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AMERICAN LIBRARY
ASSOCIATION
INTELLECTUAL
FREEDOM
ROUND TABLE**

**IFRT
REPORT**

No. 44 WINTER 1999

CHAIR'S MESSAGE

Carolyn Caywood, 1998-1999 IFRT Chair

"Kids Have Rights/Parents Have Responsibilities/Librarians Have Ulcers!" This is the title I'm favoring for our program Saturday, June 26, from 2:00-4:00 p.m., in New Orleans. It will explore what ALA means when we say that parents are responsible for guiding their own, and only their own, children in using the library. We know that we are responsible for many aspects of how children use a library—organizing information, interviewing the person with questions, providing information and reading advice. All of this we hope helps children learn to be more responsible and successful seekers and evaluators of information. But, in the area of values we want to respect the parent's rights and responsibilities. The program plan is to have a panel of librarians react to the main speaker. Links to background material for this program can be found at http://www.ala.org/alaorg/oif/ifrt_prg.html.

IFRT has been invited to send a delegate to the Congress on Professional Education, May 1, in Washington D.C. to express the need to incorporate Intellectual Freedom in library education.

We can also submit a paper to the Congress. If you have information or opinions on how new librarians are being taught the principles of our profession, we need to hear them quickly. A survey is found on the back of this issue. You can send your thoughts to me or to the Office for Intellectual Freedom.

IFRT will soon have its very own Round Table Councilor, not that we don't have several members who are Councilors in other capacities. Mary Keelan, our Bylaws Chair, will lead us in sorting out how we will select our representative.

If you haven't considered IFRT's three Awards and other committees, maybe this is your year. If you want to join the Bylaws, Membership Promotion, Program, Oboler Award, Immroth Award, State and Regional Award, or Publications committees, let Chair-elect Laurence Miller know through the Office for Intellectual Freedom or the IFRT Web site. If you want to make an award nomination, the Office has the forms.

The IFRT e-mail list is a business distribution list. If you are not subscribed to this list, please let our liaison, Don Wood (dwood@ala.org), know, so he can add you to the distribution list.

It's low traffic and focused on the business of IFRT. You can find out what issues IFRT will be considering and get background at leisure instead of crammed into a conference.

Congratulations to the Office for Intellectual Freedom and the Freedom to Read Foundation on their 30th anniversary!! (See "OIF/FTRF Celebrate 30 Years," page 10.)

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1998-1999 IFRT Officers

Carolyn Caywood, Chair
Laurence Miller, Chair-Elect
Douglas Koschik, Treasurer
Shirley May Byrnes, Secretary
David Cohen, Director
Christine Jenkins, Director
Candace Morgan, Director
Melissa Riley, Director

1999 MIDWINTER MEETING SCHEDULE JANUARY 29-FEBRUARY 3, PHILADELPHIA, PA

The following is the schedule for the Intellectual Freedom Committee (IFC), Freedom to Read Foundation (FTRF), Committee on Professional Ethics (COPE), Intellectual Freedom Round Table (IFRT), and LeRoy C. Merritt Humanitarian Fund (Merritt) at the 1999 Midwinter Meeting in Philadelphia.

FRIDAY, JANUARY 29

FTRF Orientation: 8:00-9:00 a.m., Marriott Salon D
FTRF Board Meeting: 9:00 a.m.-12:30 p.m., Marriott Salon D
FTRF Board Meeting: 2:00-5:00 p.m., Marriott Salon D
FTRF Board Reception: 5:00-6:30 p.m.

SATURDAY, JANUARY 30

IFC I: 8-11:30 a.m., Marriott Salon A
IFC Issues Briefing: 11:30 a.m.-12:30 p.m., Philadelphia Convention Center 202B
Merritt: 12:30-2:00 p.m., Marriott 405
IFRT I: 2:00-4:00 p.m., Philadelphia Convention Center 105B
COPE I: 2:00-4:00 p.m., Marriott 414, 415

SUNDAY, JANUARY 31

IFC, IFRT, & Division IFCs: 8:00-9:00 a.m., Marriott 407-409
IFC/COL Joint Meeting: 11:30 a.m.-12:30 p.m. Marriott 407-409
IFC II: 2:00-5:30 p.m., Marriott Salon D

MONDAY, FEBRUARY 1

IFRT II: 8:00-10:00 a.m., Marriott Salon A
COPE II: 10:30-11:30 a.m., Marriott Salon K
IFC III: 2:00-4:00 p.m., Marriott Salon A

Tuesday, February 2

IFC IV: 2:00-5:30 p.m., Philadelphia Convention Center 108A

Loudoun Filtering Controversy Concluded

Court Strikes Down Restrictive Internet Policy

On November 23, Judge Leonie M. Brinkema of the U.S. District Court for the Eastern District of Virginia issued her final decision in Mainstream Loudoun v. Board of Trustees of Loudoun County Library, declaring that the highly restrictive Internet policy imposed on Loudoun County libraries is invalid under the free speech provisions of the First Amendment. The court had promised in an order issued October 2 that it would conclude this first-of-its-kind Internet litigation by summary judgment (see "No Trial to be Held in Loudoun Filtering Suit" in the October, 1998, *Action News*). Her decision is 46 pages long.

Under its "Policy on Internet Sexual Harassment," the Loudoun County library system had installed *X-Stop* filtering software on each of its Internet access computers. It forbid all users, children as well as adults, to retrieve information on the Internet without blocking sites that contain certain undisclosed words or phrases possibly accompanying sexually explicit content. The library board assertedly had adopted this policy to serve two interests, namely, to minimize access to "illegal pornography" and to avoid the creation of a "sexually hostile environment."

Assuming -- not deciding -- these were "compelling government interests," the court analyzed the policy using "strict scrutiny," requiring the library board to show that the limitations it placed on speech were necessary both to serve the stated government interests and were narrowly drawn. Judge Brinkema had determined in her April 7 decision on the library board's dismissal motion that the "strict scrutiny" test would apply to filtering in public libraries (see "Court to Use 'Highest Level

Scrutiny" of Loudoun Filtering" in the May, 1998, *Action News*).

The court found that the policy's limitations on speech were unnecessary. There was scant evidence of library users accessing child pornography or obscenity, or minors accessing materials illegal as to them. There was no showing that a sexually hostile environment would exist absent the policy. "The only evidence to which defendant can point in support of its argument that the Policy is necessary consists of a record of a single complaint arising from Internet use in another Virginia library and reports of isolated incidents in three other libraries across the country," stated Judge Brinkema.

She went on to find that the policy was not narrowly drawn because less restrictive means were available to further the library board's interests. "First, the installation of privacy screens is a much less restrictive alternative that would further defendant's interest in preventing the development of a sexually hostile environment," the court wrote. "Second, there is undisputed evidence in the record that charging library staff with casual monitoring of Internet use is neither extremely intrusive nor a change from other library policies. . . . Third, filtering software could be installed on only some Internet terminals and minors could be limited to using those terminals. Alternately, the library could install filtering software that could be turned off when an adult is using the terminal." Judge Brinkema pointed out that she did not find that any of the less restrictive means were themselves necessarily constitutional if implemented.

Finally, the court ruled that the policy imposing use of filtering software constituted an unconstitutional "prior restraint" of speech because it "lacks any provision for prior judicial determinations before material is censored."

Moreover, the library board's discretion to censor under the policy was "essentially unbounded."

Judge Brinkema's decision makes clear that filtering of all Internet access computers at a public library is not an option. The case speaks to adults' First Amendment rights; it does not address filtering of children's access to the Internet in public libraries. The full text of the November 23 decision is found at <http://www.techlawjournal.com/courts/loudon/81123op.htm>.

Loudoun Adopts New Policy, Preserves Right to Appeal Decision

As an immediate response to Judge Brinkema's decision, Loudoun County libraries turned off public Internet access. Within several days, the library board restored service after it adopted a new Internet use policy allowing adults to choose to have unfiltered access for themselves and their children.

Under the new rules, the Internet filters will be removed from some library computers, and adults will decide whether they want to use a computer with a filter or without. In addition, parents will be asked to sign a statement specifying whether they want their child to have unfiltered Internet access. Minors who do not have notes from their parents will not be allowed to use the Internet at all.

All library computers will be equipped with privacy screens, which may be removed when, for example, parents want to work with their children. The library system will still use *X-Stop* filtering software, but may consider another vendor.

The library board also voted to preserve its option to appeal the November 23 decision striking down the board's former "Policy on Internet Sexual Harassment." That means its attorneys will file a notice of appeal within thirty days of the decision. Any later decision to carry through with the appeal is said to be unlikely.

The full text of the library board's new "Loudoun County Public Library Internet Use Policy" is found at <http://www.techlawjournal.com/censor/19981201.htm>.

Military and Honor Decency Act Once Again Challenged as Being Unconstitutional

The Military and Honor Decency Act (MHDA), challenged until June of this year for banning the sale of "sexually explicit" magazines and videos in military exchanges, is being challenged again, this time over the manner of its enforcement, as well as for violating soldiers' First Amendment rights.

Enacted in 1996, and appealed through June 1998, the MHDA prohibits military exchanges (PXs) on military bases and aboard naval ships from selling "sexually explicit" magazines or renting equivalent adult videos. The act defines "sexually explicit" material as having a "dominant theme of which is the depiction or description of nudity, including sexual or excretory activities or organs, in a lascivious way." However, the act does not prohibit soldiers and sailors from owning these materials or purchasing them off base or through the mail.

On June 26, the Supreme Court refused to hear the appeal to the MHDA and let stand the court of appeals finding reported in *IFAN* (September and October 1998) that the PX is a "non-public forum, that the prohibition on selling magazines and

renting videos depicting nudity 'in a lascivious way' does not discriminate among particular viewpoints, and that the statute reasonably upholds core military values."

General Media Communications, parent entity to *Penthouse* magazine and the plaintiff in the case, argued that soldiers have the right to purchase constitutionally protected material, but lawyers for the defendant, the Secretary of State, argued that the government can decide what it wants to sell its soldiers.

In this latest challenge, the plaintiffs, PMG International Division, L.L.C., Milligan News Co., Inc., Tri County News Co., military dependent Elizabeth Le Duc, retired serviceperson Brent Gaffney, and two military members stationed overseas, Saint Clair Short, Jr., and Se H. Sohn, argue that the MHDA imposes prior restraint by not allowing certain material to be available. They also argue that the government created a "censorship board" when it formed the Resale Activities Board of Reviews (RABR) to decide which magazines and videos can be sold at military exchanges.

The RABR is comprised of eight people appointed by the Defense Department and the military services. Defense officials have asked exchange managers to send the board material suspected to be "sexually explicit" under the act. These eight appointees then review the materials and determine whether they may be sold at exchanges.

The plaintiffs say that this board acts in secret, how it decides which material can be sold is undisclosed, no appeal is allowed, and no time limit is set on the prohibition of the material. As a result, they say, the RABR imposes its viewpoint, formed on the basis of content, to the exclusion of all others, and thereby prohibits soldiers from purchasing constitutionally protected speech.

As of October 5, the RABR had determined that only 15 of the 167 magazines it had reviewed may be purchased at a PX. These include *Celebrity Skin*, *Hustler Humor*, *Playboy*, *Playboy's Book of Lingerie*, and *Players* Calendar Series. Among the prohibited material are *Barely 18*, *Gallery*, *Nugget*, *Players*, *Playgirl*, *Tail Ends*, and *Velvet*. Many of the prohibited magazines are primarily for gay and lesbian readers, even though the Defense Department does not allow openly gay or lesbian people to serve in the armed forces. Air Force Times reports that "navy exchanges did not sell those magazines, and information was not available. . . about the sale of homosexual magazines at exchanges on Army, Air Force and Marine Corp bases."

Lead counsel for the plaintiffs is Michael A. Bamberger of Sonnenschein, Nath and Rosenthal. In a press release, he stated that the MHDA is "unconstitutional, both in its concept and in the way that the censorship board is operating without the procedural safeguards required by the Supreme Court."

Background and other additional information on the 1996 Military Honor and Decency Act may be found in the February 1997, March 1997, September 1997, January/February 1998, and October 1998 issues of the *Action News* (<http://www.ala.org/alaorg/oif/ifan_pub.html>).

Neither Discrimination nor Censorship Allowed in School

On a case seeking to remove *The Adventures of Huckleberry Finn* from a mandatory reading list because its frequent use of the epithet "nigger" promoted racial harassment and a "hostile work environment," the 9th U.S. Circuit Court of Appeals ruled October 19 that although they have a "right to a learning environment free of racial hostility and discrimination," students also have a First Amendment right to receive information, including controversial information.

"A necessary component of any education is learning to think critically about offensive ideas—without that ability one can do little to respond to them," Judge Stephen Reinhardt wrote.

"Permitting lawsuits against school districts on the basis of the content of literary works...could have a significant chilling effect on a school district's willingness to assign books with themes, characters, snippets of dialogue, or words that might offend the sensibilities of any number of persons or groups."

Therefore, the judges said, after a school district determines whether a book has educational value and therefore should be on a required-reading list, it should not be removed, because a parent threatens a lawsuit. Furthermore, courts cannot "ban books or other literary works from school curricula on the basis of their content...even when the works are accused of being racist," the judges said.

Kathy Monteiro, whose daughter was assigned *Huck Finn* and William Faulkner's short story "A Rose for Emily," also cited in Monteiro v. Tempe Union High School District, alleged that these works led other students to harass her child and other black students at McClintock High School in Tempe, Arizona, and "created, exacerbated and contributed to a hostile work environment" for them.

The judges dismissed "with considerable skepticism" the idea that "reading books causes evil conduct," but said that if school districts know about but fail to respond to racially hostile environments in its schools, they can be held responsible under *Title IV of the Civil Rights Act of 1964*, which prohibits racial discrimination in programs receiving federal funding.

Judge Robert Boochever said a school district also might violate *Title IV* if it requires students to read books "with overt messages of racial hatred, such as those promoting the views of the Aryan Nation, the Ku Klux Klan, and similar hate groups" and teachers fail to discuss those messages.

This is not the first time that parents and groups, such as the National Association for the Advancement of Colored People, have sought to remove *The Adventure of Huckleberry Finn* from required-reading lists, for the same and similar reasons alleged in Monteiro.

In the past, others have sought to ban the book because, instead of being the stereotype some would have him be, Jim, the slave in the novel who Huck Finn helps to freedom, is, in the words of Clara Clemens Samossoud, Twain's daughter, a "figure of great stature and nobility."

Still others have fought to retain the book in school curricula because the novel has significant literary value and condemns slavery.

Tin Drum is Not Child Pornography

The Tin Drum, the Academy Award-winning film by Volker Schlöndorff, does not violate Oklahoma's child pornography statute, because the dominant theme of the film does not appeal to prurient interests and has serious artistic value.

U.S. District Judge Ralph Thompson, who ruled on October 21 that *The Tin Drum* did not meet Oklahoma's definition of child pornography, also ruled last December that the police seizures of the film last June from video stores, homes, and a library were unconstitutional and ordered police to return the confiscated videos.

In the Summary of Ruling in the State of Oklahoma, ex rel. Robert H. Macy v. Blockbuster Videos, Inc., Hollywood Video, Inc., and Oklahoma Metropolitan Library System, Judge Thompson wrote that "while the state has every right and duty to prohibit and criminalize such a profound evil as child pornography, under the facts and law presented here, the court concludes that the film in issue is not one that violates the law as claimed."

Despite this ruling in *The Tin Drum* case, which the January/February 1998 issue of *Intellectual Freedom Action News* reported as one of the "best-documented and most widely publicized incidents of censorship in recent memory," lawsuits are still pending that challenge other constitutional issues related to the video seizures.

"There are still all these issues of due process and procedures and violation of federal statutes," Michael Camfield, development director for the American Civil Liberties Union, said. Last June, Camfield's own rental copy of *The Tin Drum* was confiscated by police after District Judge Richard W. Freeman ruled the film did violate Oklahoma's child pornography law.

Three scenes in Schlöndorff's film, which comprise two of its 142 minutes, were challenged by the plaintiff as violating Oklahoma's child pornography statute. Each scene portrays a then 11-year-old actor, David Bennet, with a then 24-year-old actress, Katharina Thalbach, in implied sexual acts or in observing her in a sexual activity with another.

Although Judge Thompson noted that the "R" rating is "clearly warranted" and some viewers may object to the three scenes in question, he concluded that these scenes are part of a *bone fide* artistic work, the dominant theme of which is not sexual, but rather an allegorical fantasy about the rise of Nazism.

More importantly, the scenes themselves are neither graphic nor explicit, and, since the 11-year-old actor "was not required to perform or observe graphic sexual acts or to expose himself," they do not warrant the film's "subjection to the criminal penalties of the child pornography statute."

Citing New York v. Ferber, 458 U.S. 747 (1982), Judge Thompson also noted that child pornography statutes must be applied on a "case-by-case basis with a proper concern also to avoid suppressing serious literary or artistic expression," and that the Oklahoma's statute is "consistent with that instruction [from Ferber]"

In making his ruling, Judge Thompson pointed out that for 20 years *The Tin Drum*, based on the internationally acclaimed novel by Günter Grass, has been shown on television and been available for sale and rental, without one previous documented case of censorship occurring.

Background and other additional information on *The Tin Drum* case may be found at Oklahoma Department of Libraries Online (<http://www.odl.state.ok.us/fyi>), Media Coalition (<http://www.mediacoalition.org>), free! The Freedom Forum Forum Online (<http://www.freedomforum.org/speech/10/21tindr um.asp>), and in the July, August/September, November 1997, and January/February 1998 issues of the *Intellectual Freedom Action News* (http://www.ala.org/alaorg/oif/ifan_pub.html).

Bounty Increased on Rushdie; Other Writers Return from Hiding

Death sentence against British author Salman Rushdie remains honored by some, but Iran considers "the Salman Rushdie affair as completely finished."

On September 24, Iranian President Mohammed Khatami and Foreign Minister Kamal Kharrazi affirmed Iran would not enforce the almost 10-year-old edict issued by the late Ayatollah Ruhollah Khomeini that calls for Rushdie's death. This action served to restore diplomatic ties with Great Britain.

Less than one month later, according to CNN, the 15th of Khordad Foundation, a private Iranian religious charity, increased the bounty on Rushdie to \$2.8 million. It originally offered \$1 million to anyone who killed Rushdie and has been increasing this bounty since 1989. The paramilitary group Ansar-e-Hezbollah also refuses to dismiss the edict.

Rushdie has been in hiding since 1989, under the protection of the British government, after the late Ayatollah issued a decree offering martyrdom to anyone killing Rushdie for writing his 1988 novel *The Satanic Verses*. Khomeini declared Rushdie's book "blasphemous."

Since the decree also called for the death of all involved in the publication of *The Satanic Verses*, several of its publishers and translators, as well as others associated with the novel, have been injured or killed.

According to the *Washington Post*, other writers who have been in hiding recently include Wole Soyinka, winner of the 1986 Nobel Prize for Literature, who is "visiting" his native Nigeria after four years. Soyinka initially left to avoid hanging for filing a suit challenging the legitimacy of the Nigerian government at that time. Another writer who has come out of hiding is Taslima Nasreen, who stayed in Europe for four years to avoid trial for advocating that the Koran be revised. She now lives in Bangladesh again, despite demonstrations demanding her arrest.

Tennessee Hires Service to Filter Public School Computers

Every public school student in Tennessee has access to the Internet, but some of that access may soon be blocked. By the end of the year, Tennessee will become the first state to employ a filtering service for all of its public school computers, Al Ganier, president of Education Networks of America in Nashville (ENA), said. His company has contracted with Tennessee to provide Bess, a filtering service from Seattle-based N2H2, Inc., which claims Bess "protects Web users from unwanted and distracting content online." N2H2 says its "large staff of trained reviewers evaluate thousands of suspicious Web pages each day; and has compiled the largest database of its kind: over 6 million pages in more than 30 categories."

Tennessee Governor Don Sundquist said the system would address First Amendment concerns by allowing school boards to decide whether to use the N2H2 system. He said local school boards also will be able to purchase a customized filter for their schools, teachers will be able to remove a filter from a terminal when necessary, and teachers or students may request a review on whether a Web site should be blocked.

ENA's rules will block these 15 Bess categories: "Adults Only," "Hate/Discrimination," "Illegal," "Lingerie," "Pornography," "Sex," "Violence," "Chat," "Drugs," "Gambling," "Nudity," "Tasteless/Gross," "Profanity," "Murder/Suicide," and "School Cheating Information."

Bess categories usually blocked "in the standard Bess for Schools configuration" include those above and these ENA decided not to include: "Alcohol," "Free Mail," "Free Pages," "Message/Bulletin Boards," "Personal Information," "Tobacco," and "Weapons."

Other categories, called "Distractions," also could have been blocked, but were not. These include "Games," "Employment Search," "Jokes," "News," "Personals," "Recreation/Entertainment," "Sports," "Stocks," and "Swimsuits."

Bess does allow "Exceptions," which are categories used to "allow access to sites that may be otherwise blocked by one of the other categories above." These include "Education" (material under another category that has educational value), "For Kids," "History" (material that has historical significance), "Medical" (to allow access to such information as breast exams for cancer), "Moderated" (material on sites that prevent offensive material from being posted), and "Text Only" (used mainly, N2H2 says, to distinguish "written erotica from graphical porn sites").

Additional information on N2H2 and its descriptions of Bess can be found on N2H2's home page at <http://www.n2h2.com/>.

In an interview with free! The Freedom Forum Online, Hedy Weinberg, executive director of Tennessee's chapter of the American Civil Liberties Union, said, "the move toward increased filtering will lead to the censorship of material protected by the First Amendment."

"While obscenity is not protected by the First Amendment, blocking software also restricts access to valuable, protected speech about topics ranging from AIDS to reproductive freedom issues to gay and lesbian issues."

Another Success . . .

Second Lawyers for Libraries Institute Covered Internet Issues

The second of what may well become an ongoing series of Lawyers for Libraries Training Institutes was held last November 13-14. Some

sixty attorneys from around the country attended the 1½-day seminar sponsored by the American Library Association's Office for Intellectual Freedom and the American Bar Association's Section of Individual Rights and Responsibilities. Lawyers for Libraries II, subtitled "The Internet and Libraries," focused on the Internet and efforts to regulate the new medium, especially its use in libraries. The seminar familiarized lawyers with cutting edge legal developments such as the recently resolved constitutional challenge over use of filtering software in Loudoun County, Virginia, libraries. It equipped attorneys to place new law of the Internet into the context of established First Amendment rights in libraries. Like the first Lawyers for Libraries Institute, held in May, 1997, the seminar graduated another class of practicing lawyers, educated in the perspective of librarians, ready to assist the library community to resist censorship and advance intellectual freedom.

"This was an excellent conference," wrote one participant in an evaluation following the seminar. "[Q]uality of speakers, participation of attendees, absence of vendors, made for a stimulating, collegial learning experience." "I thought this was a great blend of legal / practical / philosophical," concluded another. "This was a fabulous event," wrote a third. "I am so glad I came. It served as a 'crash course' on the very issues in which I am interested."

In general, participants were highly satisfied with the topics covered in the seminar, and indicated they were given the background needed to begin to mesh into the informal network of attorneys and librarians that Lawyers for Libraries institutes were designed to foster.

Outstanding representatives of the constitutional law community presented the seminar. Robert Corn-Revere, lead counsel for the plaintiff citizens group in Mainstream Loudoun v. Board

of Trustees of Loudoun County Library, participated in expert panels on "To Filter or Not to Filter: What the First Amendment Says" and "Legislative Outlook: Bills on 'Harmful to Minors' and Filtering." Bruce Ennis, General Counsel for the American Library Association and top-ranking First Amendment litigator who helped secure the U.S. Supreme Court victory in *ALA/ACLU v. Reno* striking down the Communications Decency Act of 1996 (CDA), reviewed the basic structure of free speech rights in libraries. Members of the Jenner & Block litigation team in the CDA case, together with other prominent First Amendment lawyers, subsequently gave in depth presentations on issues such as "public forum" analysis, privacy and confidentiality of library use, and rights of minors impacting Internet use in libraries. Lucy Dalglish, a graduate of the first Lawyers for Libraries training institute and an experienced free speech advocate, presented a practicum focusing on strategies available to attorneys seeking to join with librarians to defend and advance intellectual freedom.

Candace Morgan, President of the Freedom to Read Foundation and Associate Director at the Fort Vancouver Regional Library, presented the Keynote address. She set the stage for the entire conference, especially providing the backdrop for an in depth discussion of the librarian's perspective, and assessing the needs of the library community and discussing ways lawyers can help. Judith Krug, Director of the Office for Intellectual Freedom, elaborated the librarian's perspective, fitting that perspective to professional values and concerns grounded in the First Amendment.

Attendees at the latest Lawyers for Libraries came from twenty-five different states representing every region of the country. Only southwestern states, aside from Texas, did not have representation; however, even a lawyer from the United States Virgin Islands attended.

A good proportion of the attendees has a strong potential to make a positive impact on the library community nationwide.

The Office for Intellectual Freedom is exploring methods to reinforce the initial bonds between attorneys and the library community created by Lawyers for Libraries training. Among effective means to tie trained lawyers into intellectual freedom efforts is to invite them to participate in librarians' local conferences or other continuing education programs on principles of intellectual freedom. Another means is to invite trained lawyers to participate with librarians in community outreach and education about the importance of intellectual freedom.

Potentially, interaction on equal terms and direct exchange between attorneys and librarians is beneficial both to the Lawyers for Libraries advocate, in improving his or her understanding of the librarian's perspective, and to librarians in keeping current with new laws and legislation, and strengthening their understanding of the constitutional foundation for intellectual freedom. We invite readers to contact the Office for Intellectual Freedom for further information about Lawyers for Libraries. Just as importantly, we ask readers to keep alert for suitable candidates for future Lawyers for Libraries institutes, especially practicing attorneys from underrepresented states.

Office for Intellectual Freedom, Freedom to Read Foundation Celebrate 30 Years

A gala dinner celebrating the 30th anniversary of the American Library Association's Office for Intellectual Freedom and its sister organization the Freedom to Read Foundation, will be held Saturday, January 30, 1999, during the ALA Midwinter Meeting in Philadelphia.

Susan Isaacs, author of *Lily White*, *Compromising Positions* and other bestsellers, will be the special guest speaker.

Honorary co-chairs are Candace Morgan, president of the Freedom to Read Foundation, and Steven Herb, chair of the ALA Intellectual Freedom Committee. The 30th Anniversary Dinner Committee includes Carol DiPrete, chair, Judy Arteaga, Estelle Black, Pamela Bonnell, Janet Vaill Day, Jennifer Gallant, Deborah Jacobs, Susan Madden, Molly Raphael and Sue Sherif.

Lawsuit Demanding Filtering Refiled

The lawsuit in Kathleen R. v. City of Livermore seeking to require the Livermore, CA, public library system to install filtering software has been amended, adding a fourth legal ground based on the United States Constitution. On October 21, Judge George Hernandez of the Pleasanton-Dublin branch of the Alameda County Superior Court had "sustained" Livermore's motion to dismiss the lawsuit. He granted the plaintiffs ten -- later adjusted to fourteen -- days in which to amend their complaint to assert one or more new claims that would not be barred by section 230 of the still-in-force provisions of the Communications Decency Act (see "Lawsuit Demanding Filtering Fails" in the October, 1998, *Action News*).

The plaintiffs filed an amended complaint (<<http://www.filteringfacts.org/amendedc.htm>>) asking the court for an injunction to prevent library officials from allowing children to access materials that are obscene or otherwise "harmful to minors." Evidently the plaintiffs are attempting to follow precedent coming from Mainstream Loudoun v. Board of Trustees of Loudoun County Library. The judge in that case ruled that section 230 of the Communications Decency Act did not preclude the constitutional claims asserted by the plaintiff citizens group

against the library system in Loudoun County, Virginia, that had imposed filtering on all Internet access. The lawsuit in Kathleen R. v. City of Livermore now claims that Livermore violated the Fifth Amendment rights of the 12-year-old plaintiff who had allegedly downloaded sexually explicit images at the public library. His asserted rights to "substantive due process" would be applied to states and municipalities through the Fourteenth Amendment.

According to the amended complaint, the public library "advertises itself as a place where children are welcome" and "invites, encourages, and entices" children to come to the library and use its resources, including the computers." "The City of Livermore intends for parents to remain ignorant about the significant harm which children can [experience] by using library computers. ... [T]he library has never publicly stated it has the policy of allowing minors to view obscenity and pornography on its computers." The amended complaint concludes that "[t]he actions and policy of the City of Livermore shock the conscience and, at a bare minimum, display a deliberate indifference to the health and welfare of children." Such egregious actions and policy allegedly amount to an unconstitutional violation of "substantive due process."

A hearing is scheduled for January 13 unless the defendant city moves to dismiss the amended complaint within thirty days of November 3, the date the new pleading was served. City attorneys are considering that option.

Visit the IFRT Home
Page at

[http://www.ala.org/
alaorg/oif/ifrt_inf.html](http://www.ala.org/alaorg/oif/ifrt_inf.html)

**INTELLECTUAL FREEDOM
ROUND TABLE 1998-1999
COMMITTEE CHAIRS**

Bylaws and Organization Committee:

Chair: Mary Keelan (1997-1999)

Membership Promotion Committee:

Chair: Patrick Gracey (1997-1999)

Nominating Committee: Chair:

Fay Ann Golden (1997-1999)

Program Committee:

Chair: Carolyn Caywood (1998-1999)

Eli M. Oboler Memorial Award Committee:

Chair: Gene Lanier (1996-2000)

**John Phillip Immroth Memorial Award
Committee:**

Chair: Tom Budlong (1997-1999)

**State and Regional Achievement Award
Committee:**

Chair: Laurence Miller (1997-1999)

Publications Committee:

Chair: Carrie Gardner (1996-2000)

**INTELLECTUAL FREEDOM
ROUND TABLE LIAISONS AND
REPRESENTATIVES**

To the Intellectual Freedom Committee:

Paul Vermouth (1998-2000)

To the Freedom to Read Foundation:

Cynthia Pirtle (1997-1999)

To the Education Assembly:

Christine Jenkins (1998-2000)

**From the LeRoy C. Merritt Humanitarian
Fund:**

Bernadine Abbott Hoduski (1998-1999)

From Social Responsibilities Round Table:

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Don Wood

The *IFRT Report* is an irregular publication of the Intellectual Freedom Round Table of the American Library Association and is sent to members of the Round Table. Membership information and/or correspondence about your subscription should be addressed to IFRT, Office for Intellectual Freedom, American Library Association, 50 East Huron Street, Chicago, IL 60611; ifrt@ala.org; 800-545-2433, ext. 4223. Letters to the editor are welcome.

Celebrating the LeRoy C. Merritt Humanitarian Fund

Dr. LeRoy C. Merritt was one of the library profession's staunchest opponents of censorship. He was a chairperson of the California Library Association's Intellectual Freedom Committee and a member of the ALA Intellectual Freedom Committee. Editor of the American Library Association's *Newsletter on Intellectual Freedom* from 1962 to 1970, he was the first recipient of the Robert B. Downs, Intellectual Freedom Award. His book, *Book Selection and Intellectual Freedom*, was published in 1970 by H.W. Wilson. Dr. Merritt's career included public and college library work. During this twenty-four years as a library school professor and dean, he inspired many students and librarians to resist censorship.

Since 1970, The LeRoy C. Merritt Humanitarian Fund has provided financial assistance for the support, maintenance, medical care, legal fees, and welfare of librarians who have been discriminated against or denied employment rights because of gender, age, race, color, creed, sexual orientation, place of national origin, and defense of intellectual freedom.

The Merritt Fund is supported entirely by donations from concerned groups and individuals.

The Intellectual Freedom Round Table encourages working librarians to defend the public's rights to access all kinds of information in all formats. When librarians respond to this plea and take steps to defend the public's rights, some of them lose their own rights and end up unemployed or pressured to act in ways contrary to their beliefs and the policies of their professional associations. That is when these librarians need financial aid for lawyers, filing fees, and living expenses. The trustees of the LeRoy C. Merritt Humanitarian Fund urge you, as advocates of intellectual freedom and the right to read, to contribute to the fund established in

honor of the first recipient of the Robert B. Downs Intellectual Freedom Award, Dr. LeRoy C. Merritt.

Funds raised go directly to librarians who place their jobs in jeopardy in order to protect everyone's right to read.

Please support the Merritt Fund by sending a check, made payable to The LeRoy C. Merritt Humanitarian Fund, to

LeRoy C. Merritt Humanitarian Fund
50 E. Huron Street
Chicago, Illinois 60611

Note: Because the Fund makes grants directly to individuals, donations are not tax-deductible.

For further assistance, you may contact the Merritt Fund trustees:

Bernadine Abbott Hoduski, Senior Trustee, 100 North Lamborn, Helena, MT 59601-4623; H: (406) 449-9974; F: (406) 449-9974; e-mail: ber@initco.net

Deborah Jacobs, City Librarian, Seattle Public Library, 1000 Fourth Avenue, Seattle, WA 98104-1193; O: (206) 386-4102; F: (206) 386-4119; e-mail: jacobsd@halcyon.com

Pamela Bonnell, Director of Library Services, Waco-McLennan County Library, 1717 Austin Avenue, Waco, TX 76701-1741; O: (254) 750-5946; F: (254) 750-5940; e-mail: bonnell@ci.waco.tx.us

Visit the Merritt Fund
Home Page at
[http://www.ala.org/
alaorg/oif/merritt.html](http://www.ala.org/alaorg/oif/merritt.html)

SURVEY OF IFRT MEMBERS FOR THE CONGRESS ON PROFESSIONAL EDUCATION

1. Did your library school introduce you to the *Library Bill of Rights* and other documents addressing the relationship between principles of librarianship and Intellectual Freedom?

Yes No

Comments:

2. If so, was this:

A class of its own?

Part of one or more classes on the subject?

Comments:

3. Have you found the Intellectual Freedom background you got in library school helpful in your work?

Yes No

Comments:

4. What year did you graduate or will you graduate?

5. Is there a library schoolteacher you would like to particularly commend for effectively introducing Intellectual Freedom?

Yes No

If so, whom?

Please photocopy, complete, and send this survey by April 5, 1999, to

Don Wood, IFRT Staff Liaison, Office for Intellectual Freedom, ALA, 50 East Huron St., Chicago, IL 60611
or fax it to 312-280-4227, attn: Don Wood