



Freedom to Read Foundation News

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Criteria for Support Established

Highlights of San Antonio Midwinter Meeting

In a presentation to the Council of the American Library Association at the ALA's 1983 Midwinter Meeting, Ella Gaines Yates, speaking on behalf of FTRF President William D. North, reported on the business transacted by the Foundation Trustees at their January meeting.

The Board of the Foundation held its Midwinter Meeting on January 6, 1983. It was one of the Foundation's most important meetings in recent years in several critical respects.

First, it marked the climax and culmination of the long hard fight to defend librarian Jeanne Layton who had lost her position in defense of library integrity and intellectual freedom. As a result of a settlement, Jeanne has been restored to her position with future protection against arbitrary or vindictive discharge. As a result of a money settlement and the support of the Foundation, Jeanne has been made whole for all of the legal expenses and costs she incurred in this battle.

Second, the meeting marked the adoption of detailed, objective, and measurable standards and criteria for support of litigation which will expedite the Foundation's response to requests and will eliminate the source of problems which were identified in the Foundation's response to the Baileyville School case and to the *Pico* litigation in the lower courts.

Third, the meeting marked the development of a program of response to the anticipated flood of "harmful to minors" and "variable obscenity" legislation which the Supreme Court's recent decision in the *Ferber* case is generating and is expected to generate. The Foundation committed itself to defend, to the Supreme Court, if necessary, the special right to exemption merited by the library by reason of its special status, responsibility and function in the marketplace of ideas.

The Foundation meeting also marked the kickoff of the campaign to obtain funds for the Freedom to Read Foundation Endowment. The only legal rights libraries and librarians have are those they can afford to assert or defend. It is our hope that the Endowment will assure

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1983 Slate

Committee Nominates Twelve for Board of Trustees

Twelve candidates for the Freedom to Read Foundation's 1983 election have been slated by a committee composed of Trustees Lee B. Brawner, Russell Shank and Richard P. Kleeman, chair.

Trustees to fill four scheduled vacancies on the Board of Trustees will be chosen from the following list of candidates:

- Dorothy M. Broderick, *Voice of Youth Advocates*, University, Alabama, and member, ALA Intellectual Freedom Committee.
- Jane Robbins-Carter, Director, University of Wisconsin Library School, Madison.
- Martha B. Gould, Assistant Director, Washoe County Library, Nevada, and member, ALA Intellectual Freedom Committee.
- Richard Irving, Public Affairs Bibliographer, State University of New York at Albany.
- David M. Jones, Superintendent of Schools, Sayville, New York.
- Henry R. Kaufman, Attorney at Law, New York, New York.
- R. Bruce Rich, Weil, Gotshal & Manges, New York, and counsel, Freedom to Read Committee, Association of American Publishers.
- Elliot Shelkrot, State Librarian, Harrisburg, Pennsylvania.
- Joseph F. Shubert, State Librarian, Albany, New York.
- Sam G. Whitten, Associate Professor, University of Texas Graduate School of Library Science, Austin.
- Ella Gaines Yates, Learning Resources Center at the Seattle Opportunities Industrialization Center, Seattle, Washington.
- Mark G. Yudof, Professor of Law, University of Texas, Austin.

According to Freedom to Read Foundation election rules, at least two candidates, and no more than three, are to be nominated for each vacancy on the board.

Ballots will be mailed on May 1 to all persons holding paid membership in the Foundation on that date.

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Highlights (from p. 1)

that any librarian and library can afford to defend intellectual freedom whenever, wherever, and however it is threatened.

In this connection, a special resolution of thanks was adopted by the Foundation to honor the commitment and financial support of Carolyn Forsman whose efforts have generated thousands of dollars for the defense of intellectual freedom. Those efforts have been as selfless as they have been magnificent.

The Foundation reaffirmed its role in the legal defense of ALA and the library community. This is a commitment to you.

1983 Election (from p. 1)

Nominations by Petition

Persons who wish to *nominate candidates by petition* should submit twenty-five signatures of current members of the Foundation in support of each candidate. Names of petition candidates, statements of consent from the candidates, and the required signatures to support each must be received by the executive director of the Foundation no later than April 15, 1983.

Current Trustees

Elected trustees currently serving on the Foundation Board are Lester Asheim (1983), Henry R. Kaufman (1983), Richard P. Kleeman (1983), Ella Gaines Yates (1983), Lee B. Brawner (1984), Burton Joseph (1984), William D. North (1984), Peter Scales (1984), and Russell Shank (1984).

Trustees serving on the Board by virtue of their office in the American Library Association are J. Dennis Day, chair of the Intellectual Freedom Committee; Carol Nemeyer, ALA president; Brooke Sheldon, ALA president-elect; and Robert Wedgeworth, ALA executive director.

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Regular membership in the Freedom to Read Foundation begins at \$25.00 per year. Contributions to the Foundation should be sent to: Freedom to Read Foundation, 50 East Huron Street, Chicago, Illinois 60611. All contributions are tax-deductible.

Layton settles case for \$50,000

More than three years after Davis County, Utah, librarian Jeanne Layton began her courageous battle to win back the job from which she had been fired for refusing to remove a controversial book from the library, a final victory has been won. On December 10, an out-of-court settlement of Ms. Layton's civil suit against the library board was announced. Ms. Layton was awarded \$50,000 in legal fees. In addition, the library board approved a letter to her concerning her current status. Signed by board chairman Evan Whitesides, it said:

"Since your reinstatement as Davis County Library Director, you have worked closely with the Library Board in operating the library and in carrying out the policies and directions of the Board. So long as you continue to cooperate closely with the Library Board in carrying out the policies set by it and running the library in an effective manner, maintaining good employee morale, you will not be discharged without cause."

Although the \$50,000 settlement will not erase all accumulated legal expenses, Ms. Layton will recover all of the nearly \$17,000 which she personally contributed. The remainder will go to pay still outstanding legal bills and to reimburse individual contributors. The Freedom to Read Foundation, which donated nearly \$37,000 to the Layton defense, will recover approximately \$18,000. At their January meeting, the Foundation trustees voted that the refund would be budgeted as a nonincome item and placed in the Foundation's Endowment Fund, identified as the Jeanne Layton Fund.

On behalf of the trustees and membership of the Freedom to Read Foundation, *FTRF News* congratulates Jeanne Layton on a well-deserved victory. Her strength and courage have been an inspiration not only to librarians, but to all supporters of the freedom to read.

Settlement in Island Trees Case

Although final details remained to be worked out and submitted to the court for approval, as of mid-February it appeared that a settlement had been reached in the landmark school library censorship case of *Pico v. Island Trees Union Free School District #26*. The settlement represents a virtually total victory for the plaintiffs, a group of parents, teachers and students who, in 1976, petitioned to reverse a school board decision to remove nine books from high school library shelves because they were "anti-American, anti-Christian, anti-Semitic, and just plain filthy."

As FTRF members will recall, the case reached the U.S. Supreme Court, which, on June 25, 1982, upheld an Appeals Court ruling overturning a lower court dismissal of the suit. In a divided and limited 5-4 decision, the Court mandated further trial proceedings to determine the underlying motivations of the school board. Arguing for the plurality, Justice William Brennan said,

"Local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion." (See *FTRF News*, vol. 11, no. 2-3.)

In August, the school board, no doubt fearing the further exposure a trial would bring, agreed to return the books, including works by such noted authors as Kurt Vonnegut, Bernard Malamud and Richard Wright, to the Island Trees Union High School library. There was, however, to be a catch. According to the board's August decision, the books would remain on restricted shelves and a stipulation was included that the librarian must send written notice to parents that the student had checked out a book containing potentially "objectionable" material.

The plaintiffs, who were represented in the case by the New York Civil Liberties Union, contended that the arrangement still placed a stigma on the books which would effectively chill free expression. Moreover, they pointed out, the stipulation procedure stood in violation of New York's statute protecting the confidentiality of library circulation records. The NYCLU appealed to the state attorney general for a ruling on the applicability of the confidentiality statute and, in December, the board was informed that the procedure did indeed violate the law.

In January, faced with the Attorney General's rulings, the board agreed to remove all restrictions on the controversial titles, thus opening the way at last to a final settlement. The remaining unresolved issue, the status of Bernard Malamud's *The Fixer* in the classroom curriculum, was not expected to present a major obstacle to an agreement.

Thus, it would appear that what may well have been the single most significant library censorship court battle in U.S. history, has ended in a significant victory. While the Supreme Court's decision did not resolve the issues presented by challenges to book removal, in the words of Foundation President William D. North, it "nevertheless constitutes another significant line of defense against censorship." (see *FTRF News*, vol. 11, no. 2-3). The Island Trees school board's prudent decision to abandon the fight and return the books to the shelves not only restores to the students of the high school full access to the ideas contained in the censored works, but it marks a significant gain for intellectual freedom everywhere.

The Freedom to Read Foundation congratulates the plaintiffs and attorneys in the case for a job well done and a victory well merited. The Foundation funded a friend-of-the-court brief filed in the names of the American Library Association, the New York Library Association and the Foundation. Excerpts from that brief appeared in the *FTRF News*, vol. 10, no. 4.

Freedom to Read Foundation Litigation Support Criteria

In his report to the Council of the American Library Association at the ALA 1982 Annual Conference in Philadelphia, President William D. North reported that the trustees had embarked upon "a program to clarify the terms for making application for support to the Foundation, to assure no issue of First Amendment significance goes unnoticed and no victim of censorship goes undefended and unvindicated."

At the trustees' 1983 Midwinter Meeting in San Antonio, President North offered a draft document for the Board's approval which outlined the principles, priorities and criteria by which the Foundation should weigh requests for assistance. After discussion, the Board voted to accept the documents with some minor amendments.

The following, then, are the criteria and priorities the FTRF Board of Trustees and its Executive Committee, with the assistance of counsel, will apply to all future requests for assistance. Together with these criteria the Board approved a table of priority points to be applied in implementing the criteria. Copies of the table are available to FTRF members and potential litigants by request.

FREEDOM TO READ FOUNDATION LITIGATION SUPPORT CRITERION AND PROCEDURE

The criterion by which the Board of Trustees evaluates requests it receives for support in proposed or pending litigation involves essentially ten factors:

1. The Legal Issue
2. The Position of the Requesting Party
3. The Significance of the Decision
4. The Parties to the Action
5. The Status of the Case when the Request is Received
6. The Sources of Support for the Request
7. The State of the Litigation
8. The Strength of the Opposition
9. The Generality of the Attack or Decisional Impact
10. The Quality of the Case

Every request for support is measured in terms of these factors. This measure is, in part, a relative measure in that each case must be evaluated "relative" to other cases for which support has been requested; and, in part, this measure is an absolute measure in that the resources of the Foundation are finite and a commitment of support, once made, cannot be reversed or repudiated and can be substantially "open ended" if the Foundation initiates or prompts the case.

While the evaluation of requests for support involve a variety of subjective judgments based on readings of documents and assessments of statements and circum-

stances, the evaluation process is made more objective by the translation of each of the ten factors into priority considerations and assigning each consideration a numerical value. While not controlling, aggregate numerical values provide a check against unwarranted or excessively subjective decisions.

1. *The Legal Issue.* The first factor considered in any request for support by the Foundation is the legal issue presented. Under the Constitution of the Foundation, the Trustees are limited to legal issues involving freedom of speech and press, the public right to hear what is spoken and read what is written, the public right to access to libraries, and other issues arising out of censorship activities or efforts. Among these issues, however,

- A. First priority is given to those issues which involve an attack on the policies of the American Library Association or any constituent state or local chapter as they relate to intellectual freedom, including, but not limited to, (1) Policy on Confidentiality of Library Records, (2) Statement on Labeling, (3) Policy on Free Access to Libraries for Minors, (4) Administrative Policies and Procedures Affecting Access to Library Resources and Services. Such attacks may be directly on the policy or on a librarian, library trustee, or board, or other person.
- B. Second priority is given to those issues which do not directly involve ALA policy, but do impact on the capacity of libraries to preserve and expand their collections and assure access to their resources. Such issues would include, but not be limited to challenges of library book and multi-media selection policies and to such concepts as "variable obscenity," "harmful matter for minors," and "value inculcation."
- C. Third priority is given to those issues which do not directly impact on authors or publishers as sources of library resources, the communications media by which information and knowledge is disseminated and the schools. Such issues involve, but are not limited to, the use of criminal sanctions to chill authorship, publication or sale, the use of schools for value inculcation and suppression of competing values, dimensions of right to privacy and freedom of information, limits of parent/teacher/board control of curriculum, the limits of speech justified by war, crime, civil disorder, national security, and other social, political, and economic considerations.

2. *Position of the Requesting Party.* On the theory that the resources of the Foundation should go first to the person having the greatest need, therefore,

- A. First priority is given to a requesting party who is in the position of a defendant. A defendant usually is unable to control the time, place, or circumstances of the litigation and is rarely, if ever, able to obtain a "contingent fee" defense. Moreover, the attack

which is being defended may significantly diminish the defendant's resources (as where a librarian is fired) or otherwise adversely effect the capacity to defend. Within this priority, preference is given first, to parties who are librarians, library trustees, or libraries; second, to educators, authors, and publishers; and third, to students or members of the public generally.

- B. Second priority is given to a requesting party who is in the position of plaintiff. While the plaintiff has opted to litigate, such option may be the only alternative to loss of job, intellectual integrity, or First Amendment rights. In any event, a legal right does not exist until it is asserted and, hence, the Plaintiff is the essential mechanism in "right" generation and interpretation.
- C. Third priority is given to a requesting party who seeks a role as *amicus curiae*, or friend of the court. The *amicus* can be helpful as a support to one side or the other or as an independent articulator of a legal theory which advances intellectual freedom, but one which neither party desires to assert itself. The *amicus* can be important, but is never indispensable.

3. *Significance of Decision.* Resources should rationally be committed to the case which can produce the decision of greatest significance. The significance of a decision and, hence the priority, of the case which will generate it, is measured by two dimensions: first, in terms of the usefulness of the decision and second, in terms of the authority of the court rendering the decision. Thus:

- A. First priority goes to cases of "first impression" which are apt to produce a new, unprecedented, original, or otherwise novel interpretation or application of the law. Among such cases of "first impression" priority would be given first to federal court cases, then to state court cases, and finally to municipal court cases, simply on the basis of relative jurisdictional significance of the precedents which the decisions of each of those courts constitute.
- B. Second priority goes to cases challenging or seeking to overturn or limit a prior adverse decision. Such cases, if successful, correct bad law, or at least restrict its application and significance. The priority of such cases would correspond from highest to lowest with the court hearing the federal, state, or municipal.
- C. Third priority goes to cases which would reinforce or reaffirm a favorable precedent. Precedents need reinforcement and reaffirmation from time to time to preserve their significance, vitality, and recognition as surviving changes in the conditions which

originally produced them. Here too, priority corresponds to the level of the court involved.

4. *Parties to the Action.* The first obligation of the Foundation is to defend and assert the rights of itself and the American Library Association, then those of the larger organized library community, then those of the larger community of libraries and librarians, then those of the larger community of education and information disseminators, and then those of the larger communities of students, library patrons, publishers, authors, and other information and knowledge users.

Within these priorities, first priority is given to that case involving an organized association; second priority is given to that case involving a class; and third priority is given to the case involving an individual. These priorities reflect the breadth of involvement, commitment, and impact.

5. *Status When Request Received.* Priority based on the status of the case when the request is received reflects the degree of urgency of involvement. Participation in a case at a level from which there is no appeal is more urgent than participation in a case wherein appeal from an adverse decision is possible. Thus:

- A. First priority goes to cases before the United States or State Supreme Court when the request is received.
- B. Second priority goes to cases before the United States or State Courts of Appeal when the request is received.
- C. Third priority goes to cases before the United States or State trial courts.

Within each of the foregoing priorities, the federal case has priority over the state case at the same level, but not at different levels.

6. *Request Support Sources.* Priority is given to those cases enjoying the strongest endorsement and support from the broadest constituency of the library and educational communities. Thus, first priority goes to cases endorsed and supported by one or more of the following: ALA, State Library Association, Local Chapter of Librarians or Friends, National Education Association, American Civil Liberties Union, Association of American Publishers, or like First Amendment organizations. Lower priorities are assigned cases having lesser support constituencies.

7. *State of Litigation.* Priority is given to those cases in which the Foundation is offered an opportunity to participate (whether or not it does so) at the earliest possible date. While the Foundation rarely involves itself in litigation until most issues of fact are resolved, through trial or other proceeding, early advice and consultation permits the Foundation to influence the formulation of the legal issues and structure of the case so as

to enhance its potential precedential significance to the library/educational communities. Thus:

- A. First priority goes to cases in which the Foundation is informed at the pretrial stage.
- B. Second priority goes to cases in which the Foundation is informed at the trial stage.
- C. Third priority goes to cases in which the Foundation is informed at the appellate stage.

8. *Strength of Opposition.* Priority is given to those cases in which either Foundation support is required to equalize the odds or significantly enhance the chances of victory. Generally, this means that priority goes to cases involving opponents with the most legal and financial resources. Thus:

- A. First priority goes to suits brought by or against agencies of federal government.
- B. Second priority goes to suits brought by or against agencies of state government.
- C. Third priority goes to suits brought by or against agencies of local government.
- D. Fourth priority goes to suits brought by plaintiffs whose attorneys are being paid on a contingent fee basis.
- E. Fifth priority goes to suits brought by or against a corporation, association, or partnership.
- F. Sixth priority goes to suits brought by or against a private individual.

9. *Generality of Attack or Decisional Impact.* Proliferation of litigation produces exhaustion. Hence, priority is given to cases promising to have the greatest decisional impact or responding to the broadest attack. Hence,

- A. First priority goes to defend multiple cases in different states involving the same issue or the same adversary.
- B. Second priority goes to defend multiple cases in the same state involving the same issue or the same adversary.
- C. Third priority goes to assert or defend the first case involving an issue or practice prevailing nationally.
- D. Fourth priority goes to assert or defend the first case involving an issue or practice prevailing statewide.
- E. Fifth priority goes to assert or defend the first case involving an issue or practice prevailing locally.

10. *Quality of Case.* Because bad facts and a bad litigation environment can make bad law, priority must also be assigned on the basis of the following factors, each of which rates a first priority if "good," a second priority if "fair," and a third priority if "poor."

- A. Compliance with ALA policies and guidelines. The strength of a case is significantly affected by the

vulnerability of the plaintiff or defendant to charges that he or she has violated the very policies which he or she now seeks to assert or defend. The perception of hypocrisy endangers the assertion or defense of principle.

- B. Adequacy of Documentation. A case, to be won, must be proved and the strongest proof is comprehensive documentation of the propriety of the conduct challenged or asserted. A case initiated without adequate evidentiary basis tends to be more costly and have a lower chance of success.
- C. Number and quality of counsel. The quality of the case must be measured not merely by its merits, but by the quality of counsel and the capacity of counsel, if more than one, to work together. Inexperienced, unqualified, or uncoordinated counsel will obscure the issues, proliferate cost, and otherwise jeopardize any hoped-for result.
- D. Commitment to trial. Cases which are settled prior to trial and decision on the merits do not establish a legally cognizable precedent. The primary function of Foundation involvement is to make law which will shield the assertion of First Amendment rights and expand those rights. As a consequence, if there is no commitment to trial, there can be no expectation of a reasonable return for the resource commitment.

CONCLUSION

To implement the foregoing criteria requires the closest interaction by the party seeking Foundation support, Foundation staff, and the trustees. There must be full disclosure of all facts relating to the litigation as well as detailed presentation and analyses of the legal theories and positions to be asserted and advanced. Further, as a condition precedent to Foundation support, there must be a commitment on the part of the parties and their counsel that the legal theories advance or asserted in support of the request for Foundation involvement will not be modified or abandoned without prior consultation and agreement by the Foundation. Given the limited resources of the Foundation and the unlimited potential demands on those resources, the Foundation trustees are committed to litigation which advances the cause for which the Foundation was established and which requires of those seeking its support a comparable commitment to that cause.

Dallas Librarian Files Suit Against Texas Textbook Selection Law

Dallas librarian Pamela Bonnell, who is also the representative of the ALA Intellectual Freedom Round Table to the Freedom to Read Foundation Board, has

filed suit against the Texas school textbook selection law, which permits citizen participation in objecting to the selection of textbooks but prevents a citizen from advocating the selection of a textbook. The immediate cause for Bonnell's action is the fact that Texas schools have been unable to purchase new dictionaries for high school classrooms since 1969 because every dictionary submitted by publishers has been rejected by the textbook commission after citizen complaints were filed against so-called dirty words.

Texas is the largest market for school textbook sales, accounting for about eight percent of the nation's textbook purchases. In recent months, the textbook selection procedure has come under considerable fire, with critics charging that would-be censors, like the conservative textbook reviewers Mel and Norma Gabler, hold excessive influence. In addition to Bonnell's suit, the Texas branch of People for the American Way has launched a campaign against both the law and the Gabler's influence, a state Senator has proposed changing the law to permit full participation by textbook defenders, and the State Board of Education has appointed a special committee to review the entire selection process.

On August 5, Ms. Bonnell filed suit in Travis County District Court, seeking to have the entire selection process declared unconstitutional. "I have a right to speak before the State Textbook Committee," she said. "As a parent, I'm not allowed to speak in favor of a textbook." According to her attorney, Michael Aranson, the current system permits a minority group to overwhelm the committee and prevent adoption of a text that might be favored by the majority. "Only the people who protest have input," he explained.

The trustees and officers of the Foundation are closely following developments in Texas and, specifically, the progress of Ms. Bonnell's suit.

"Harmful to Minors" Laws and Library Exemptions

At their January 1983 meeting, the Foundation Board of Trustees discussed at considerable length the thorny issue of library exemptions to various "harmful to minors" and "variable obscenity" laws which have proliferated in the wake of the Supreme Court's recent decision in the *Ferber* child pornography case (see *FTRF News*, vol. 11, nos. 1, 2-3). In that case, it will be recalled, the Court effectively decreed a new area of expression exempt from the protection of the First Amendment—child pornography. As a result, many states and localities have approved measures aimed at restricting circulation of materials in which minors are engaged in "sexual conduct," as well as limiting access to sexually explicit materials for minors.

The Board resolved to commit the Foundation to support and defend exemptions for libraries from such legislation. This does not mean, of course, that, where appropriate, the Foundation will not also oppose the legislation as such, if it does violate the First Amendment. Where, according to current Supreme Court guide lines, these laws do pass constitutional muster, however, the Foundation will support efforts to exempt libraries and librarians from their provisions. This continues the Foundation's previous policy favoring library exemptions from already existing obscenity statutes.

The problem of library exemptions has a ten year history. In 1973, after more than a decade of decisions moving steadily in the direction of noninterference in a citizen's choice of communicative materials, the U.S. Supreme Court decided to halt what they obviously considered a pernicious trend in the dissemination of materials with sexual themes. In *Miller v. California*, a majority of five justices established new guidelines for the determination of obscenity.

The new guidelines (particularly one requiring that state law specifically define what cannot be depicted), prompted many new state laws. Although one state, Iowa, decided to eliminate all provisions regarding dissemination of sexually explicit materials to adults, the majority of states enacted more restrictive legislation. In the face of this, the American Library Association hosted a meeting in September, 1973, of representatives from those of its units and related organizations directly affected, including the Freedom to Read Foundation. At that meeting, several protective measures that could be included in state statutes and local ordinances were identified, the most important being an exemption for libraries.

Today the issue remains substantially the same. While few doubt the positive character of library exemptions to such legislation, there is concern that the fight for exemptions may weaken the overall struggle against the restrictive legislation itself. Although such concern is certainly not without basis, the Foundation's experience has shown that it is possible to remain an effective opponent of restrictive legislation in general, while advocating adoption of the library exemption when and if such legislation is adopted.

Recent experience in Cook County, Illinois, which includes the city of Chicago, highlights the need for renewed vigilance by the Foundation in the wake of the *Ferber* decision. On September 20, 1982, the Cook County Board adopted a "child pornography" ordinance modeled after the New York law upheld in *Ferber*. It imposed a fine of up to \$500, imprisonment for up to six months, or both, for any person convicted of distributing or producing "any play, motion picture, photograph or other visual representation depicting sexual conduct of or involving a child or children."

The law was scheduled to go into effect October 20,

but protests by the Illinois Library Association compelled the board to temporarily suspend enforcement. Deborah Miller of ILA said the law was so broadly worded that it could make it illegal for a library to have certain anthropology books, health books, medical texts, art reproductions, and magazines like *National Geographic*, because they include illustrations of nude children. "This puts a librarian who runs a book through a machine in the same category as an adult bookstore peddler," she said. "Any sheriff's deputy can come into a library and virtually shut it down."

The Association called on the board to exempt the county's 1,600 public library branches, but this was opposed by library critics. Margaret Miezio, a parent and member of Phyllis Schlafly's Eagle Forum, charged that "the judgment of librarians is faulty, permissive and extremely bad." On November 17, a special board committee meeting rejected the exemption proposal, but amended the statute in an effort to meet librarians' concerns. A provision prohibiting "exhibition of post-pubertal human genitals or public areas" was changed to "lewd exhibition" of same.

Whether or not this solution proves satisfactory, the debate over the measure revealed that defense of the library and its collection will not always be easy in such situations. In the course of the controversy, William Juneau, a spokesperson for Board President George Dunne, said, "The ordinance is a tool to rid shelves of children depicted in sexual conduct. If someone seizes a book in a library, it is up to the courts to decide if it falls under the child pornography ban. We're not worried about First Amendment rights. We will uphold the law."

Everett T. Moore and Intellectual Freedom

Newer members of the Freedom to Read Foundation may not be familiar with the name of Everett Moore, one of the Foundation's founding members and to date, its single largest individual contributor. But the name of Everett T. Moore is inseparable from the cause of intellectual freedom. It is time that his lifetime of contributions be recognized, however briefly, in these pages.

Throughout his career, Everett Moore has been an outspoken and effective advocate of the freedom to read. His writings have made him an unofficial historian of the library's role in preserving intellectual freedom in America. But more than a scholar, Everett has been in the forefront of those fighting actively to preserve free expression and inquiry. Everett was vice-president of the Freedom to Read Foundation from its inception until 1974. He was the lead plaintiff in *Moore v. Younger*, which challenged the constitutionality of California's "harmful matter" statute. The suit contended that librarians cannot be held liable for the dissemination to minors of works which at some later date might

be found "harmful"—works which without doubt are protected under the First Amendment if circulated among adults.

The Foundation suit in *Moore v. Younger* proved successful, but only after a long and difficult battle. It was victory in this case which, many contend, put the Foundation "on the map," establishing our organization as a significant force in defense of free expression in the judicial arena. Everett Moore was selected as lead plaintiff because of the legal axiom that the most exemplary, most respected individual one can identify be chosen as lead plaintiff. But Everett was no gilded figurehead in this fight. In good measure, the Foundation suit was successful due to his ability to shape and to eloquently articulate the issues in the case.

Since his retirement in 1975 as Associate University Librarian for Public Services at the University of California at Los Angeles, Everett has remained one of the chief spokespersons in California for intellectual freedom. And, as already noted, he is still an active member of the Freedom to Read Foundation. It is a privilege and an honor for the Foundation to count Everett among its members and to acknowledge his many immeasurable contributions.

Freedom to Read Foundation
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Thank You, Carolyn

At their January 1983 meeting, the Foundation Board of Trustees voted unanimously to recognize the significant contribution of Carolyn Forsman to the Foundation's fund raising efforts. Ms. Forsman is President of Bead Weaver, Ltd., which produces attractive hair barrettes of Ms. Forsman's own design. At both the 1981 ALA Annual Conference in San Francisco and the 1982 Conference in Philadelphia, Bead Weaver donated barrettes to the Foundation for sale to conference-goers at the Foundation booth. In addition, Ms. Forsman herself personally sold the barrettes not only at the Annual Conferences but at Midwinter Meetings as well. In Philadelphia alone, barrette sales brought the Foundation over \$2,000 income. It is with deep gratitude that the Foundation acknowledges Carolyn Forsman's loyalty and personal effort.

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Ballots Coming!

This issue of *FTRF News* announces the slate for the 1983 election. Ballots will be mailed on May 1 to all Foundation members who have paid their 1983 dues by that date. If you have overlooked your 1983 contribution, please send your check today.