Recalls Revisited

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Recalls Revisited, A Response

by Jeffry Larson, Bibliographer (Yale University)

Wait before you dutifully return that "bad" plagiarized book at the publisher's behest, please consult with your local friendly professional who's paid to make the decisions about adding material to the collection: the collection development officer or bibliographer or whatever you call your selectors. Notably absent from Barry Fast's and Judy Webster's discussion of "Recalling a Book" in the April 1992 issue of ATG (as indeed from the postings on ACQNET) are the collection development point of view and the consideration that the book, as "bad" as it is, might be of some valid potential interest to the library's users. (Is it too much to ask that a publication whose subtitle is "Linking Publishers, Vendors and Librarians" also keep users in mind?) Perhaps I am what Charles Hamaker would call a "narcissist" (same issue), but I believe that this question is not one of acquisitions policy or of vendor/library relations, but of collection development policy. In what follows I do not claim that the book must not be returned, only that the decision should be made by the appropriate selector.

Judy Webster should be at least credited for hesitating and consulting colleagues before returning the book. But she offers no evidence that she consulted the relevant selector or that if she was that selector, what collection development skills and knowledge she brought to bear on the issue. Did she consult her library's collection development policy statement? Did it say to exclude all cases of plagiarism ruthlessly? Is her library's policy retroactive? Do they have an active retrospective weeding project?

Instead of having recourse to relevant expertise within the library, Webster called a publisher's representative, a historian interested in the book's subject, and university counsel. All gave the same answer: return the book.

In the first instance, why would she expect candor from a salesperson?

Webster's second contact had already "purchased a personal copy of the book:" how many of us know faculty members who think the library should not waste its resources on books they own themselves? And after calling a colleague, he reported that it was "...a very embarrassing situation for everyone concerned." It is interesting to learn from this that part of the mission of the University of Tennessee library is to help cover up professionally embarrassing situations. Other collections may be permitted to take a different view of their responsibilities.

In the case of the "university staff attorney," again why would we expect him or her to want to take on extra work? Instead, why not take the principled position that, within the subject areas of its collecting policy, the library may choose to preserve in perpetuity the author's infamy and the publisher's poor judgment — and then make the case to counsel for the need for legal support?

The library's responsibility is not to cover the publisher's ass - I mean liability, nor to withdraw materials because of "...some [putative] harm to society," Webster says she "wan[s] to cooperate in the larger scholarly enterprise," but gives no consideration to the fact that it might indeed be furthered by keeping a copy of the book for research on the problem of plagiarism. The same issue of Against the Grain contained a review of the paperback reprint of a scholarly study on plagiarism - in a column edited by none other than Barry Fast. And as I was reading her article, a colleague of mine was consulting with a Ph.D. candidate in American studies who is writing a dissertation on literary plagiarism.

Where do Webster and Fast expect researchers to find primary materials if librarians have compliantly returned the offending books?

Barry Fast, for his part, has the virtue of casting the question in terms of a selection decision, at least when the plagiarism is unproved: "If we are unsure a book is plagiarized, we should evaluate the purchase of the book as we would any other." But his criterion in the case of proven plagiarism is excessively moralistic and black-and-white: "...when you buy a book that you know is plagiarized you reward both the author and publisher with money.... By returning the book and receiving credit for your earlier purchase, you deprive the publisher and author of money. They are, in effect, penalized for selling someone else's stolen property." He confuses selling the book in numbers to the public at large (the source of the publisher's profit) and selling the book to libraries for archival and research purposes. Procuring a library copy of the critical edition of the Protocols of the Elders of Zion (just published in Paris) does not mean one advocates selling it in a mass-market paperback edition.

Fast goes on to propose the analogy of a "medical book...[that] contains a dangerous error.... The answer should be clear.... It is our obligation as book-sellers not to sell it or to return it if we own it." It may be all right for a bookseller to return all products of plagiarism or "erroneous and dangerous misinformation," but a library has other alternatives. If, for example, its collection in medical history has as one of its aims the documentation of medical bibliographical malpractice, the appropriate selector might wish to consider placing the book in a restricted status, and even - horror of horrors - labelling the book to point out the danger.

In 1980 Francoise Sagan published a novel under the title Le Chien couchant [The Setter]. In a preliminary note she thanked a fellow author for his "concours involontaire." She even named the title and publisher of the work used as her point of departure. Unsatisfied, the other author successfully obtained from the French court a judgment that Sagan's title be withdrawn from the trade. And what was the response of our bibliographer (c'est moi): indignantly demand, "Francoise, you naughty girl, hold out your hands so that we may smack them?" Hardly - for demanding our money back to penalize her would also penalize researchers interested in her
literary methods. Realizing that the French court's action rendered the book irreplaceable, we put it in our locked cage collection to await the eager thesard.

As for Fast's category of books containing "erroneous and dangerous information," here again a case can be made for retention and protection. Georges Simenon won a court case for defamation against his ex-wife's fictionalized memoir about him titled Le Phallus d'or (need I translate?). Here too the book was withdrawn from the trade because the court found that it contained information harmful to its subject. And here again we acted to protect the interests of our present and future researchers by placing the contentious title under lock and key.

With books at least, we have signed no licensing agreement with publishers, vendors or aggrieved third parties. When we bought the book, it became ours to deal with as we see fit. We must place the interests of our users first, and if others have a superior claim, they can make it in a separate action. We must make our best defense and not prejudge the matter in favor of those who are not our clients. And if some librarians are focused on vendor relations, they should remember that they have colleagues with a different perspective that should not be pre-empted.

As for possible forgeries and other hoaxes (a category left out of Fast's and Webster's literary moralizing), we're still examining the Vinland Map.

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**Counter - Response**

**Recalling A Book**

*Here is Barry's and Judy's response to Jeffry Larson.*

Jeffry Larson has broadened the debate on this subject and raised some issues we had not covered. Part of the pleasure of writing for (and reading) *Against the Grain* is that complicated subjects can be raised and analyzed from a number of different viewpoints.

We agree with Larson that collection management librarians should be included in the decision making process. There is, as Larson points out, a legitimate viewpoint that they represent, and they should be consulted. The decision to keep a plagiarized book for the purpose of primary research is valid, and the value of the book in that context should be considered.

While Larson views this decision from the value-to-the-collection standpoint, certainly a legitimate perspective, we continue to disagree that the decision should be made by the "appropriate selector." Plagiarism is a legal issue. It is, by extension, a business issue, and the decision therefore rests ultimately with the acquisitions librarian. He or she should consult the selector, the library administration, the legal authorities and other appropriate people, but the final decision should reside within the acquisitions librarian. In fact, Judy did just that by discussing the book with a respected faculty member and the legal authority on campus. Judy did not participate in a "cover-up" by reporting that the situation was embarrassing; she merely added this remark as further evidence that the book was plagiarized.

We fail to see how a legal opinion for or against returning a book makes for extra work on the part of university staff attorneys. They get these kinds of questions all the time, and we doubt they give advice based upon how much extra work it will make for them. This does not seem like a smart way to keep one's job.

Larson calls Barry "excessively moralistic," a sure sign that he has never met him. In discussing Barry's viewpoint Larson seems to move from plagiarism to censorship. We should make it clear that the Protocols of the Elders of Zion, as offensive and untruthful as it may be, should enjoy the same protection as any other book. When Larson introduces two court cases he muddies the argument. In neither of these cases did the publisher voluntarily state that they made a mistake in publishing the books and that they wanted the books returned. In both these cases the publishers fought to keep the books alive. As librarians and booksellers we should always be on the side of the book, even when it is hurtful, dangerous or unpopular. But not when the publisher tells us it is plagiarized, because plagiarism destroys the intellectual playing field.

To clarify Barry's view: Libraries should keep the book in cases of suspected, but unproved plagiarism. Even if a court finds that a book is plagiarized and orders its removal from circulation, there seems no compelling reason to return the book. In this case, the publisher is trying to protect its decision to publish, and although it lost in court it has not asked libraries to return it. When in doubt (and we can certainly doubt the courts, especially these days), keep the book.

If, however, the publisher says that they have subsequently found the book to be plagiarized and want it returned we should comply. In this case the publisher is exercising its right, retroactively, not to publish a book, and we should respect that right.

Larson makes a strong case for keeping a book, even when the publisher has recalled it. There may be situations where the need to have primary sources of plagiarism outweighs the desire to cooperate with the publisher in protecting intellectual property. That is why this case is so interesting to us, and Larson's contribution to the debate is welcomed.

Do we appear inconsistent? A foolish consistency is the hobgoblin of little minds. We made that up. Really.

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**Library Profile**

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Our circulation database. Now, the initial order record is simply edited as necessary by the Acquisitions and Cataloging staffs. In addition, the title records are in the public catalog within hours of order placement. We have embraced this new procedure with enthusiasm, and continue to search for similar opportunities with other materials vendors.