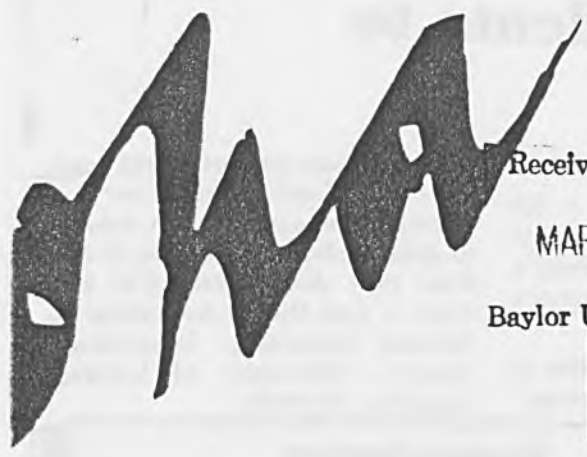


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NEWSLETTER

Salinger v. Random House: The Implications for Oral Historians

John A. Neuenschwander

Important judicial decisions are always newsworthy. The case of *Salinger v. Random House*, 811 F.2d 90 (2nd Cir. 1987), is certainly no exception to this general rule. When the United States Supreme Court denied a Petition of certiorari in October, 1987, and thus allowed the holding of the Court of Appeals for the Second Circuit to stand, many publishers and scholars expressed grave concern. The decision, which enjoined Random House from publishing Ian Hamilton's biography of novelist J. D. Salinger, was seen by many as unduly restricting the right of scholars to quote from and closely paraphrase published letters. This in turn, critics argued, could only serve to diminish the quality of future scholarship.

Now that almost two years have passed since the Second Circuit rendered its decision in *Salinger*, one is able to do more than just speculate about the impact and significance of this decision. The precedential importance of any case can best be measured by the extent to which it serves as *stare decisis* for subsequent courts. As this article will show, *Salinger* has already served as the key precedent in 40 recent cases.

Attentive readers may at this point be asking, but what does a case that narrowly restricts an author's right to quote from or paraphrase unpublished letters have to do

with oral history? The simple answer is a great deal. As holders and repositories of unpublished but copyrightable tapes and transcripts, oral historians and programs are directly covered by the holding in *Salinger*. The purpose of this article is to explore the implications of this coverage.

When *London Sunday Times*' Literary Critic Ian Hamilton undertook his biography of J. D. Salinger in 1983, it was clear that he would not receive any cooperation whatsoever from the reclusive author. Salinger, who had not granted anyone an interview since 1953, made good newspaper copy whenever someone managed to spot him in public. Since he was precluded from interviewing Holden Caulfield's creator, Hamilton turned to the next best personal source — Salinger's letters. Hamilton's research turned up 79 unpublished letters that Salinger had written between 1939 and 1961 to people like his teacher, Whit Burnett, Judge Learned Hand and Ernest Hemingway. These recipients had in turn deposited the letters in the libraries of Harvard, Princeton and The University of Texas.

In its review of Hamilton's biography, *J. D. Salinger: A Writing Life*, the Second Circuit found that there were 59 instances involving 44 letters from which Hamilton either quoted directly or closely paraphrased Salinger. A total of 200 words were found to be direct quotes.

Before the Second Circuit could decide whether such usage constituted an infringement of Salinger's copyright interest, it had to apply the four "fair use" criteria set out in Section 107 of the Copyright Act:

1. the purpose in character of the use,

including whether such use is of a commercial nature or is for nonprofit educational purposes;

2. the nature of the copyrighted work;
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. the effect of the use upon the potential market for or value of the copyrighted work.

The sole purpose of the "fair use" doctrine is to place some reasonable limits on the ability of copyright holders to use their interest to preclude any meaningful utilization of their work. Without the "fair use" doctrine, copyright holders could become so monopolistic that the quality and quantity of information flowing to the general public would be severely curtailed.

Although the four criteria set out in Section 107 appear to establish a comprehensive framework that would insure consistent judicial application, the Court in *Salinger* clearly established the primacy of the third and fourth criteria when the material at issue is unpublished. This emphasis comes directly from the United States Supreme Court's decision in *Harper & Row, Publishers, Inc. v. National Enterprises*, 85 L. Ed. 2d 588 (1985), regarding the *Nation's* unauthorized scoop of the material in former President Gerald Ford's unpublished memoir on his handling of the Nixon pardon. The high court in this case clearly signalled the primacy of the third and fourth "fair use" criteria (the amount and substantiality of the portion used and the market impact) whenever someone claimed that their use of unpublished materials was protected by "fair use."

(Continued on page 7)

John A. Neuenschwander, Ph.D. and J.D., is part-time professor of history at Carthage College and municipal judge of Kenosha, Wisconsin. A former OHA president, he has written *Oral History as a Teaching Approach* and *Oral History and the Law*, and has been a practicing attorney, specializing in appellate and copyright law.

IIE Grant Brings Foreign Students to Baltimore Meeting

by Carl Ryant, Chair
International Committee
University of Louisville

With the assistance of a Short Term Enrichment Program (STEP) grant administered by the Institute of International Education (IIE) with funds from the United States Information Agency (USIA), the Oral History Association was able to offer grants to four foreign graduate students in order that they could attend our annual meeting in Baltimore last October. The four students were Liam Dolan, a student from Ireland studying history at Salem State College in Massachusetts; Cherry-Ann Millard from Trinidad and Tobago, a student in the Columbia University School of Library Services; Madhulika Shankar from India, who attends Carnegie-Mellon University and is studying Asian Indians in New York City; and Pat van Heerden, a South African in the public history program at New York University.

All of the students enjoyed the conference, and those of us who met them gained much from their attendance. Each student provided a critique of the meeting, excerpts from which will give some notion of their experiences:

"Being my first conference, I attempted to absorb as much of the atmosphere and content of the programs presented as possible, a task that saw me flit, mid-session, from program to program, and I was not disappointed. Even in those situations where I became dubious about the relevance of what I was hearing to O.H. and where professionalism suffered, there was positive in the negative." (Dolan)

"As a result of attending this conference, I have become more aware of the problems, dilemmas and benefits which researchers experienced while doing oral history. It was mind opening to hear some of the discussions. I think that because of this I will become a better researcher/listener.

The potential exists at home for the development of a forum on the use of oral history. I would need to get others involved . . ." (Millard)

"[T]his Conference gave me the opportunity to analyze and evaluate my own work in the larger perspective of other oral history work being done . . .

I was especially glad to see emphasis on multiculturalism and attention paid to real life processes or groups which, but for oral

history, would go unrecorded." (Shankar)

"It certainly made me aware of the diversity of opinions within American oral history academia itself. This stimulated a debate as to my own position on various issues." (van Heerden)

The Oral History Association plans to continue its program to aid and encourage

foreign graduate students already studying the United States to attend our annual meetings. Those interested in seeking aid to attend the Galveston meeting 19-22 October 1989 should contact Carl Ryant, Chair — Oral History Association International Committee, Department of History, University of Louisville, Louisville, Kentucky.

EXCERPTS

Remembering Helen Heffron Roberts



Photo courtesy of Folklife Center News and the Smithsonian Institution

In the summer issue of *Folklife Center News*, a publication of the American Folklife Center at the Library of Congress, a special tribute was paid to Helen Heffron Roberts, a pioneer in ethnographic field documentation who died in 1985. It was her donation of wax cylinder recordings in 1936 which gave the Archive of Folk Culture its first substantial ethnographic and international material. A musicologist and anthropologist who studied with Franz Boas at Columbia, Roberts collected more than 400 wax cylinders of field material from Jamaica, Hawaii, California, and New Mexico during the 1920s and 1930s.

During the 1930s Roberts set up an early recording laboratory at Yale University. She duplicated wax cylinders onto aluminum discs, and thus was able to copy the works of numerous collectors who sent her their work. She later donated to the Archive of Folk Culture 375 disc copies collected by other anthropologists and writers.

In 1979 Maria La Vigna of the Federal Cylinder Project, American Folklife Center, and David McAllester of Wesleyan University interviewed the ninety-one-year-old Roberts at her home in Connecticut. These are a few excerpts from that interview:

On relations with her interviewees and singers: . . . *for the most part they were very friendly. They weren't in the beginning, but they knew they could trust me, and I made a rule, I never made a promise that I didn't keep. It didn't make any difference*

how awkward it was later to do it, or how time consuming. If I had said I would do it, I did it . . . If I had said I would not tell about this, they knew I would not tell. And they would give me material that they might not have given to somebody else.

On using a phonograph to record singers: . . . *finally I got my phonograph from New York and records, and so I called him in [one of the singers in Jamaica she had been working with], and I asked him to sing into it. Well, he was a little dubious, it looked kind of funny to him, you know, and he didn't know whether it was going to jump at him or not. But anyway, he got down and he sang in and I said, 'Now would you like to hear this?' 'Oh, yes,' he wanted to hear it. So I put it onto reproducing instead of recording and it sang it through and he looked at me. 'Missy, you sure am God! You am the Lord himself!' he said, and with that he got down on the porch and did somersaults all the way to one end of the porch and back again as fast as he could! . . . So when I get discouraged, I say 'You am God!'*

Report from the OHA Committee on Multiculturality

by Warren S. Nishimoto and Rina Benmayor,
co-chairs, Committee on Multiculturality

The formation of this committee grew out of a general awareness that people of color are under-represented in the Oral History Association and that the association should strive to reflect the diversity of socially constructed communities in the U.S. today.

This awareness was amplified at the 1988 Annual Meeting of the OHA in Baltimore. The meeting, with its theme, "Oral History, Multiculturality, and People of Color," was successful in initiating a greater integration into OHA of "minority" scholars and community activists who have been using oral history in their research. However, while the meeting showed that there is a great amount of oral history research being done by and about people of color in the United States, much of this research has been conducted with little relationship to the OHA. In short, the program committee for the Baltimore meeting, in order to achieve its goal of a multicultural meeting in both content and participation, was forced to conduct vigorous outreach beyond the traditional circles of the OHA. This outreach resulted in a very effective national meeting with a wide variety of panel discussions, but no assurance that this diversity would continue to characterize future meetings and truly integrate the OHA.

The purpose, therefore, of the OHA Committee on Multiculturality is threefold:

- 1) To help bring people of color who are using oral history, as well as those whose oral history work concerns non-white communities, into all levels of the OHA's activities and organization.
- 2) To establish and maintain regional networks throughout the country on oral history activities on and by people of diverse racial, ethnic, national, gender, class and other socially constructed communities.
- 3) Through OHA publications, to encourage and publicize usage of oral history in minority research, education and community activities.

The OHA Committee on Multiculturality recently discussed ways to achieve the above goals, and makes the following recommendations:

- a) that the OHA Executive Council designate the Committee on Multiculturality as a standing committee rather than a temporary one;
- b) that all OHA Committees and governing bodies reflect ethnic and gender diversity in their composition;
- c) that all Annual Meeting Program Committees include members of the Committee on Multiculturality and of the various "communities" located in the area where the meeting is being held;
- d) that the committee conduct a national survey of academic and community-based institutions and individuals

conducting oral history research focusing on the communities described in #2 above and addressing issues of multiculturality. The results of this survey will help determine strategies for networking, membership recruitment, and future Annual Meeting program content and participation.

It is hoped that these stated objectives and proposed solutions will help make the OHA significantly more diverse in composition and focus.

Summer Courses

The Columbia University Oral History Research Office will offer a course in the theory and method of oral history in this year's Summer Program. The course will be led by Ronald J. Grele, Director of the Oral History Office, and Andor Skotnes, Assistant Director. Structured as a fieldwork seminar, the course will also devote extensive discussion to the literature of oral history. Contact the Oral History Research Office, Box 20, Butler Library, Columbia University, New York, NY 10027; or Graduate School of Library Service, Butler Library, Columbia University, New York, NY 10027. The course will confer three credits toward a graduate degree.

The Salt Center for Field Studies will hold its annual summer sessions again in Kennebunkport, Maine, where participants can "talk with the *really* important people of Maine" while learning field methodology, oral history, advanced non-fiction writing, editing, photodocumenting, etc. The University of Maine cosponsors the school and confers university credit for each session. Contact The Salt Center, P.O. Box 4100, Kennebunkport, Maine 04046; 207/967-3311.

The 23rd Annual Georgia Archives Institute will be held June 12-23, 1989 in Atlanta. Designed for beginning archivists, librarians, and manuscript curators, the institute offers general instruction in basic concepts and practices of archival administration and management. It is sponsored by the Atlanta University School of Library Science and Information Studies, the Georgia Department of Archives and History, and the Jimmy Carter Library. Tuition is \$375. Contact A.V. Lawson, School of Library Science and Information Studies, Atlanta University, Atlanta, GA 30314.

OUR ORAL HISTORY-WILL IT BE LOST?



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For many years OHA and the state and regional organizations have wrestled with the problem of establishing closer ties and satisfactory working relationships. During my time as executive secretary, I firsthand observed the occasional acrimony and frequent frustration in these attempts; so when I assumed the OHA presidency, I determined that a top priority would be to improve communications between OHA and the state and regional groups.

As an important step toward this goal, I wholeheartedly endorse the idea of OHA offering a program of affiliated status for state and regional organizations. Rather than impose new costs or burdens on either the state and regional organizations or OHA, affiliated status could improve communications and insure that mutual concerns are addressed by the OHA Council. Obviously affiliated status serves no purpose if it fails to deal with the concerns of the state and regional organizations.

At the roundtable discussions for the state and regionals in Baltimore, those present gave informal endorsement to the proposal for the establishment of affiliated status. As a follow-up I appointed Perry Blatz of Duquesne University to coordinate this effort and assigned Dale Treleven of UCLA to serve as Council's liaison to the state and regional organizations. Blatz has long been active in OHMAR (Oral History, Mid-Atlantic Region), and Treleven, in addition to being a member of Council, is the incoming president of SOHA (Southwest Oral History Association). It was also decided at the roundtable that OHA's State/Regional Committee be expanded to include a member from each state and regional group which decides to accept regional status.

At this time a half-dozen state and regionals have named representatives to work with Blatz and Treleven in formulating a draft plan on affiliated status for presentation to Council at its mid-winter meeting in February. Their proposals thus far include:

1. An increase in the OHA president's discretionary travel budget to enable him to speak at more meetings of state and regional groups. This would allow more organizations to take advantage of the opportunity to have access to OHA.
2. The providing of OHA mailing labels to state and regional groups at a cost of \$25, or less for a portion of the

list. This would enhance programming and publicity for the state and regionals.

3. The listing of affiliated state and regional groups in the *OHA Membership Directory*; and the inclusion of

this listing in other publications, such as the program for the annual meeting and possibly the membership brochure.

This is a modest beginning, and I wish to encourage comments on the list of prospective benefits and solicit suggestions for additional ones. A solid plan for affiliated status will assure that each participating state and regional group will have a voice in the deliberations of OHA. Improved communications will enable OHA and the state and regional groups to work together more effectively in their mutual interest. Of course, any list of benefits agreed upon by the committee and Council could be expanded in the future.

State & Regional News

The Oklahoma Historical Society held a dedication ceremony for its newest public exhibit, "USS Oklahoma," in the Wiley Post Historical Building in Oklahoma City on December 7, 1989. More than 70 former crew members of the ship, which was sunk at Pearl Harbor, were guests of honor at the ceremony. Many of these men were aboard the Oklahoma during the Japanese attack and have been part of the oral history project on the ship conducted by the society's oral historian Joe Todd.

The Annual Spring Meeting of the Southwest Oral History Association will be held April 14-15, 1989 at the California Afro-American Museum in Exposition Park, Los Angeles. For more information contact Alva M. Stevenson or Dale Treleven, UCLA Oral History Program, 136 Powell Library, UCLA, 405 Hilgard Avenue, Los Angeles, CA 90024; 213/825-4932.

Oral History & History Museums is the theme of a joint meeting of the **New England Association of Oral History** and the **New England Museum Association**, planned for the fall of 1989. Presentations will focus on recent museum applications of oral history, and relevant workshops will also be offered. For additional information contact Fred Calabretta, Oral History Division, Mystic Seaport Museum, Mystic CT 06355; 203/572-0711.

The Northwest Oral History Association will hold its annual meeting April 13-14, 1989 at the University Inn Conference Center in Moscow, Idaho. Sessions will be held in conjunction with the Pacific Northwest History Conference and the annual meeting of the Northwest Archivist. The meeting also will coincide with the regional scholastic competitions of Phi Alpha Theta, the national history honor society. The University of Idaho and Washington State University are acting as joint hosts for the conference and each is sponsoring a major speaker. On April 13, Marcus Cunliff, a nationally recognized expert on George Washington, will lecture on the WSU campus. Robin Winks of Yale University will speak on innovative work in Canadian history. For more information contact Conference Desk, Department of History, Washington State University, Pullman, WA 99164-4030; 509/335-4030 or 335-5139.

The research committee of the **University of Hawaii Center for Hawaiian Studies** has planned an ongoing project to document on videotape *kupuna* (elders) throughout the Hawaiian islands. The project is now in its early stage, seeking names of *kupuna* who have knowledge of the Hawaiian language, culture, arts, history, politics, and other specialized topics. Contact Gailynn Williamson, University of Hawaii Center for Hawaiian Studies.

Recently, I was asked by a professor to comment on guidelines his university had developed which subjected oral history research projects to institutional review for the protection of human subjects. In particular the professor wanted to know if I thought procedures developed for social science and medical research were relevant to oral history projects. He thought that the requirement that questionnaires for oral history projects be reviewed and approved by campus administrators before interviewing begins could have a chilling effect on interviewers. I declined to comment directly on the issue of institutional reviews per se. I was more concerned that such

reviews if they take place utilize standards consistent with the best professional practice and therefore are based on OHA's *Oral History Evaluation Guidelines* prepared in 1979 and about to be reviewed for updating and revision at the 1989 Annual Meeting at Galveston.

Aside from a requirement that interviewees be given a copy of all questions to be asked prior to taping commencing, I found most of the regulations consistent with the goals of the oral history movement, particularly policies prohibiting keeping research subjects ignorant of the researchers' goals. The very nature of oral history interviewing requires that an interviewee have some understanding of the scope and proposed uses of the interview if he or she is to collaborate with the interviewer in giving as full and honest an account of past events as is possible. But unlike a poll, the oral history interview is an open-ended process which if successful bursts the limits of question protocols. When the interviewee's memory is stimulated, new material is revealed that even the best-prepared interviewer could not have anticipated.

Perhaps as the regulations had been written principally for scientific research, I found several important omissions. The most glaring was the absence of any discussion of legal contracts between the academic researcher and the oral history interviewee. To discuss protecting the oral history interviewee without providing for some form of legal agreement is a mean-

ingless exercise. The basic product of the oral history interview is not "data." As we record memories we create what are in essence literary materials, a fact that we all recognize implicitly when we copyright completed interviews. It is the legal agreement that gives interviewees the option of keeping all or sections of the interview confidential, or the right to review transcripts before they are made available to the public.

The case of one university imposing human subject protection requirements on oral history projects may simply be a fluke, but this could be a sign of the future developments in our field. As institutions seek to protect themselves from lawsuits, they may very well impose policies and procedures developed for the sciences without considering how such regulations could help or impede research in the humanities. Should OHA address this question directly when it updates our evaluation guidelines? Should we develop specific recommended policies and procedures that institutions could adopt for their own use? If you have experiences or opinions about this area, jot them down and send them to the OHA office. I will forward them to the committee reviewing OHA's ethical and legal guidelines, chaired by John Neuenschwander. This committee will present a report at the 1989 Annual Meeting for discussion and amendment by the membership. Other areas for which committees have been formed to study the need for revisions to our guidelines are teaching, unaffiliated interviewers and videotaping. The more the membership contributes its ideas and suggestions, the more pertinent the revised guidelines will be to our needs.

* * * * *

OHA's Endowment Fund campaign has raised \$1,570 as of January 31, 1989. This represents an excellent start since much of it came from small contributions. OHA's goal is to achieve 25 percent membership participation in the Endowment Fund. No donation is too small because once we can demonstrate that our membership is actively involved, we can approach other sources for contributions. If you haven't yet sent in a check, do it now. The Endowment Fund will give greater flexibility to OHA's programs and services.

Moore Hall 428, Honolulu, HI 96822.

The Montana Historical Society has been awarded a grant of \$135,964 from the National Endowment for the Humanities for a symposium commemorating the 100th anniversaries of statehoods for Washington, Idaho, Montana, North and South Dakota, and Wyoming. The symposium, held in Billings June 22-24, 1989 will include 80 faculty and 11 community forums. John Berreio is the new oral historian at the Montana Historical Society, replacing Laurie Mercier who is freelancing from her new home in Clarkston, Washington. Berreio holds an M.A. in history from Memphis State University and was library/curatorial assistant in special collections there.

Dan O'Neill of the University of Alaska-Fairbanks Oral History Project has conducted 26 interviews as part of the research on Project Chariot, a plan introduced by the Atomic Energy Commission in the 1960s to detonate nuclear devices in northwest Alaska.

Eleanor Swent, interviewer at the Regional Oral History Office at the University of California-Berkeley, was awarded the 1988 Clementine Award by the California Mining Association for her work documenting the lives of men and women in the mining industry in the 20th century.

CALL FOR REVIEWERS

The Oral History Review is seeking to expand its file of book reviewers. If you are interested in reviewing for the journal, please contact:

Linda Shopes, Book Review Editor
Oral History Review
American Studies Department
University of Maryland,
Baltimore County
Baltimore, MD 21228

Please note your content area(s) of expertise as well as your experience with/interest in oral history.

Book Notices

Anderson, Jon Lee & Scott Anderson. *War Zones*. Dodd, 1988. 336p. photos. index. ISBN 0-396-08915-1. \$21.95.
Effect of war on civilians in Ulster, El Salvador, Uganda, Sri Lanka, Palestine.

Anderson, Marilyn & Jonathan Garlock. *Granddaughters of Corn: Portraits of Guatemalan Women*. Curbstone. 1988. 124p. photos. ISBN 0-915306-64-6. \$35. ISBN 0-915306-60-3. \$19.95.
Narratives from the war in Guatemala.

Born in Fire: *The Indonesian Struggle for Independence: An Anthology*. Ohio Univ. Pr. 1988. c215p. ed. by Colin Wild & Peter Carey. illus. index. ISBN 0-8214-0881-X. \$26.95. ISBN 0-8214-0882-8. \$12.95.
Based on BBC radio program.

Brooke, Lee. *Yesterday When I Was Younger: An Oral History of Oak Park and River Forest, Illinois*. Library Book Club, Box 859, Oak Park, IL 60303. \$25.

Campbell, Joseph with Michael Toms. *An Open Life*. pub. by Paul Brunton Philosophic Foundation by Larson Pubs. 1988. c.144p. ed. by John Maher & Dennis Briggs. index. ISBN 0-943914-47-7. \$9.95.
Compiled from nine interviews over a 10-year period.

de Blasio Wilhelm, Maria. *The Other Italy: Italian Resistance in World War II*. Norton. 1988. c197p. photos. bibliog. index. ISBN 0-393-02568-3. \$18.95.

Donaldson, Scott. *John Cheever: A Biography*. Random. 1988. c.416p. photos. index. ISBN 0-394-54921-X. \$22.50.

Duberman, Martin Baum. *Paul Robeson*. Knopf. Jan. 1989. c.784p. photos. index. ISBN 0-394-52780-1. \$24.95.
Based in part on 130 interviews.

Earley, Pete. *Family of Spies: Inside the John Walker Spy Ring*. Bantam. Nov. 1988. c.400p. ISBN 0-553-05283-7. \$19.95.

Giles, Sarah. *Fred Astaire: His Friends Talk*. Doubleday. Nov. 1988. c.224p. photos. ISBN 0-385-24741-9. \$30.

Gioglio, Gerald R. *Days of Decision: An Oral History of Conscientious Objectors in the Military during the Vietnam War*. Broken Rifle Press, P.O. Box 749, Trenton, NJ 08607. 1989. ISBN 0-9620024-0-2. pap. \$16.45.

Hargrove, Erwin C. *Jimmy Carter as President: Leadership and the Politics of the Public Good*. Louisiana State Univ. Pr. 1988. c.264p. index. ISBN 0-8971-1499-5. \$24.95.
From the Miller Center of Public Affairs, U. of Virginia. extensive oral history project on the Carter presidency.

Hector, Gary. *Breaking the Bank: The Decline of BankAmerica*. Little. Sept. 1988. c.368p. illus. bibliog. index. ISBN 0-316-35392-2. \$17.95.
Based in part on 200 interviews.

Huffington, Arianna Stassinopoulos. *Picasso: Creator and Destroyer*. S & S. 1988. 558p. illus. bibliog. index. ISBN 0-671-45446-3. \$22.95.

Josephs, Zoe, et al. *Survivors: Jewish Refugees in Birmingham, 1933-1945*. Meridian Books. 1988. 217p. illus. ISBN 1-869922-02-6. \$27.50. Dist. by Denali Press, P.O. Box 021535, Juneau, AK 99802.
Recollections from the Birmingham (England) Jewish History Research Group.

Levy, Steven. *The Unicorn's Secret: Murder in the Age of Aquarius*. Prentice Hall pr. 1988. c.353p. photos. ISBN 0-13-937830-8. \$19.95.
New Age guru and Harvard fellow who fled the U.S. to avoid murder charge.

Lifton, Betty Jean. *The King of Children: A Biography of Janusz Korczak*. Farrar. 1988. 404p. photos. index. ISBN 0-374-18124-1. \$22.50.
Advocate for the rights of children.

Norton, Catherine Sullivan. *Life Metaphors: Stories of Ordinary Survival*. Southern Illinois University Press. 1989. 256p. ISBN 0-8093-1427-4. \$24.95.
Interviews with 46 people in small Midwest town.

Oppenheimer, Judy. *Private Demons: The Life of Shirley Jackson*. Putnam. Jul. 1988. c304p. ISBN 0-399-13356-9. \$19.95.

Reuter, Mark. *Sparrows Point: Making Steel — the Rise and Ruin of American Industrial Might*. Summit Bks., dist. by S. & S. Nov. 1988. c.440p. photos. index. ISBN 0-671-55335-6. \$24.95.
Details lifestyles of steel company executives.

Rozell, Mart J. *The Press and the Carter Presidency*. Westview Pr. Dec. 1988. c.215p. index. ISBN 0-8133-0765-7. \$28.
Extensive use of oral history.

Jones, Charles O. *The Trusteeship Presidency: Jimmy Carter and the United States Congress*. Louisiana State University Press. 1988. 264p. illus. index. ISBN 0-8071-1426-X. \$24.95.
From the Miller Center of Public Affairs, U. of Virginia. oral history project on the Carter presidency.

Robert Lowell: *Interviews and Memoirs*. Univ. of Michigan Pr. 1988. 369p. ed. by Jeffrey Meyers. index. ISBN 0-472-10089-0. \$22.
Artistic development of the poet.

Santoli, Al. *New Americans: An Oral History: Immigrants and Refugees in the U.S. Today*. Viking. Nov. 1988. c.385p. ISBN 0-670-81583-7. \$19.95.

Sourcebook: *Oral History Interviews with World War Conscientious Objectors*. Mennonite Central Committee, Akron, PA. 1986.
Contains transcripts of 16 interviews.

Spitz, Bob. *Dylan: A Biography*. McGraw. Nov. 1988. c.656p. photos. discog. index. ISBN 0-07-060330-8. \$17.95.
Dylan approved this manuscript.

Tremblay, Helene. *Families of the World: Family Life at the Close of the Twentieth Century. Vol. 1: the Americas and the Caribbean*. Farrar. 1988. 290p. tr. by Hilary & Paul Childs-Adams. photos. maps. ISBN 0-374-15216-0. \$35.
Author "lived with" 46 families typical of their countries. First of a series funded in part by the United Nations.

Plus Ca Change, Plus C'est la Meme Chose

What does it matter to me, a Frenchwoman living on my estate, to know that Egil succeeded Haquin in Sweden, and that Otoman was the son of Ortoagul? I have read with pleasure the history of the Greeks and the Romans; they offered me certain pictures which attracted me. But I have never yet been able to finish any long history of our modern nations. I can see scarcely anything in them but confusion; a host of minute events without connection or sequence, a thousand battles which settled nothing. I renounced a study which overwhelms the mind without illuminating it.

— Gabrielle Emilie de Breteuil,
Marquise du Chatelet, ca. 1730

Textbook publishers should stop overloading their books with facts and go back to telling a good story, built around questions that are meaningful to students.

Report on the Bradley Commission on History in Schools, published in AASLH's *History News Dispatch*, December 1988. Copies of the report are available from the Educational Excellence Network, 112 16th Street, N.W., Suite 500, Washington, D.C. 20036.

Vellela, Tony. *New Voices: Student Activism in the '80s and '90s*. South End Pr. 1988. c.272p. photos. index. ISBN 0-89608-342-X. \$30. ISBN 0-89608-341-1. \$11.

Willens, Doris. *Lonesome Traveler: A Biography of Lee Hays*. Norton. 1988. c.203p. illus. index. ISBN 0-393-02564-0. \$17.95.
Formed the folk music group, The Weavers, along with Pete Seeger, blacklisted during McCarthyism.

Wise, David. *The Spy Who Got Away*. Random. 1988. 288p. photos. index. ISBN 0-394-56281-X. \$18.95.
CIA agent Edward Howard who defected to the Soviet Union.

Audio and Video Productions

A Conversation with Stephen Jay Gould and Linus Pauling: *A Century of Science and Life*. ca. vol. videocassette. color. 23 min. Cabison Teleproductions. Carolina Biological. 1987. U-matic. \$115.95. VHS/Beta. \$99.95.
Interviews interspersed with visuals.

Are We Winning, Mommy?: *America and the Cold War*. 16mm. videocassette. color & b&w. 85 min. First Run/Icarus. 1987. 16mm. \$1350 (Rental: \$555). videocassette. \$700 (Rental: \$175). Preview avail.
Includes interviews with political advisors from the era.

Grace Kelly: *The American Princess*. 16mm or videocassette. color. 60 min. Wombat Prods. 1987. 16mm. \$895. VHS/Beta. \$100 (home, video, Brighton Video, \$39.95). Preview avail.
Rare visuals and film clips. Interviews.

On My Own: *The Traditions of Daisy Turner*. color. 28 min. Wm. Graff for Univ. of Vermont & Vermont Folklore Ctr., dist. by Filmmakers Library, 124 E. 40th St., New York, NY 10022. 1987. \$300 (Rental: \$55). Preview avail.
Family traditions from modern-day Vermont, to Civil War, to Africa.

Robert Coles: *An Intimate Biographical Interview*. color. 60 min. Film Study Ctr., Harvard Univ., dist. by Harvard Univ. Pr. 79 Garden St., Cambridge, MA 02138. 1988. ISBN 0-674-77525-7. \$59.95.
Conversation with Harvard child psychiatrist.

Theresienstadt: *Gateway to Auschwitz*. videocassette. color. 58 min. KGT Film Corp. & Elephant Prod., dist. by Cinema Guild. 1987. \$395. (Rental: \$90). Preview avail.
Interviews with survivors.

Voices from Ellis Island: *An Oral History of American Immigration*. University Publications of America. 1988. 185 microfiche with printed guide. \$600. 35mm microfilm (8 reels) with printed guide. \$600. ISBN 1-55655-041-3.
From the National Park Service project.

Oral History Sources

In November, Chadwyck-Healey solicited participation in *Oral History Sources* — the new reference publication which consists of finding aids, lists, guides, abstracts, synopses, indexes, and catalogs of oral history collections reproduced on microfiche. In the first month, the following collections have agreed to lend their finding aids:

Latah County Historical Society, Moscow, ID
U. of Iowa Libraries, Spec. Colls. Dept.
Mennonite Library and Archives, Bethel Coll.
Iranian Oral Hist. Coll., Harvard University
Michigan Historical Coll., Bentley Hist. Lib.
Immigration History Research Center, U. of Minn.
Educational Testing Service, Princeton, NJ
Archives of Industrial Society, U. of Pittsburgh
US Army Military History Inst., Dept. of Army
Naval Historical Collection, Naval War College, Newport, RI
National Park Service History Coll., Harpers Ferry, WV.

The finding aids will be indexed and cumulated into a single database. For information on lending materials to be microfiched for this project and/or purchase information contact Senior Editor, Chadwyck-Healey Inc., 1101 King St., Alexandria, VA 22314.

Salinger v. Random House (continued from page 1)

With this skewed emphasis on the third and fourth "fair use" factors, the Second Circuit had no difficulty in finding that 59 references to Salinger's letters in a 192-page biography constituted copyright infringement. As the Court summed up its holding,

To deny a biographer like Hamilton the opportunity to copy the expressive content of unpublished letters is not, as appellees contend, to interfere in any significant way with the process of enhancing public knowledge of history or contemporary events. The facts may be reported. Salinger's letters contain a number of facts that students of his life and writing will no doubt find of interest, and Hamilton is entirely free to fashion a biography that reports these facts. But Salinger has the right to protect the expressive content of his unpublished writings for the term of his copyright, and that right prevails over a claim of fair use under 'ordinary circumstance.'

The confirmation that *Salinger* is a mainstream decision of significant precedential importance has not been long in coming. The application of the *Salinger* case in two separate instances involving alleged infringement upon a copyright holder's interest in both unpublished letters and interviews, resulted in the issuance of two injunctions barring publication of the respective works involved.

In a case involving a biography of the famous composer, Igor Stravinsky, *Craft v. Kobler*, 667 F. Supp. 120 (S.D.N.Y. 1987), Stravinsky's amanuensis and personal assistant, Robert Craft, filed suit for copyright infringement against the author and publisher of a then soon-to-be-published work entitled, *Firebird, A Biography of Igor Stravinsky*. Craft, who had authored or co-authored 15 books about Stravinsky, including four works of oral history interviews, claimed that Kobler's use of Stravinsky's words was excessive and did not constitute "fair use." Relying heavily on the *Salinger* decision, the District Court for the Southern District of New York agreed. Even though the letters and interviews in this instance were published, the District Court found that 3 per cent of Kobler's biography was directly derived from these sources and "... they are the liveliest and most entertaining part of the biography." The result was the issuance of a preliminary injunction against the publication of *Firebird*.

In addition to confirming the importance

of the *Salinger* decision, *Craft v. Kobler* clearly groups oral history transcripts with letters for purposes of copyright protection. The Federal District Court in *Craft* specifically found that the copyright interest in Stravinsky's letters and interviews had been willed to Craft and, thus, was enforceable by him. The only limitation in this regard was that any quote or remark attributed by Stravinsky in an interview to a third person would not be protected by copyright. Such literary hearsay, the Court noted, falls outside of copyright protection because it is not the original creation of the copyright holder, in this instance Craft from Stravinsky.



... Random House effectively limits authors to the unadorned factual content and little more ...

Copyright infringement or oral history materials also was at issue in the most recent application of the *Salinger* decision, *New Era Publications Intern. v. Henry Holt & Co.*, 684 F Supp. 808 (S.D.N.Y. 1988). In this case, the Court issued a preliminary injunction against the issuance of a second printing of Russell Miller's biography of the controversial founder of Scientology, L. Ron Hubbard. As the Court noted, *Bare-Faced Messiah: The True Story of L. Ron Hubbard* would either have to be revised extensively to delete most direct quotations and close paraphrases from Hubbard's unpublished letters and interviews or remain permanently on the shelf at Henry Holt & Co.

By now it should be apparent that publishers and scholars have real reason to be troubled by the *Salinger* decision. By virtually eliminating the "fair use" defense for an author's use of direct quotations drawn from unpublished sources as well as close paraphrasing that captures the "expressive content" of the original words, *Salinger v. Random House* effec-

tively limits authors to the unadorned factual content and little more. With both the *Craft v. Kobler* and *New Era Publications Intern. v. Henry Holt & Co.* decisions extending the application of *Salinger* to unpublished interviews, oral historians seemingly have been placed in the same bind as the scholars and publishers.* But there is one crucial distinction. Oral historians and programs who routinely secure a blanket release from their interviewees, including the transfer of all copyright interests, are not potentially infringing users. They are instead copyright holders. Just as Robert Craft chose to use the copyright interests he obtained from Igor Stravinsky to halt publication of Kobler's biography, oral historians have the same option.

Since the *Salinger* decision's limitation upon the scholarly utilization of unpublished materials clearly favors both the economic and privacy interests of individual copyright holders over the public's right to know, hopefully oral historians and programs will voluntarily refrain from utilizing *Salinger* except where the borrowing is excessive and unscholarly. Such restraint would be in keeping with one of the major "Goals and Guidelines of the Oral History Association for Sponsoring Institutions," namely, "to prepare and preserve easily useable records: ... and, when open to research, to make their existence known."

Like his main character in *The Catcher in the Rye*, Holden Caulfield, J. D. Salinger had sought to keep the adult world at arms' length. In both a literary and a legal sense, he has succeeded.

[Editor's note: Random House has just published an account of the legal battle between J. D. Salinger and Ian Hamilton, *In Search of J. D. Salinger, A Writing Life* (Random, 1988, \$17.95). Ironically, as *Library Journal* put it, Salinger revealed more about himself in his conduct during the case than was ever revealed in the letters Hamilton based his biography on.

* One important issue that has not been addressed by any of the cases reviewed here, is whether the limited distribution to individuals and other collections of photocopied transcripts constitutes publication for purposes of copyright protection. Section 101 of the Copyright Act defines publication as "... the distribution of copies or phonorecords of a work to the public by sale, or other transfer of ownership, or by rental, lease or lending." There are no cases in which a court has held that the photocopying of oral history transcripts constitutes publication.

News

The Mid-South Music & Heritage Festival, held last August in Downtown Memphis, included a tent devoted to family history. Festival-goers viewed family folklore told through artifacts, photographs, and films, learning how each family has its own way of describing events about its own history. Folklorist Bob Gates was on hand in the tent to interview family members about their own family stories. One copy of the interviews was given to the interviewee and one copy became a part of the archives of the Center for Southern Folklore, which sponsored the event. Another feature of the festival included a Talker's Corner, where participants discussed their lives and their crafts, from moonshine to bocce.

The American Institute of Physics Center for History of Physics has received a grant from the National Endowment for the Humanities to upgrade its International Catalog of Sources for History of Physics and Applied Sciences (ICOS). Documenting more than 3000 collections in institutions and in private hands throughout the world, ICOS will share its data with the Research Libraries Group's Information Network (RLIN), thus allowing interdisciplinary access to the history of physics. What is remarkable about their project is the fact that ICOS includes papers *in situ*, mostly materials which are

in the hands of individuals. These private collections have been made known to the center through its vigorous oral history program, which encourages individual scientists to place their papers eventually in a designated repository.



Logo art from the Michigan Oral History Council Newsletter.

The State University of New York Press has launched a new book series in oral and public history under the general editorship of Michael Frisch, chair of the department of American Studies at SUNY-Buffalo and editor of *The Oral History Review*. The series seeks manuscripts which explore the relationships which oral and public history have with their subjects, since both rely on a methodology which "dramatically transforms the relationship between historians and the broader publics from which they draw their material, and to which their work is addressed." Contact Rosalie Robertson, Editor, SUNY Press, State University Plaza, Albany, NY 12246.

The Showalter Foundation of Newton, Kansas has made a new grant on behalf of oral history at Bethel College's Oral

History Institute. The current institute project is on "The Oral History of World War II," with emphasis on Mennonite conscientious objectors and Civilian Public Service experiences. This collection now stands at 135 recorded interviews from persons in eight states. A similar project, "Conscientious Objectors in World War I," has 300 interviews. Directors of the Oral History Institute are Keith L. Sprunger and James C. Juhnke, Department of History, Bethel College, North Newton, KS 67117.

Opportunities

The Center for the Study of Physics is seeking historians of science to conduct interviews on the history of geophysics. The interviews will be part of a new five-year project in cooperation with the American Geophysical Union. Interview expenses and an honorarium will be paid by the center. Contact the Center for History of Physics, American Institute of Physics, 335 East 45th Street, New York, NY 10017, telephone 212/661-9404.

Call for Papers

The 1989 Society for the History of Technology Program Committee calls for paper and session proposals for the annual meeting to be held in Sacramento, California, October 12-15, 1989. The committee seeks proposals in all areas of the history of technology. The deadline for receipt of proposals is April 1, 1989. A 150-word abstract and one-page curriculum vitae must be provided. For more information, contact Thomas J. Misa, Department of Humanities, Illinois Institute of Technology, Chicago, IL 60616; 312/567-3465.

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