

SEE YOU IN COURT? continued from page 4

(b) "To protect the right of access"

Kreimer v. Bureau of Police of the Town of Morristown – Mr. Kreimer, a homeless man, was ejected from the public library for violating its patron conduct policies. Kreimer claimed the library had violated his rights, but the library claimed use of the library was not a 1st Amendment right. The district court held that access to the public library is a corollary 1st Amendment right and found the policies unconstitutionally vague. The Third District Court of Appeals upheld the library's policies, but it agreed with the district court that the right to receive information "includes the right to some level of access to a public library, the quintessential locus of the receipt of information." FTRF filed an amicus brief at the appeal.

(c) "To support the right of libraries to include and make available any work they may legally acquire"

Case v. Unified School District No. 233 – The school board in Olathe, Kansas, removed Nancy Garden's *Annie On My Mind*, claiming it was educationally unsuitable. Students and a teacher sued the board, and the district court held the action unconstitutional because the "substantial motivation" in the decision was "their own disagreement with the ideas expressed in the book." Evidence of this motivation came from statements by board members at the trial and from the board's disregard of its own established review policies. The district has said it will not appeal the decision. FTRF supported the suit by providing legal advice to the plaintiff's attorneys and by supplying information about the book.

a), (b), and (c)

American Library Association v. U.S. Department Justice – Because of the nature of the internet, this case involves all of the above aspects. FTRF joined many organizations and businesses in filing a complaint in this case with ALA as lead plaintiff and Jenner & Block as counsel.

(d) "To supply legal counsel"

Fairbanks North Star Borough Ordinance 95-052 - In the middle of a major challenge concerning a Gay/Lesbian History Month display in the public library, an Assembly member submitted an ordinance that would have prohibited the display of "controversial" materials. The library's counsel, the Borough Attorney, had written the ordinance for her other client, the Borough Assembly, and could not advise the library. Since there was no one available with 1st Amendment expertise in Fairbanks, FTRF provided legal counsel, and that opinion helped defeat the ordinance.

LEROY C. MERRITT FUND

Many are not aware that the Leroy C. Merritt Fund is available to give financial assistance to those who have suffered the loss of a job or pay because of a stand they took in favor of Intellectual Freedom. The Fund is prepared to assist colleagues who support the First Amendment and suffered a loss because of their actions.

For more information, contact the Office for Intellectual Freedom at ALA.

David Cohen, *Director*
Ethnic Materials Information Exchange

"An Appeal to Hollywood" vs. "An Appeal to Reason"

Over 7,500 people have signed "An Appeal to Hollywood" (<http://www.media-appeal.org/appeal.htm>), which urges the entertainment industry to "assume a decent minimum of responsibility for its own actions and to take some modest steps of self-restraint" regarding violent and sexual content. The appeal calls for the establishment of "new voluntary code of conduct, broadly modeled on the NAB code," which would "(1) affirm in clear terms the industry's vital responsibilities for the health of our culture; (2) establish certain minimum standards for violent, sexual, and degrading material for each medium, below which producers can be expected not to go; (3) commit the industry to an overall reduction in the level of entertainment violence; (4) ban the practice of targeting adult-oriented entertainment to youth markets; (5) provide for more accurate information to parents on media content while committing to the creation of "windows" or "safe havens" for family programming (including a revival of TV's "Family Hour"); and, finally, (6) pledge the industry to significantly greater creative efforts to develop good family-oriented entertainment."

While there may be much in the media to criticize, "An Appeal to Hollywood" is likely to do more harm than good. It promotes the idea that violent imagery causes crime and should be suppressed, an attitude that encourages government censorship.

Only 600 people have signed "An Appeal to Reason" (<http://www.FreeExpression.org/reason.htm>), which urges the entertainment industry to "provide the highest quality entertainment possible" and "resist the pressure to create taboos, villainize art and artists, and constrain the creative imagination." It also urges public officials and Hollywood executives to "avoid simplistic responses and sound-bite solutions to complex social problems."

According to "An Appeal to Reason," there is "no evidence that banning violence in the media will do anything to deter crime. Despite the claim in "An Appeal to Hollywood" that there is 'overwhelming' evidence that entertainment violence has "harmful effects," a 1993 report by the National Research Council, a division of the National Academy of Sciences, did not even include exposure to media violence among the risk factors for violent behavior.

"An Appeal to Reason" points out that, "although the rhetoric of 'An Appeal to Hollywood' focuses on protecting children, it advocates a system of self-censorship by the entertainment industry that would also limit what adults could see by creating 'minimum standards for violent, sexual and degrading material for each medium, below which producers can be expected not to go.'" "An Appeal to Reason" states that this would threaten innovative adult programming and compares the code proposed by "An Appeal to Hollywood" with the Production Code of the Hays Office. That production code "prescribed how movie directors could depict violence, sex, religion, and the flag."

Organizations that have added their support to "An Appeal to Reason" include the American Booksellers Foundation for Free Expression, the Boston Coalition For Freedom of Expression, Feminists for Free Expression, the First Amendment Project, the Freedom to Read Foundation, the Institute for First Amendment Studies, the National Coalition Against Censorship, the National Campaign for Freedom of Expression, and the PEN American Center.

Intellectual Freedom Round Table
Office for Intellectual Freedom
American Library Association
50 East Huron Street
Chicago, Illinois 60611

Harry Potter Stays!

The reports from New York state concerning Harry Potter Books indicate that these will remain in both the library and the curriculum. The Yorkshire, New York school district reconsideration committee recommended "the current optional use of J.K. Rowling's books by the professional staff and library media centers in Pioneer

Schools should be educationally appropriate and permitted to continue."

A similar conclusion was drawn in Clarence New York. The recommendations in both situations are supported by the local Superintendents.

David Cohen, *Director*
Ethnic Materials Information Exchange

STATE AND REGIONAL ACHIEVEMENT AWARD WINNER NAMED

The Ohio Library Council will receive the SIRS State and Regional Achievement Award presented by the Intellectual Freedom Round Table. The Council was selected for increasing the public's awareness of the importance of free and open access to information in all libraries and for working carefully with each library group to "tailor" its workshop to effectively meet the participants' specific needs.

The award, which is funded by Social Issues Resource Series, Inc., (SIRS) consists of a citation and \$1,000 cash. It recognizes successful and effective intellectual freedom committees or coalitions that have made a contribution to the freedom to read in libraries or to the intellectual freedom environment in which libraries function.

"The State and Regional Achievement Award Committee very much admires the Ohio Library Council for designing and promoting an exemplary and replicable model program based on intellectual freedom principles and "best practices," said Charles Beard, Chair of the award committee. "IFRT is pleased to present this award to the Ohio Library Council for its willingness to share its expertise and experience with library professionals in other states' library chapters or respective committees to assist them in developing similar intellectual freedom presentations."

The award will be presented on Saturday, July 8, at 2 p.m., during the IFRT program at the ALA Annual Conference.

Don Wood
IFRT Staff Liaison
ALA Office for Intellectual Freedom

PRODUCTION INFORMATION

IFRT is published periodically by the American Library Association's Intellectual Freedom Round Table. Distributed free to IFRT members.

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Design and Production

Florida International University Publications Department

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Published by the American Library Association

IFRT Report

Intellectual Freedom Round Table No. 45 Summer 2000

Chair's Report

The Midwinter Meetings of the Intellectual Freedom Round Table Executive Committee, to this participant, contributed to the goal of making IFRT an increasingly productive organization with additional opportunities to participate in the work of the round table. Some of the ideas generated by the brainstorming session, in which twenty-three participated, hopefully provide a look into the Round Table's future as it enhances its contribution to the Freedom to Read in libraries.

Inherent in the brainstorming process is the presentation rather than the refinement of ideas. Nonetheless, two of the items generated were too good to delay: organization of a preconference aimed at trustees for the San Francisco conference; and appointment of a subcommittee to develop a list of intellectual freedom competencies that should be part of every librarian's background. The preconference for ALA 2001 will be pursued by Cynthia Pirtle, currently IFRT Chair-Elect. Assisting her will be Carrie Gardner, Marie Wright, Mike Wessells, and Jody Risacher. Carolyn Caywood, former IFRT Chair, will lead the Committee on Intellectual Freedom Competencies. She will be assisted by Paul Vermouth, Cynthia Pirtle, Tom Budlong, and Jody Risacher.

The time before ALA Chicago will be spent in further development of some of the ideas presented. The Executive Committee is in the process of choosing and prioritizing these. If you are attending the annual conference, you are welcome to attend the Executive Committee Meeting and will be in a position to contribute to moving our organization to the next level. The meetings are scheduled for Friday, July 7, 2 – 5:30 (Hyatt Regency Chicago/Water Tower Room) and Monday, July 10, 8 – 10 (same hotel, Gold Coast Room). See you there!

Laurence Miller, Chair
(Executive Director of Libraries
Florida International University, Miami, Florida)

Hating Hate Speech: Debating Freedom and Tolerance in the Chicago IFRT Program

by George Pearson and Heidi Lowry
Reference Librarians
Florida International University
North Campus Library

America's official day of Thanksgiving is also a celebration of tolerance, of Pilgrims escaping religious persecution in the Old World, and finding Native American friends in the New. Alas, the reality of succeeding years turned out somewhat differently. The Pilgrims proved violently intolerant of such heretics as the Quakers and Anabaptists, while the Algonquin (and many other tribes) came to rue their tolerance of immigrants from abroad. America's history of tolerance is a checkered one, a crazy quilt of noble ideas and sometimes not-so-noble deeds.

For many years, freedom of expression was seen as the handmaiden of tolerance, freeing minority voices from majority control. But in recent years, this liberal consensus has fractured. Many have come to regard the absolutist position on free expression not as a bulwark of but as an impediment to a just and tolerant society. For many critics, hate speech is not merely distasteful and offensive, but serves to suppress the civil rights of historically neglected and oppressed minorities such as women, people of color, and sex/gender outsiders. These critics hold that hate speech is so harmful to certain minorities that genuine social equality becomes impossible. In this conflict between the constitutional principles of freedom and equality, they argue that freedom of expression, not equality, must give way.

The IFRT program for the Chicago Annual Conference, slated for Saturday, July 8th 2-4 PM, is entitled "Freedom of Expression Versus Tolerance: Exploring the Limits". The program will focus on the question of

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HATING HATE SPEECH FROM PAGE 1

whether hate speech and hate propaganda as forms of expression are so harmful that they are undeserving of First Amendment protection. This position has gained currency in many academic circles, particularly among law school faculty. Many, perhaps most, challenges to Intellectual Freedom emanate from the right of the political spectrum. Yet proponents of curbing hate speech often come from political backgrounds commonly associated with strong civil libertarian sympathies. Their arguments fuse a passionate egalitarianism with an extensive analysis of the harmful effects of hate speech. The result has rightly been described as a revolution in First Amendment theory.

The argument depriving hate speech of constitutional protection challenges the so-called "absolutist" interpretation of the First Amendment. Traditionally, this interpretation held that all but a narrowly defined spectrum of speech (libel, fighting words, obscenity) falls under the protection of the First Amendment. The argument for limiting hate speech and hate propaganda generally follows one of two lines: first, that hate speech is a form of "fighting words", words that "by their very utterance inflict injury or tend to incite..." (Chaplinsky v. New Hampshire); second, that hate speech precipitates a conflict between the rights of free expression and equality, or, in constitutional terms, between the First and Fourteenth Amendments. There can be no racial and gender equality where the majority uses harmful forms of speech to maintain a racist and sexist social structure.

There are three analytical approaches that share a determination to limit hate speech. Critical race theorists hold that hate speech is a primary tool for ensuring dominance over historically persecuted minorities. In an America riven by racism, it is arguable that hate speech is a uniquely pernicious obstacle blocking the progress of economically, socially, and psychologically vulnerable minorities. Some gay, lesbian, bisexual, and transgendered advocates hold that hate speech leads directly to hate crime, and serves to keep sex/gender outsiders in a compliant state of silent fear. Some feminists have argued that pornography is nothing more than a form of hate speech that reinforces stereotypes and maintains the subservience of women through images of degradation and dominance. What all these perspectives

share in common is the belief that hate speech is so powerful and harmful that the targeted individual is ultimately silenced and unable to respond. This challenges the traditional civil libertarian notion of answering bad speech with good, since hate speech deprives its targets of the very capacity to answer back.

For librarians, the issue is anything but academic. The question of hate speech confronts the practitioner with philosophical, psychological, and potentially legal challenges. Philosophically, the civil rights adherents who aim to limit hate speech bring to bear compelling and well-reasoned arguments that cause us to reflect on our commitment to First Amendment principles. Psychologically, advocates of limiting hate speech do so for reasons close to our hearts: equality, human dignity, fairness, and tolerance. Defending those who use hate speech to hurt and dominate others is a difficult and unpleasant task. Finally, the legal issues that may arise from restricting hate speech are unclear, and depend on whether such restrictions are based on criminal or civil law. But for librarians, the selection of materials deemed to be hate speech or hate propaganda holds the possibility of tort, or even criminal consequences.

The Chicago program will feature three prominent and exciting panelists who will discuss the legal and intellectual implications of hate speech. Richard Delgado is the John Lindsey Professor of Law at the University of Colorado School of Law. Professor Delgado is one of the foremost figures in the race critical movement, and is the author of numerous important books and articles dealing with hate speech. Julia Dawson is an attorney and longtime gay and lesbian and women's rights activist in South Florida. Finally, Jane Whicher, the Senior Staff attorney for the ACLU of Illinois, will present a more traditional civil libertarian view on hate speech.

It is the hope of the Program Committee that this year's session will be challenging and provocative. Our aim is to help our members understand the position of those who would limit hate speech, and the implications for Intellectual Freedom should their views prevail. We look forward to seeing you in Chicago.

IMMROTH MEMORIAL AWARD WINNER ANNOUNCED

Gordon M. Conable has been named the winner of the John Phillip Immroth Memorial Award for Intellectual Freedom, presented by the ALA IFRT.

Conable was selected for his long-standing commitment and contributions to the defense of the freedom to read and intellectual freedom.

The award honors intellectual freedom fighters in and outside the library profession who have demonstrated remarkable personal courage in resisting censorship. It consists of \$500 cash and a citation.

"The committee is extremely pleased to honor Gordon Conable's notable contributions to the cause of intellectual freedom," said Pamela G. Bonnell, award committee chair. "As director of the Monroe County (Michigan) Library System, in spite of public threats to his employees, his family and himself, he set a standard of personal commitment which serves as a model for librarians. Even under personal peril, his advocacy and strong belief in the First Amendment did not waver."

The award will be presented on Saturday, July 8th at 2pm during the IFRT program at the annual conference.

Don Wood
IFRT Staff Liaison
ALA Office for Intellectual Freedom

List of Selected Readings

Delgado, Richard and Stefancic, Jean. *Must we defend Nazis?: Hate speech, pornography, and the new First Amendment*. New York: New York University Press, 1997.

A thoughtful critique of the Absolutist position on the First Amendment. Delgado and Stefancic survey the major arguments regarding hate speech, and attempt to reconcile the rights of free speech and equality.

Karst, Kenneth L. "Boundries and reasons: Freedom of expression and the subordination of groups." 1990 *University of Illinois Law Review* 95.

Karst argues that hate speech is used to dominate and marginalize outsider groups. He rejects the notion that the answer to "bad" speech is more "good" speech, as the primary effect of hate speech is to silence its target.

Lawrence, Charles R. III. "Frontiers of legal thought II: If he hollers, let him go: Regulating racist speech on campus". 1990 *Duke Law Journal* 431. June, 1990.

An influential article that constructs a theoretical framework for campus speech codes.

Lederer, Laura, and Richard Delgado, eds. *The price we pay: The case against racist speech, hate propaganda, and pornography*. New York: Hill and Wang, 1995.

Articles and essays, most from a 1993 University of Chicago Law School conference, which examine the interrelationship of equality, free expression, and harm. A good overview of the deconstruction of classical civil libertarian thinking that is gaining prominence in many law schools.

Matsuda, Mari J. "Legal storytelling: Public response to racist speech: Considering the victim's story." August, 1989, 87 *Michigan Law Review* 2320.

Important article that attempted to show the demonstrable harm of racist hate speech.

Matsuda, Mari J. Charles R. Lawrence III, Richard Delgado, and Kimberle Williams Crenshaw. *Words that wound: Critical race theory, assaultive speech, and the First Amendment*. Boulder, CO: Westview Press, 1993

A compilation of articles that gives a good overview of the approach to hate speech by critical race theory.

Zingo, Martha T. *Sex/gender outsiders, hate speech, and freedom of expression: Can they say that about me?* Westport, Connecticut: Praeger, 1998.

Though Zingo argues against speech suppression as an antidote to hate speech, the book contains an excellent overview of the various positions regarding freedom of speech and hate speech.

List of Important Cases

The legal history of hate speech represents an interesting and sometimes contradictory evolution.

Schenck v. United States
249 U.S. 47

Schenck was the first Supreme Court case to examine speech regulation. Allowed for the regulation of speech which presented a "clear and present danger", such as Justice Holme's famous example of a man shouting "fire!" in a crowded theater.

Gitlow v. New York
286 U.S. 652

Broadened the scope of speech that could be restricted to include any speech with a "natural tendency and probable effect...to bring about a substantive evil". This allowed the government to suppress any expression which might cause some social harm.

Thomas v. Collins
323 U.S. 516

Severely restricted Gitlow with a stronger version of the "clear and present danger" doctrine of Schenck.

Dennis v. United States
341 U.S. 494

Upheld the Smith Act, which prohibited advocacy of the violent overthrow of the government. Served to weaken the "clear and present danger" requirement.

Chaplinsky v. New Hampshire
315 U.S. 568

Developed the doctrine of prohibiting "fighting words"

Gooding v. Wilson
405 U.S. 518

Modified Chaplinsky's "fighting words" to those words which "have a direct tendency to cause acts of violence by the person to whom, individually, the remark is addressed".

Beauharnais v. Illinois
343 U.S. 250

Determined that speech defaming racial groups is not constitutionally protected speech.

Village of Skokie v. National Socialist Party
366 N.E.2d 347 and
Collin v. Smith
578 F.2d 1197

Two lower court decisions that narrowed and weakened Beauharnais.

Brandenburg v. Ohio
395 U. S. 444

The Court ruled that words that merely advocate, but do not incite violence, cannot be proscribed. One of the Court's strongest affirmations of free expression; generally seen as severely weakening Chaplinsky and Beauharnais.

In decisions such as *Ashton v. Kentucky* (384 U.S. 195), *Tinker v. Des Moines Independent Community School District* (393 U.S. 503), and *Gooding v. Wilson* (405 U.S. 518), The Court has consistently weakened the fighting words doctrine of Chaplinsky. The most recent decision of note, *R.A.V. v. City of St. Paul* (505 U.S. 307), overturned a local hate crimes statute as too broad, and came close to abandoning the fighting words doctrine altogether.

SEE YOU IN COURT?

by June Pinnell-Stephens
Collection Services Manager
Fairbanks (Alaska) North Star Borough
Public Library

When deciding whether or not to take a case, the Freedom to Read Foundation Board looks at two basic documents: the mission statement from the FTRF Constitution, and the FTRF guidelines for participating as a party in a litigation or submitting an amicus brief. The mission statement helps determine the relevance of the case to the Foundation, while the guidelines focus more on strategy.

MISSION

According to its Constitution, the purposes of the Foundation are:

- (a) "To promote and protect freedom of speech and freedom of press as such freedoms are guaranteed by the Constitution and laws of the United States and as such freedoms necessarily involve the public right to hear what is spoken and to read what is written;
- (b) "To promote the recognition and acceptance of libraries as repositories of the world's accumulated wisdom and knowledge and to protect the public right of access to such wisdom and knowledge;
- (c) "To support the right of libraries to include in their collections and to make available to the public any creative work which they may legally acquire; and
- (d) "To supply legal counsel, which counsel may or may not be directly employed by the Foundation, and otherwise to provide support to such libraries and librarians as are suffering legal injustices by reasons of their defense of freedom of speech and freedom of the press as guaranteed by law against efforts to subvert such freedoms through suppression or censorship to the extent such libraries and librarians may request such aid and require it on account of poverty or inability to obtain legal counsel without assistance."

GUIDELINES

These guidelines were adopted to help the Board assess whether and at what level to participate in a suit:

"The following factors are deemed relevant in determining whether the Freedom to Read Foundation should participate as a party to a litigation and/or submit an amicus curiae brief in an existing court case. Any of the listed factors may be deemed persuasive in a given circumstance.

"Factor One: How directly the case or governmental action at issue implicates the freedom to read, including the creative process and the right to receive reading materials.

"Comment: A case should be examined not only on its facts, but on the importance of the legal doctrines at issue with respect to the freedom to read.

"Factor Two: The significance of an adverse result in the case, both with respect to the situation at issue and the precedential implications of the decision.

"Comment: Decisions from state supreme courts and federal appellate courts carry the greatest weight in terms of precedential value.

"Factor Three: The perceived impact of an amicus submission by the Freedom to Read Foundation or its participation as a party and the costs of such participation.

"Comment: Where a case specifically involves libraries, the Freedom to Read Foundation may be the only organization with a primary interest in the case and a willingness to incur the costs of briefing. Even where a case provokes interest from a broad coalition of groups, there is a benefit to be gained from presenting a united front of organizations known to be interested in preserving free expression.

"Factor Four: Where the Freedom to Read Foundation is joining a brief written by another organization, whether the contents of the brief and its quality accord with the principles and standards of the Freedom to Read Foundation."

ILLUSTRATIVE CASES

The following cases, listed under the pertinent section of the Foundation's constitution, illustrate the nature of issues the board has been asked to examine.

(a) "To promote and protect freedom of speech"

Berry v. City of New York – The City of New York declared that an artist must obtain a vendor's license before displaying his work, refused to extend an exception to the provision granted to those selling newspapers or other written items, and arrested artists who did not comply. In addition, the number of licenses available was limited to 853, the only exception being for veterans. Several artists and artist groups sued, claiming the ordinance violated their right to free expression, but the District Court upheld the ordinance and said that visual images were not "speech" protected by the 1st Amendment. The Second District Court of Appeals overturned the district court, and the City of New York has appealed that decision to the U.S. Supreme Court. FTRF monitored the case.

Cohen v. San Bernardino Valley College – Professor Cohen was disciplined by the college which found that his confrontational teaching style violated its sexual harassment policy. Cohen, claiming it had violated his 1st Amendment rights, sued the college. The federal district court agreed with the college, but the Ninth Circuit Court of Appeals reversed the decision. The U.S. Supreme Court has denied a review. FTRF joined an amicus brief with Thomas Jefferson Center for the Protection of Free Speech and American Association of University Professors in the appeal.

a) "To promote and protect freedom of press"

Rice v. Paladin Enterprises – When a man convicted of murdering three people was arrested, authorities found two titles published by Paladin Enterprises, *Hit Man* and *How to Make Disposable Silencers*, in his possession. Relatives of the victims, claiming the publisher was responsible for the murderer's actions, sued Paladin Enterprises. The district court dismissed the case, but the plaintiffs appealed the decision to the Fourth Circuit Court of Appeals. Paladin eventually settled the case out of court. FTRF joined the Association of American Publishers and the American Booksellers Foundation for Free Expression in an amicus brief at the trial and the appeal.

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Report from the IFRT Councilor: Council Developments at ALA Midwinter

by Pam Klipsch
Youth Services Librarian
Alton (Illinois) Public Library District

This report concentrates on those items that seem to me to have particular interest or significance for IFRT membership; in other words, it is not a complete rundown of Council developments relating to all fields. If you have any questions please send them to me at pamk@lcls.org and I will respond on the IFRT-B list or individually as you prefer.

An attempt was made to deal with the perennially vexing issue of the membership meeting (or non-meeting) at annual conference. Janet Swan Hill proposed amending the ALA Constitution to eliminate the power of the membership meeting to override any action of Council (overriding requires a three-fourths vote). Members could still override an action of Council but only by a majority vote by mail in which one-fourth of the members of ALA have voted. Any change to the Constitution or By-laws approved by Council would have to be ratified by a mail vote in which the majority of the members voting approved the change.

If this change was approved by Council and ratified by membership, Ms. Hill proposed amending the Constitution to change the quorum for a membership meeting from the current requirement for 1% of total individual members to whatever members attend. There was considerable debate but in the end the proposal to eliminate the power of the membership meeting to override Council was defeated. Janet then withdrew the quorum proposal.

Another lengthy debate involving much parliamentary maneuvering ensued over Jim Casey's controversial resolution to require professional librarian credentials for executive director and director level management positions at ALA. In the end, Casey agreed to limit his resolution to the executive director position only and Council then approved that amended resolution.

Council voted to endorse the IFLA statement regarding World Trade Organization policies affecting libraries, and directed the International Relations Committee to work with IFLA and others to protect libraries within the WTO context. Al Kagen, the SRRT Councilor and other councilors talked about WTO "free trade" policies that equate culture with commodity and could effectively undermine national libraries by allowing foreign competitors to offer equivalent services for less cost.

Council approved a recommendation that the Executive Board Committee on Education and staff continue to explore the establishment of a 501 (c)(6) organization to support a professional certification process for work beyond the master's level program; that no such organization or process can be undertaken unless Council votes to change ALA policy to allow for the certification of individuals; that the Education Committee provide a full report on all aspects of a certification process to Council at Annual 2000.

Council approved each of the two resolutions that came to it from the Intellectual Freedom Committee. The first IFC resolution puts ALA on record endorsing the American Association for the Advancement of Science (AAAS) Statement on the Kansas State Board of Education Decision on the Education of Students in the Science of Evolution and Cosmology. AAAS is calling for the restoration of evolution and cosmology to the Kansas State education standards and assessments.

The second IFC resolution salutes Emily Wheelock Reed for her defense of the freedom to read in Alabama in 1959. Miss Reed, a librarian at the Alabama State Library, resisted pressure from a segregationist legislator and his allies and refused to remove titles from the state library collection, including Garth Williams' *The Rabbits' Wedding*, and books authored by Martin Luther King Jr. and others.

As part of the Legislative Committee's report, Council adopted a resolution urging ALA members and state chapters to oppose the passage of Uniform Computer Information Transaction Acts (UCITA) by state legislatures.

Council also adopted a resolution urging that the clearinghouse functions of the National Technical Information Service (which is being dissolved) for unclassified scientific and technical information remain centralized and be transferred to the Government Printing Office (GPO), and be incorporated in the Federal Depository Library Program, and be adequately funded, so that such materials remain publicly accessible.

Council approved the composition and charge for the standing ALA Web Site Advisory Committee as follows:

The membership of the committee shall consist of one member appointed by each division; one member selected by the Round Table Coordinating Committee and rotated among the round tables; one member selected by

the ALA Publishing Committee; two members at large selected by the appointing officer (I assume since this is a standing committee of council that this means the Committee on Committees will appoint the members at large); the chair to be selected annually from the membership of the committee by the appointing officer. Total membership: 15 persons including the chair.

The committee's charge: to develop and recommend policies for the ALA Web Site to Council for approval and to provide oversight for the implementation of these policies; to provide an ongoing channel for member communication by working closely with other units, committees and offices of the Association; to consider and make recommendations concerning technical issues that have policy implications; and to advise the Association on priorities and strategies that promote utilization and continued development of the ALA Web Site.

Also the Council listened to Al Kagen, the SRRT Councilor, and others who denounced the executive board's directive spelling out who "speaks" for ALA, what constitutes such speech, and prohibiting units of the association from issuing statements on their own behalf that are contradictory to ALA policy as approved by Council. At the request of the executive board ALA's attorney, Paula Goedert, spoke to Council and explained the potential legal ramifications for a nonprofit entity when units of that entity issue contradictory statements. Even if such statements are accompanied by disclaimers, Goedert said, the corporate entity is held responsible.

Other members of council also discussed the political confusion that can result when a unit of the association issues a statement that contradicts the official policy of the association. While divisions of ALA are empowered to make policy statements for the association in their specific areas of responsibility, they cannot make policy statements that contradict the other, existing policy statements of the association. Round tables are not empowered to make policy statements on behalf of the association; like committees, round tables may take policy proposals to council, but such proposals must be approved by council. No unit of the association is empowered to make policy statements on its own behalf only. After considerable discussion Council declined to act on SRRT's complaint.

Recommended Reading

During the past year, a number of publications have appeared which intellectual freedom advocates will find useful, informative, or simply a pleasure to read. Here is information about some of these.

— Paul Vermouth, History Librarian, M.I.T.

Robert S. Peck, *Libraries, the First Amendment, and Cyberspace: What You Need to Know* (Chicago: ALA, 2000).

Robert Peck, a lawyer, legal scholar, educator, and past president of the FTRF, begins his book with a Q & A session. This first chapter, "Questions and Answers about the First Amendment: Sex, Lies, and Cyberspace" is available online [<http://www.ala.org/editions/openstacks/insidethecovers/peck.html>]. In its initial chapter, *Libraries, the First Amendment, and Cyberspace* provides an introduction to First Amendment principles and their application to libraries. Peck then goes on to look at specific topics: sex, the right to offend, religion, confidentiality, workplace concerns such as employee free speech and harassment, children and schools, and of course, cyberspace--and to discuss the implications for libraries and library service of the constitutional and legal issues associated with these topics. Appendices provide copies of relevant supporting materials, including ALA policies that have been written since the last edition of the *Intellectual Freedom Manual* and have only been available in typescript or on the Web.

Charles Levendosky, in a review for the *Newsletter on Intellectual Freedom* (March 2000), states that this book ought to be given to every school board and library in the nation and notes that Peck "... has done us all a great service in writing this book now during the height of the controversies over Internet access and the concern over children seeing pornographic Web sites."

Barbara M. Jones, *Libraries, Access, and Intellectual Freedom: Developing Policies for Public and Academic Libraries* (Chicago: ALA, 1999).

Barbara Jones, former IFRT chair and a past member of the IFC, has written a book designed for public and publicly funded academic libraries and their librarians. The work is divided into four main sections, each with a number of chapters. The first section deals

with the concept of the "limited public forum" in public and academic libraries. Topics covered include the legal history of public forum doctrine; the Morristown case; the public forum in academic libraries, public libraries, and multi-type library consortia; and how the public forum idea relates to different information formats and diverse user groups. The second section looks at the broader legal foundation for intellectual freedom in a public forum, and includes, among other things, discussions of the First and Fourteenth Amendments, the right to give and receive information, the right to privacy, and rights associated with Internet access. Section three deals with the policy players and policy process for issues related to the library public forum. The last section is titled "Putting It All Together: How to Write and Implement Policy." After a brief chapter on writing / implementing good policy, there are three chapters which focus on issues associated with intellectual freedom policies for information content, for access to information, and for privacy. In addressing each of these topics, Jones provides information about the issues involved, sample outlines for policies, and lists of materials that might be appended to policy documents.

Appendices provide copies of supporting materials, including ALA policies that have been written since the last edition of the *Intellectual Freedom Manual*.

Intellectual Freedom for Children: the Censor is Coming (Chicago: ALA, 2000).

Produced by the ALSC Intellectual Freedom Committee, this loose-leaf packet will help librarians prepare for dealing with intellectual freedom issues and provide access to core materials in a single-source. It includes a workbook for collection policy writing; copies of relevant guidelines, policies, and documents; information about how to respond to challenges; a bibliography; a "webliography;" and background articles. ALA statements concerning filtering and guidelines for writing Internet policies for children are included.

Ann K. Symons and Sally Gardner Reed, *Speaking Out! Voices in Celebration of Intellectual Freedom* (Chicago: ALA, 1999).

For this publication, a broad range of individuals--including a number of IFRT members--was asked to choose a favorite quotation related to intellectual freedom and to write about it. There is something for everyone here in short essays by more than fifty individuals--librarians, editors, authors, and other First Amendment advocates. The essay written by June Pinnell-Stephens is available online [http://www.ala.org/editions/openstacks/insidethecovers/symons_speaking.html].

Judy Blume (editor), *Places I Never Meant to Be: Original Stories by Censored Writers* (New York: Simon & Schuster, 1999).

Part of the publisher's "Books for Young Readers" series, this volume includes stories by twelve authors, with a commentary on censorship by each and an introduction by the editor. The authors? Paul Zindel, Jacqueline Woodson, Rachel Vail, Susan Beth Pfeffer, Katherine Paterson, Walter Dean Myers, Norma Fox Mazer, Harry Mazer, Julius Lester, the late Norma Klein, and David Klass. All royalties are being donated to the National Coalition Against Censorship.

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All IFRT members will want to become familiar with the *Libraries & the Internet Toolkit*, available online at <http://www.ala.org/internettoolkit/index.html>. Keeping up to date means knowing what other organizations are doing as well. IF advocates will want to look carefully at "A Guide to What One Person Can Do About Pornography," available on the American Family Association Web site [<http://www.afa.net>].

Visit the IFRT Executive Committee

You are welcome to attend the meetings of the IFRT Excom at the ALA. The meetings are in the Hyatt Regency, Chicago, the Water and Goldcoast rooms respectively, July 7, 2 - 5:30 p.m. and Monday, 8 - 10 a.m.

Intellectual Freedom 2000 ALA Annual Conf

“Congress Shall Make No Law Respecting an Establishment of Religion; or Abridging the Freedom of Speech, or of the Right of the People Peaceably to Assemble, and To Petition the Government for a Redress of their Grievances.”

Saturday, July 8, 2000
2 – 4 p.m.

ALA Intellectual Freedom Round Table; ALA Intellectual Freedom Committee

*“Freedom of Expression vs. Tolerance:
Exploring the Limits”*

The program concerns the challenge that hate speech represents to the classic freedom of expression values of ALA, ACLU, and others concerned with preserving First Amendment rights. Speakers will present the perspectives of ACLU, those concerned with racial equality, and gay rights advocates on this difficult issue. The program is intended to help librarians develop their own views in this area where the limits of protected speech are often difficult to define. Speakers: Jane Whicher, sr. staff attorney, ACLU of IL; Julia Dawson, Gay and Lesbian Rights Activist, Natl. Organization for Women (Convention Center, N226).

Sunday, July 9, 2000

9 – 11:30 a.m.

LAMA Library Organization and Management Section, Risk Management and Insurance Committee; PLA Confidentiality Committee; AASL Intellectual Freedom Committee

*“Risky Business: Legal and
Liability Issues to Internet Access”*

Due to the "hot" issues surrounding Internet and database access, librarians need information that they can use to deal with risk and liability issues involving their libraries. A panel of distinguished and expert speakers will address risk and liability issues relating to: pornography and obscenity; confidentiality and privacy; filtering; and transferring risk through liability insurance. Participants will be provided the latest information on these key issues and advice on how to avoid potential problems. This is a topic of broad interest to all types of libraries who make access to the Internet available to their patrons. Speakers: Teresa Chmara, attorney, Jenner & Block, Washington, DC; Candace Morgan, pres., Freedom to Read Foundation; Pat Scales, dir., Lib. Media Svcs., SC Governor's School for Arts and Humanities, Greenville, SC; Doug Henderson, dir., Loudoun Cty. Pub. Lib.; Larry Worrall, CEO, genl. counsel, First Media, Inc., Kansas City, MO (Fairmont, International Ballroom).

2–4 p.m.

ALA Office for Intellectual Freedom, Committee on Professional Ethics

“Ethics ’R Us”

Our acclaimed troupe continues its exploration of ethical conduct in the age of electronic resources. Topics include privacy and confidentiality, Internet filtering, employee speech, the role of Trustees, and more! Players: Charles Harmon, chair; Maryjo Aman, Faye Clow, Susan Lehman Keitel, Gene Lanier, Mary E. (Molly) Raphael, Barbara Winters, Edward Sullivan, Margaret Axtmann, Christian Boissonnas, Margaret Bush, Elizabeth Elam, Frances Maloy, Jennie L. McKee, Marc Meola, Virginia Young, Howard Zogott (Location TBA).

2–5 p.m.

ALCTS Cataloging and Classification Section, Education Committee

*“Building Beyond the Mainstream: Identifying and
Selecting Non-traditional Library Resources”*

Explore the need and importance of incorporating intellectual freedom values into your collection. Participants will discover how to find non-traditional formats, alternative materials, foreign language publications, and more. A moderated panel will present strategies on librarian/vendor/publisher/relationships, continuing education, and collection development in academic and public libraries including identifying institutional policies that may be barriers to collecting diverse materials. Speakers: Byron Anderson, Northern IL Univ.; Marian Milling, Ela (IL) Area Pub. Lib. Dist. (Marriott Downtown, Chicago Ballroom D).

2–4 p.m.

ASCLA/Roads To Learning

*“Technology and Disabilities: A Practical Look
at Universal Design Principles”*

Universal design is the planning of products, services and environments to be useable by all people, to the greatest extent possible, without the need for adaptation or specialized design. Find out how your colleagues are meeting the challenge of this ideal by installing accessible library workstations and using other technologies. Such tools are helpful for many people and essential for people with learning disabilities and other disabilities. Without these assistive devices, many people are denied equity of access and intellectual freedom. Go away with practical ideas, a description of an accessible library workstation, and a list of current assistive technologies and vendors. Speakers: Marilyn Dong, libn., Collection for Learning Differences, San

Freedom Programs at the Conference July 7–12, 2000

...blishment of Religion, or Prohibiting the Free Exercise of the Press; or the Right of the People Peaceably to a Redress of Grievances.”— First Amendment

Francisco; Donna Pontau, San Jose (CA) State Univ.; Norman Coombs, chair, Equal Access to Software and Info. (EASI); Audrey J. Gorman, dir., Roads To Learning (Intercontinental, Americas W).

Monday, July 10

8:30–10:30 a.m.

AASL/ALSC/YALSA Intellectual Freedom Committees

“Why Does ALA Policy Say Kids Should Have Unrestricted Access to Information, Images and Ideas in Libraries?”

The issues about kids access to information will be explored. Included are an explanation of ALA policy, national policy, parental guidelines and implementing open access in school and public libraries. Speakers: Charles Harmon, dir., Publishing, Neal-Schuman, NY; Jim Schmidt; Carrie Gardner, Milton Hershey School, Hershey, PA; Pat Scales, dir., Media Svcs., SC Governors School of the Arts & Humanities, Greenville; Lisa Champell, Monroe Cty. Pub. Lib., Bloomington, IN; Sara Ryan, libn., School Corps, Multnomah Pub. Lib., Portland, OR (Convention Center, 5501).

8:30–11 a.m.

ASCLA Libraries Serving Special Populations Section, Library Services to Prisoners Forum; ALSC Intellectual Freedom Committee

“Captive Bodies - Captive Minds? Intellectual Freedom Issues Behind Bars”

Obtain a view of intellectual freedom from behind bars as panelists share their insights into this complex issue. An attorney from the Illinois Department of Corrections will discuss the criteria used to evaluate publications, legal limits when doing so, and how line staff are trained in the screening of materials. The practical implications of intellectual freedom in correctional settings will be examined as librarians speak to the repercussions of a broad institutional censorship policy, censorship issues in youth facilities, and recent challenges to materials in California’s prison system. A discussion period follows. Speakers: Susan O’Leary, chief legal counsel, IL Dept. of Corrections, Chicago; Gretchen Wronka, coord., Youth Svcs., Hennepin Cty. Lib., Minnetonka, MN; Janice Stuter, principal libn., CA Dept. of Corrections, Sacramento; Gilbert Hurwood, libn., London Correctional Facility, Columbus, OH (Palmer House, Parlor H).

9:30–11 a.m.

ACRL Intellectual Freedom Committee; ALA Intellectual Freedom Committee; ALA Intellectual Freedom Round Table

“Intellectual Freedom Principles for Academic Libraries: An Illustrated Tour”

Examines these principles in relation to the challenges that can potentially be experienced in an academic library—in exhibits, user privacy, the Internet, building access, and in joint use facilities. Intellectual Freedom Principles for Academic Libraries, which will be included in ALA’s Intellectual Freedom Manual, has recently been approved by the ACRL Board and endorsed by ALA’s Intellectual Freedom Committee and is now an official ALA interpretation of the Library Bill of Rights for Academic Libraries. Keynote speaker: C. James Schmidt, prof., Lib. and Info. Science, San Jose (CA) State Univ. Speakers: Barbara M. Jones, head, Special Collections, Univ. of IL, Urbana; Samuel F. Morrison, dir., Broward Cty. Libs. Div., Ft. Lauderdale (Convention Center, 5502a).

10 a.m.–12 noon

ALA Intellectual Freedom Committee; ALA Committee on Legislation

“Privacy”

A focus on privacy and address such issues as employers’ rights to monitor and censor employees’ e-mail and Internet use. Speakers: To be announced (Location TBA).

2–4 p.m.

ALA Intellectual Freedom Committee; AAP Freedom to Read Committee; American Booksellers Foundation for Free Expression

“It’s Our Bill of Rights, Too!: Children, the First Amendment, and America’s Response to Violence”

Focuses on the backlash felt by young people in the wake of violent incidents such as the Columbine shootings. In an atmosphere of moral panic, our society seems to be viewing its young as potential assassins and responding by depriving them of basic First Amendment rights. Until now, no one has allowed children to speak to this situation or listened to what they have to say. At least one young person’s first reaction post-Columbine was “What other rights will be taken from me now?” Speakers: To be announced (Location TBA).