

LAW

Courts Deny Ban on Witchcraft Passages

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The movement to ban passages about witchcraft from public-school textbooks has been rebuffed by two federal appeals courts.

Parents of elementary-school children in Woodland, Calif., and Wheaton, Ill., had argued that use of such passages, which are included among 800 literary selections in Impressions, a Harcourt Brace Jovanovich Inc. reading series, violated the First Amendment. The parents claimed that the texts, and related classroom activities in which children play roles as witches and create poetic chants, promote witchcraft as a religion and interfere with families' practice of their own religion.

But in a ruling earlier this month, the Ninth U.S. Circuit Court of Appeals said the passages and related lesson plans were simply teaching aids and not religious rituals. "The activities in the challenged selections are fantasy activities, drawn from a secular source and used for a secular purpose, that happen to resemble religious practices," the San Francisco-based court said. "They are not 'overt religious exercises.'"

In February, parents lost another such battle when a separate U.S. appeals court, the Seventh Circuit in Chicago, reached the same conclusion, noting that the series also included secular fables by such authors as Dr. Seuss, C.S. Lewis and A.A. Milne.

"Public school curricula traditionally rely on fantasy and 'make-believe' to hold a student's attention, to develop reading skills and to instill a sense of creativity and imagination," Judge William Bauer wrote in an opinion for the court. "That this

particular series relies on witches and goblins in a few stories . . . fits the norm."

Although Harcourt has since introduced a different elementary-school reading program, Impressions is still on the market. Joanne Parker, a spokeswoman for the company, said she wasn't aware of any passages on witches and sorcerers in the new program, but said its development had nothing to do with the controversy over Impressions. "We still stand behind the Impressions program," she said.

Harcourt has fended off most political and legal challenges to Impressions, which has been used in more than 1,500 schools in 34 states. But the 15-anthology series has been a highly controversial education program.

Several years ago, religious activists and parents' groups in a dozen states, calling the texts primers on witchcraft, Satanism and the occult, fought to have the books banned from classrooms. State educators in Georgia and North Carolina refused to help local school boards pay for the series. And teachers in a California school district who used the books were threatened and saw their homes and cars vandalized.

Benjamin Bull, a lawyer formerly with the American Family Association Law Center in Tupelo, Miss., which represented the California parents, said a decision hasn't been made about whether to appeal to the U.S. Supreme Court.

(*Brown vs. Woodland Joint Unified School District; Ninth Circuit, No. 92-15772; Fleischfresser vs. Directors of School District 200, Seventh Circuit, No. 92-3674.*)

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Clinton Nominates Tatel

President Clinton nominated David S. Tatel to be a judge on the U.S. Circuit Court of Appeals for the District of Columbia. Mr. Tatel is believed to be the first blind person ever nominated to the federal bench.

Mr. Tatel, 52 years old, is a civil rights lawyer and currently a partner with the Washington firm of Hogan & Hartson. If confirmed by the Senate, he would fill the seat vacated upon Ruth Bader Ginsburg's elevation to the U.S. Supreme Court. Mr. Tatel declined to comment.

While other judges have lost their sight while serving on the bench, Mr. Tatel is thought to be the first blind person ever nominated to a federal court, according to the Administrative Office of the U.S. Courts. A spokesman for the office said a blind person was considered a few years ago for a federal district court judgeship in New York, but wasn't nominated.

Jail Threat Is Withdrawn

Prosecutors backed off a request that a Las Vegas criminal defense lawyer be jailed for not turning over client fee information.

Instead, the government asked that the attorney, Oscar Goodman, be fined \$25,000 a day for not complying with a grand jury subpoena seeking the information. Mr. Goodman maintains that disclosing the information would turn him into a witness against his client, who is being investigated for conspiring to defraud the government.

The trial judge took no immediate action. The judge previously had ordered Mr. Goodman jailed for contempt of court but postponed enforcing the order pending an appeal by Mr. Goodman. A federal appeals court upheld the trial judge's order last week.

Mr. Goodman, who has said he won't disclose the information even if jailed, said he is considering a further appeal. The criminal defense bar has rallied behind Mr. Goodman, maintaining that such disclosures are barred under many states' legal-ethics rules.

—Richard B. Schmitt in Washington contributed to this article.