IFRT REPORT

From the Chairperson, David W. Brunton

In this REPORT . . .

- Summaries of the intellectual freedom programs at the 1975 Annual Conference in San Francisco
- Rundowns of actions taken at the meetings of the IFRT Executive Committee, the IFRT membership, the Intellectual Freedom Committee, and the Trustees of the Freedom to Read Foundation
- An important announcement concerning the confidentiality of library records: a ruling from the Texas Attorney General
- A complete review of recent obscenity legislation in the fifty states

diamonds

IFRT and IFC Win Jones Award!

For members of the Intellectual Freedom Round Table, the Intellectual Freedom Committee, and the Freedom to Read Foundation, there couldn't have been a more pleasing way to close the San Francisco conference. At the inaugural luncheon which traditionally concludes ALA's annual meetings, it was announced that the IFRT and the IFC had been awarded $12,000 from the J. Morris Jones-World Book Encyclopedia-ALA Goals Award, to support the appeal in Moore v. Younger, the suit brought by the Freedom to Read Foundation against California's 1969 "harmful matter" law.

The citation accompanying the award said: "The aim of the project is the establishment of legal precedent for protecting librarians from criminal prosecution by achieving recognition that U.S. libraries are primary First Amendment institutions through which citizens can have, as a matter of right, access to any work they desire; and establish legal precedent for protecting librarians from criminal prosecution for attempting to fulfill the First Amendment rights of library patrons."
INTELLECTUAL FREEDOM ROUND TABLE
1975-76

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The IFRT REPORT is issued irregularly to all members of the Intellectual Freedom Round Table of the American Library Association. All IFRT members are also entitled to order the bimonthly ALA NEWSLETTER ON INTELLECTUAL FREEDOM at the special reduced rate ($4.00 per year) authorized by the IFRT Executive Committee. Orders for the NEWSLETTER ON INTELLECTUAL FREEDOM should be sent to: IFRT Staff Liaison, 50 East Huron Street, Chicago, Illinois 60611. Payment must accompany all orders.
Intellectual Freedom in America

At the IFRT program in San Francisco, two historically different yet complementary perspectives of intellectual freedom were presented. Evelyn Geller described the attitude of "benevolent" censorship that was prevalent among librarians of the 19th and early 20th centuries. In her study of library reaction to the June 1973 Supreme Court decisions on obscenity, Judy Serebnick explored current attitudes about intellectual freedom and found that remnants of benevolent censorship exist today.

After studying the development of libraries and librarianship during the late 1800s, Geller determined that "the present position of the American Library Association on intellectual freedom issues was not a development and refinement of its earlier positions, but a reversal of an older posture."

Libraries were in their formative stage when control of access was viewed as a positive method of social control. This attitude of social control became fixed in library theory. The public library was "accountable for its intellectual and moral influence." In fulfilling library responsibility as an educational institution, librarians became censors of the materials provided, selecting primarily scholarly works of unquestionable quality.

But librarians also recognized the necessity of providing a broad range of materials. In 1877, Melvil Dewey suggested that "book requests be solicited from patrons so that libraries would become more responsive to the reading needs of the public." At once the librarian became accountable for the acceptance and rejection of suggested materials. In order to justify the purchase and non-purchase of popular works, particularly fiction, librarians began to develop selection policies.

Developing "the reading habit" was the most prevalent justification for including popular fiction in library collections. Librarians hoped that patrons once hooked on reading would be susceptible to professional guidance toward more admirable reading material. At the least, reading novels kept the public from far worse activities - such as frequenting saloons or turning their attention to really "vicious literature." Essentially, such "frivolous" literature was harmless and its inclusion was justified as necessary to meet the reader's requests for recreational materials. Finally, librarians justified inclusion of "sensational" and popular literature by maintaining scholarly collections in the central libraries and limiting popular acquisitions to the branch libraries.

As librarians became more responsive to their public, society itself began to demand more books to fill leisure time and provide entertainment. However, Geller pointed out, "the entire discussion of value and demand took place within a framework of consensus that certain works should be excluded from the library." The Comstock law of 1873 provided the framework of morality and it was largely unchallenged.

Librarians, as members of a new profession, were not in a position to stand alone against the tide of censorship. On the contrary, the librarian as a censor was a role accepted by both librarians and society in general. So
while more and more popular works were included in the public library collections, librarians continued to keep tight control over acquisitions and access to new acquisitions.

In conclusion, Geller stressed the long tradition which has viewed the librarian legitimately in the role of censor:

"The various library practices which are now being criticized... were developed laboriously, over decades, by librarians who were members of a new profession with a socially defined role.

"They were developed at a time when there was at least surface moral consensus on what was improper, or indecent, or vicious literature, and at a time when even had librarians taken a different position, they would have had few professional, academic, or even commercial allies.

"These policies were not developed as instruments of evasion, but indeed were proudly enunciated.

"These policies and practices were devised not as means of exclusion, but as principles of inclusion of certain works in the library - that is, principles by which libraries could defend their acquisitions against outside attacks."

Both the practices and attitudes that Geller described are found to some degree among librarians today. Judy Serebnick studied the impact of the 1973 Supreme Court decisions on obscenity on public and school libraries and trade bookstores. She visited 210 librarians, trustees, school administrators and booksellers to find out "if there was general awareness of the decisions; whether attempts to suppress materials in libraries and trade bookstores had taken place; and the extent to which actual selection practices has been modified."

Serebnick found that there is a general awareness of the decisions as well as recent state obscenity legislation among those she interviewed. However, they were not equally aware of obscenity legislation that was pending.

Perhaps the most surprising discovery Serebnick made was that there has not been an increase in the number or intensity of complaints within a given library since the Supreme Court decisions. While booksellers and librarians continue to get complaints, they have few actual requests for removal of materials from their collections.

Finally, Serebnick found that the court decisions did affect procedures in some libraries and bookstores. But most did not change their selection policies or remove books.

However, "in some libraries and trade bookstores the decisions and recent obscenity legislation have had a 'chilling effect.' They have prompted some librarians to introduce restrictions, or, more likely, to reinforce existing restrictions; and they have cut short attempts to remove restrictions. Even in states that have new obscenity laws specifically exempting libraries, librarians continue to act cautiously, especially with respect
to minors. Librarians may say they think the public is disturbed only by what's in adult bookstores and theaters, but still these librarians act cautiously. The time is considered out of joint for discontinuance of some restrictive measures. Controversial books continue to be avoided in some libraries, especially school libraries. Controversial books continue to require three favorable reviews before purchase in some libraries even though non-controversial books require only two favorable reviews. Controversial best sellers continue to be bought in single copies and housed in the central research collection in some public library systems even though non-controversial best sellers are duplicated heavily for all branches in the system. Controversial books are bought to fill reserves in some libraries, and after the reserves are filled the books are not added to the collection. And controversial books, when they are added, in some libraries, are restricted in circulation."

Serebnick's findings show that librarians have taken it upon themselves to exercise caution in their provision of materials even though there has not been an increase in patron complaints. Like Marjorie Fiske in the 1950s, she found that while librarians give "verbal allegiance to the idea of intellectual freedom they are reluctant to put their concepts to the test of practice."

Privacy and Data Bases

The IFC's program on privacy and data bases began with a presentation on new developments in privacy law as viewed by Carole Parsons, who represented the Domestic Council Committee on the Right of Privacy. What followed was a vigorous dispute over the threat - or lack of threat - presented by future developments in computer technology.

Attorney William Fenwick argued that computers do not present the specter that some people think they see on the horizon. He further contended that it is dangerous to the free flow of information in the U.S. to impose new regulations on the private sector without any attempt to discover whether there are abuses of the right of privacy that are not already under regulation (e.g., by fair credit reporting acts).

Professor Irving Klempner (SUNY Albany) in part concurred, arguing that the greatest threat to intellectual freedom and privacy stems from the government's misuse of information in its data banks.

Bela Hatvany, president of CLSI, reported the startling fact that of the more than 200 libraries in which his firm has installed data automation equipment, only four - repeat, four - have inquired about measures to protect their patrons from invasion of privacy through improper access to stored information.

Membership Approves Invitation to Affiliate

In an important action taken at the 1975 membership meeting, an addition to the IFRT bylaws was approved. According to the new bylaws article, "any persons concerned with intellectual freedom issues may form a regional, state or local group which is encouraged to associate with IFRT as an affiliate."
If you want to form an intellectual freedom group in your state, please write to Mr. John Carter, Vice-Chairperson, Intellectual Freedom Round Table, 50 E. Huron St., Chicago, Illinois 60611.

The full text of the new bylaws article is attached to this REPORT.

Don't Throw It Away. At the urging of Russell Benedict, founder and irrepressible leader of the Collectors' Network, IFRT members voted to encourage their colleagues not to destroy ephemera and alternative literature that comes their way (often trashed because it's "hard to deal with" and not indexed). IFRTers also directed the Executive Committee to establish a special committee to find members willing "to organize regional clearinghouses for libraries wishing to donate and/or collect alternative literature and ephemera."

As soon as the project gets underway, you'll hear more. As it has been outlined, the project will connect libraries wanting to collect alternative literature with those giving it away.

1976 Program Plans. Dean Galloway, IFRT program committee chairperson, announced in San Francisco that plans for the round table's 1976 program are well under way. Unless some unanticipated hitch develops, good-cause crusader Pete Seeger will appear. The program committee hopes to get sufficient media coverage to carry the intellectual freedom message beyond the centennial conference.

Donations Approved. In other action at the IFRT membership meeting, a $500 donation to the Freedom to Read Foundation was approved. Another $500 payment, to the Office for Intellectual Freedom in recognition of staff services provided to IFRT, was also approved.

In a letter to the round table, FTRF President Richard L. Darling wrote: "I want to express our deep appreciation to the members of the Intellectual Freedom Round Table for the very generous contribution to the Freedom to Read Foundation. With your $500 gift, the IFRT joins the ranks of the Foundation's benefactors. We count on your support as we continue to seek legal precedent for the freedom to read."

In expressing thanks on behalf of the Office for Intellectual Freedom, Mrs. Judith F. Krug noted that IFRT's gift would represent an important addition to the OIF's program budget: "Because our budget is not large, the portion devoted to program activities is also not large, and IFRT's donation of $500 greatly enhances our capacity to develop flexible plans for 1975-76. As we face the year ahead, it's good to know that our friends are behind us and are willing to show their support in this very tangible way."

IFC Endorses Public Ownership of Presidential Papers

After a slow start (due to an embarrassing lack of a quorum), the IFC drew its ranks together to do battle with a long agenda, which included items ranging from the ownership of papers of high public officials to a suggestion from one U.S. Senator that school libraries be required to spend at least five percent of their federal funds on "non-sex-biased" materials.
Records of Public Officials. At the 1975 Midwinter Meeting, the ALA Executive Board asked the IFC to coordinate the efforts of the various units of the Association to develop a position paper on the ownership of and access to the papers and other records of government officials. An IFC subcommittee, composed of Dan Henke, Karl Weiner, and Richard L. Darling, chairperson, prepared a draft paper which was circulated to all concerned ALA units. The paper argued that only professionally maintained federal archives with uniform standards on declassification would result in proper public access to the records of high governmental officers.

Following discussions with various ALA units in San Francisco, the subcommittee recommended that the IFC adopt a resolution supporting public ownership of public officials' papers. Such a resolution was approved by the IFC and adopted by the ALA Council at its July 4 session. (The full texts of the position paper and the resolution appear in the NEWSLETTER ON INTELLECTUAL FREEDOM for September 1975.)

Confidentiality of Library Records: Revised Policy Approved. Another item remaining before the IFC from the 1975 Midwinter Meeting was a proposed revision of the ALA policy on the confidentiality of library records, first adopted by the Council in 1971.

A problem with the 1971 policy was brought to the IFC's attention by the Washington Library Association Intellectual Freedom Committee, which informed the Committee that at least one Washington library had released library patrons' registration records to police officials on the grounds that the ALA urged protection of only library circulation files.

Responding to the problem, the IFC recommended that the ALA policy be altered to protect all library records identifying the names of library patrons. The new policy, which deletes "with specific materials" from the policy approved in 1971, was adopted by the Council at its meeting on July 4.

S. 1338. Introduced by Senator Charles Percy (R.-Ill.) in March, S. 1338 contains provisions to amend the Elementary and Secondary Education Act of 1965 by requiring that at least five percent of Library and Learning Resources funds be spent "on a priority basis" for the acquisition of "non-sex-biased" materials. The IFC discussed the broad implications of the bill, and, while understanding that passage of the measure was deemed unlikely, determined to express its objections to the bill's sponsors.

After Chairperson Molz met with the Executive Board, it was agreed by the Board and the IFC that a letter to the bill's sponsors from ALA President Allie Beth Martin would be the best means to bring the ALA's view to the attention of members of Congress.

And In Addition ... In other action, the IFC appointed a subcommittee (composed of Joseph Anderson, Ella Yates, and Theodore Ryberg, chairperson) to investigate the current controversy over the Federal Communications Commission's so-called fairness doctrine; heard a report from 1974-75 ALA President Holley on meetings with U.S.O.E. Commissioner Terrel H. Bell, which were described as opening a new channel of communication; and asked the International
Relations Committee to handle a humanitarian plea for letters to Spanish government officials urging the just treatment of Maria Luz Fernandez Alvarez, a librarian at the Cuban embassy in Madrid who was arrested in connection with a pro-Basque group's activities.


Ms. McMullin is a member of the American Library Trustee Association and a trustee of the King County Library System, Seattle. She has been an intellectual freedom leader in her home state of Washington, in the national organization of trustees, and in IFRT.

FTRF Board Reorganized

At the FTRF meeting of June 27, the trustees of the Freedom to Read Foundation approved the first major revision in the Foundation's structure since its establishment in 1969.

After debating for more than a year the question of expanding the FTRF Board to accommodate requests for ex officio seats from such ALA units as the Intellectual Freedom Round Table, the Board voted to cut its size by eliminating the seats of the American Library Trustee Association, the Library Administration Division, the Junior Members Round Table, and the Social Responsibilities Round Table. Retained on the grounds that they represent ALA as a whole were the ALA president, president-elect, executive director, and IFC chairperson. Final action on changes in the bylaws will be taken after the FTRF bylaws committee reports at the 1976 Midwinter Meeting.

In a related action, the trustees voted to invite all ALA units to send representatives to Board meetings. Although unit representatives will not have the right to vote, they will be able to take part in all Board discussions and thus bring before the voting members the concerns of the various units.

Committees Elected. Elected to serve on the 1975-76 Executive Committee of the Board of Trustees were Richard L. Darling, president; R. Kathleen Molz, vice-president; Jean-Anne South, treasurer; Claude Settlemire; and Robert Wedgeworth.

Approved to serve on the FTRF nominating committee were Stanley Fleishman, Ms. South, and Frances C. Dean, chairperson. Suggestions for nominations should be sent to Mrs. Dean, c/o Freedom to Read Foundation, 50 E. Huron St., Chicago, Illinois 60611.

Litigation. President Darling gave a full report to the trustees on the FTRF Executive Committee's decision to join Alfred A. Knopf Inc.'s petition to the U.S. Supreme Court. Knopf and authors Victor Marchetti and John Marks asked the Supreme Court in June to reconsider its refusal to review a decision
of the U.S. Court of Appeals for the Fourth Circuit which in effect authorized
CIA censorship of Marchetti and Marks' book, The CIA and the Cult of Intelligence.

Those joining the petition for rehearing - the FTRF, the Association of
American Publishers, and the American Booksellers Association - argued that
the appeals court's decision went against the grain of Anglo-American history
by authorizing prior restraint of the press.

Unfortunately, on June 30 the Supreme Court denied the petition for recon-
sideration.

In a report on the FTRF suit against California's "harmful matter" statute,
Moore v. Younger, FTRF General Counsel William D. North announced that the
first steps had been taken by the Foundation to appeal the Los Angeles County
Superior Court's January 13 decision to the California Court of Appeals.
Although the Superior Court's ruling exempted libraries from the statute, it
was decided to appeal both to challenge the constitutionality of the law and
to win a ruling that would have state-wide impact.

▶ Council Approves New Policy for American Libraries

The editor of American Libraries "will be guaranteed independence in gathering,
reporting, and publishing news according to the principles embodied in the
American Library Association's policies on intellectual freedom," the ALA
Council declared in a resolution concerning the ALA's journal which was
adopted at the Council's July 4 meeting.

The action taken by the Council also approved the recommendation of the
ALA Committee on Organization that the AL editor report directly to the ALA
executive director, rather than to a committee on ALA publishing activities.
Members of COO believed that the special role of AL in the association requires
special lines of responsibility.

In addition, the Council established an AL editorial advisory committee whose
"function shall be limited to advice to the editor on editorial matters."
The committee of seven members will represent various "interests" within the
association.

▶ Victory in Texas

In an impressive victory for the confidentiality of library records, the
Texas Attorney General has issued a formal opinion (see Attachment II)
stating that "information which would reveal the identity of a library
patron in connection with the object of his or her attention is excepted
from disclosure . . . as information deemed confidential by constitutional
law."

In March 1975, the city editor of the Odessa American requested to see -
under the Texas Open Records Law - the circulation records of the Ector
County Library. He was primarily interested in the records of the Fine Arts
Collection, but compliance would have affected other library records as well.
Nona Szenasi, library director, refused to release these documents and was
supported in her decision by the County Commissioners Court. At the request of the court, the Ector County Attorney submitted a request for a formal opinion in the matter to Texas Attorney General John L. Hill.

Hill's opinion was issued July 11. The decision sets a precedent that will prove valuable to other state attorneys general as they are asked for opinions on similar open records laws.

A Fresh Breeze From Above??

A Jacksonville, Florida ordinance banning nudity on drive-in screens visible from public places violates the First Amendment, according to (surprise!) Justice Lewis F. Powell Jr. Justice Powell, as you will recall, formed part of the Supreme Court majority in 1973 when new obscenity guidelines were handed down in Miller v. California (413 U.S. 15, 93 S.Ct. 2607). Justice Blackmun, who also supported the Miller decision, joined Justice Powell and Justices Douglas, Brennan, Stewart, and Marshall in the Florida decision. Dissents were filed by Chief Justice Burger (joined by Justice Rehnquist) and Justice White.

Justice Powell's opinion (handed down at the end of the Court's 1974-75 term) is must reading: Erznoznik v. City of Jacksonville, ___ U.S. __, 95 S.Ct. 2268. Although Erznoznik was not, strictly speaking, a decision on obscenity, it does indicate that Justices Powell and Blackmun may be entertaining some doubts about the Court's tendency in Miller to frown on displays of "sex and nudity" even in theaters for consenting adults.

Another indication that Justices Blackmun and Powell might become crucial First Amendment swing votes came earlier in the year when, in a rare break from the Chief Justice, Justice Blackmun authored an opinion declaring that the City of Chattanooga's attempts to ban Hair from the Chattanooga Municipal Auditorium represented unconstitutional prior restraint. (Southeastern Promotions v. Conrad, ___ U.S. __, 95 S.Ct. 1239.) Dissenting votes were cast by Justice Douglas (who thought the Court was too timid in defending First Amendment rights) and by Justices White (joined by the Chief Justice) and Rehnquist.

1975 Legislative Review

This 1975 legislative review, prepared by the Office for Intellectual Freedom with the generous help of the Media Coalition, summarizes recent developments in obscenity law in the fifty states.

In the comments, Miller refers of course to the 1973 decision of the U.S. Supreme Court that established new guidelines for obscenity statutes (Miller v. California, 413 U.S. 15, 93 S.Ct. 2607). For the record, the Court's current guidelines are these: (a) whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest, (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable law, and (c) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.
States marked with one asterisk (*) adopted new obscenity laws in 1974; those marked with two asterisks (**) adopted new laws in 1975. References to court decisions indicate rulings of state courts unless otherwise stated.

Alabama
Regular session convened May '6. S. 690, a complete criminal code revision, introduced June 19, in Judiciary Committee. Except for notice provision, present law is constitutional. By court decree, community standards are those of the state. A Birmingham obscenity ordinance was upheld in May by the U.S. Court of Appeals for the Fifth Circuit.

Alaska
Adjourned June 7. No bills introduced.

*Arizona
Adjourned June 13. Two bills introduced.

Arkansas
Adjourned April 9. One bill introduced.

California
In session until September 15. Two bills are active: S.B. 886 (Attorney General's bill), which passed Senate June 25; S.B. 565 (complete criminal code revision), which passed Senate June 27. On June 24, the U.S. Supreme Court (in Hicks v. Miranda) overturned a declaration of unconstitutionality handed down by a three-judge federal panel. Thus California's pre-Miller obscenity law is constitutional, according to 1973 state appellate court ruling which now stands.

Colorado
Adjourned July 1. One bill introduced.

*Connecticut
Adjourned June 4. Eight bills introduced.

*Delaware
Adjourned June 30. H. 473 passed House June 26; can be carried over to next session. It would expand conviction penalties to include one-year business license suspension.

Florida
Adjourned June 5. No bills introduced. Tampa city ordinance passed February 4; preliminary injunction halting enforcement granted April 8 by U.S. District Judge Krentzman.

*Georgia
Adjourned March 25. S. 169 passed March 25, signed April 17. It adds Miller test and sexual conduct definitions to present law.

Hawaii
Adjourned April 11. Four bills introduced and can be carried over.

Idaho
Adjourned March 22. No bills introduced. A complete criminal code revision is planned.
**Illinois**

Adjourned June 30. H. 1970 passed June 30; not signed by governor as of August 7 (governor has 60 days). The bill includes mandatory prior civil proceedings, statewide community standards, narrow definitions of sexual conduct, and "educational value" test.

**Indiana**

Adjourned April 30. S. 88 and H. 1492 passed and signed April 21. Law includes Miller test for adults and minors, extensive list of sexual acts, and state preemption (i.e., local laws not allowed). Community not specified. Libraries, schools, museums, etc., are exempted.

*Iowa*

Adjourned June 27. Three bills introduced and can be carried over: S. 219, H. 513, and H. 888.

*Kansas*

Adjourned May 6. S. 327 can be carried over; adds Miller test and extensive list of undefined prohibited sexual conduct to present law.

*Kentucky*

No 1975 session.

*Louisiana*

Adjourned July 14. No bills introduced.

*Maine*

Adjourned July 2. One bill introduced.

*Maryland*

Adjourned April 7. Seven bills introduced.

*Massachusetts*

Six bills introduced, all in Judiciary Committee (H. 1145, H. 2940, H. 4462, H. 4463, H. 4647, H. 5397).

*Michigan*

Seven bills introduced, all in Judiciary Committee (H. 4045, H. 4145, H. 4150, H. 4164, H. 4330, S. 324, H. 4638). Action possible in the fall, or can be carried over. State Supreme Court ruled April 30 in Bloss v. Michigan that present minors and unconsenting adults statutes are constitutional; that consenting adult statute needs "further legislative expression."

*Minnesota*

Adjourned May 19. H. 845 can be carried over. The bill would regulate dissemination to minors and public displays; has narrow definitions of sexual conduct and broad display prohibitions. A Minneapolis licensing ordinance for adult bookstores and theaters was declared unconstitutional in July by U.S. District Court.

*Mississippi*

Adjourned April 6. One bill introduced.

*Missouri*

Adjourned June 30. S. 93, which passed Senate May 7, can be carried over. It includes Miller test, extensive list of sexual conduct which cannot be depicted, and regulation of public displays.
<table>
<thead>
<tr>
<th>State</th>
<th>Event/Details</th>
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<tbody>
<tr>
<td>Montana</td>
<td>Adjourned April 19. Missoula ordinance defeated April 1.</td>
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<tr>
<td><strong>Nebraska</strong></td>
<td>Adjourned May 23. L.B. 77 passed March 5, signed March 9. The law amends 1974 law by having &quot;average person&quot; apply to first Miller test only.</td>
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<tr>
<td>Nevada</td>
<td>Adjourned May 21. Three bills introduced. Failure of legislature to enact new law prompted Las Vegas district court to interpret old law to include second and third Miller tests.</td>
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<tr>
<td>New Jersey</td>
<td>In recess, reconvening dates not set. S. 1472 passed Senate May 27; in Assembly Law Committee. A. 3282 is a complete criminal code revision.</td>
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<tr>
<td>New Mexico</td>
<td>Adjourned March 22. One bill introduced. Albuquerque referendum, effective April 1, declared unconstitutional by district court in June.</td>
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<tr>
<td>*New York</td>
<td>Adjourned July 12. Fourteen bills introduced and can be carried over. A. 7152 and A. 7230 are affirmative defense bills.</td>
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<tr>
<td><strong>North Dakota</strong></td>
<td>Adjourned March 26. H. 1043 passed March 17, signed April 8. It includes prior civil proceedings, state standards, and state preemption.</td>
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<tr>
<td>Ohio</td>
<td>Substitute H.B. 129 passed House May 7 with amendment, is in Senate Committee. It includes &quot;community&quot; standards, Miller tests, and mandatory prior injunction or declaratory judgment proceedings.</td>
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<tr>
<td>Oklahoma</td>
<td>Adjourned June 6. Five bills introduced and can be carried over: H. 1045, H. 1364, H. 1509, S. 414, and S. 197. The last passed Senate April 30 and is in House Criminal Jurisdiction Committee; it regulates public display.</td>
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<td><strong>Oregon</strong></td>
<td>S. 444 passed May 20, signed June 4. It exempts employees of schools, museums and libraries from prosecution under 1974 law. No 1976 session.</td>
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<tr>
<td>Rhode Island</td>
<td>Adjourned May 15. Two bills introduced and can be carried over: H. 5589 and S. 728. The latter would regulate promotion of materials; includes state standards and extensive list of prohibited conduct.</td>
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Adjourned June 25. Three bills introduced and carried over: H. 2405; H. 2074, which passed the House January 28, establishing a study commission; H. 2569, a difficult general statute with extensive prohibited conduct and public display sections.

South Dakota

Adjourned March 21. One bill introduced. Study commission established in Rapid City.

**Tennessee

Adjourned June 12. H. 647 passed May 6; it removes extraneous clause from 1974 law. Five other bills introduced and two may be carried over: S. 456, which would eliminate 24-hour notice rule; H. 677, which is complete criminal code revision that incorporates 1974 law as is. Nashville ordinance passed by city council and vetoed by mayor; veto was sustained.

**Texas

Adjourned June 2. H. 589 passed May 2, signed May 8; it includes Miller tests and narrow definitions of prohibited conduct. In July a panel of federal judges declared unconstitutional the use of Texas nuisance laws against adult bookstores and theaters.

**Utah

Adjourned March 13. S. 23 passed March 13, signed March 25. It includes Miller tests and specifies "community" as area where violation occurred.

Vermont

Adjourned April 18. No bills introduced.

**Virginia

Adjourned February 22. S. 542 and S. 766, passed in February, include Miller tests for adults and minors.

**Washington

Adjourned June 9. H.B. 126 adopted; defines sexually explicit material and bans its exhibition on screen which is "easily visible" from a public area.

West Virginia

Adjourned April 14. Two bills introduced.

Wisconsin

Two bills introduced: A. 269 and A. 317.

Wyoming

Adjourned March 1. No 1976 session.

New Membership Directory

IFRT's new membership directory, mailed with this REPORT, includes members listed in both alphabetical and zip code order.

The zip code listing will enable you to locate persons in your state and region who are interested in participating in intellectual freedom programs and activities.

The directory will also be sent to the 50 chairpersons of the intellectual
freedom committees of the state library associations. They will be invited to involve IFRT members in their activities. Let's give 'em the support they need!

A Call for Nominations

If you would like to suggest a name (or names) for IFRT's 1976 election, please write to the chairperson of the Nominating Committee: Ms. Barbara Immroth, 513 Roslyn Place, Pittsburgh, Pennsylvania 15232.

Do You Have Suggestions for Jones Award?

At its meeting at the San Francisco conference, the IFRT Executive Committee voted to submit a proposal for the 1976 J. Morris Jones-World Book Encyclopedia-ALA Goals Award. Final action will be required at the 1976 Midwinter Meeting in order to meet the deadline for proposals.

If you have a suggestion for a proposal, please describe your project in a letter to the coordinator for the IFRT's proposal, Ms. Jean-Ann South, Intellectual Freedom Round Table, 50 E. Huron St., Chicago, Illinois 60611.

The following ALA units are eligible for the award: ALA committees, ALA joint committees, ALA divisions, ALA round tables, and ALA chapters.

Recent winners of the award include the ACRL (to support the revisions of Standards for College Libraries); the Committee on Legislation (to assist chapters in development of a national legislative network); the Committee on Accreditation (to conduct a seminar to prepare evaluators of graduate programs); the IFC (to conduct a prototype regional workshop on intellectual freedom); and ALTA (to support and strengthen state trustee associations).

The award was established in 1960 by the ALA and Field Enterprises Educational Corporation.

Your comments and contributions should be sent to: IFRT REPORT, American Library Association, 50 E. Huron St., Chicago, Illinois 60611.
ARTICLE XI

AFFILIATES

Section I. Any persons concerned with intellectual freedom issues may form a regional, state or local group which is encouraged to associate with the Round Table as an Affiliate. Affiliate status shall entitle the group to receive the publications of the Round Table and to report its activities to the Round Table; it shall not entitle members of the group who are not personal members of the Round Table to vote or hold office in the Round Table. An Affiliate can ask for advice or support or other appropriate action from the Round Table. Affiliates shall not pay dues, but shall be urged to contribute voluntarily to the financial support of the Round Table.

Section II. Affiliates may be units of existing regional, state or local library associations if they so choose. Affiliates determine their own organization, financial structure, policies and programs, which are not subject to veto by the Round Table. Affiliates may act in the name of the Round Table only when authorized to do so by the Round Table membership, and shall not commit the Round Table by any declaration of policy.

Section III. A group requesting Affiliate status shall submit a short statement of its membership, purpose, goals, and duration of operation to the secretary of the Round Table. Affiliates shall report their ongoing activities to the secretary of the Round Table at least once a year. If an Affiliate disbands, it shall report this action to the secretary of the Round Table.

This article approved by IFRT members, July 3, 1975
The Honorable Bill McCoy
Ector County Attorney
Room 223, Courthouse
Odessa, Texas 79761

Dear Mr. McCoy:

Pursuant to section 7 of the Open Records Act, article 6252-17a, V. T. C. S., you have requested our decision as to whether information on the identity of persons who have checked out paintings from the Ector County Library is excepted from disclosure under section 3(a)(1) which excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision."

The request from the city editor of the Odessa American asks:

to look at all records pertaining to the fine art's lending library of art objects. I would like to know who has checked out art prints in the past, who has them checked out at this time, how many persons have paid fines for late returns and the amount of the fines.

We understand your contention to be that only the identity of library patrons is excepted from disclosure, and that you do not object to disclosure of other requested information which does not identify individual patrons.

No Texas statute makes library circulation records or the identity of library patrons confidential, and no judicial decision in this state, nor in other jurisdictions, has declared it confidential. However, we believe that the courts, if squarely faced with the issue, would hold that the First Amendment of the United States Constitution, which is applicable to the
states through the Fourteenth Amendment, Gitlow v. New York, 268 U.S. 652, 666 (1925), makes confidential that information in library circulation records which would disclose the identity of library patrons in connection with the material they have obtained from the library.

The First Amendment "necessarily protects the right to receive" information, Martin v. City of Struthers, 319 U.S. 141, 143 (1943). It protects the anonymity of the author, Talley v. California, 362 U.S. 60 (1960); the anonymity of members of organizations, Gibson v. Florida Legislative Investigation Committee, 372 U.S. 539 (1963); Bates v. City of Little Rock, 361 U.S. 516 (1960); NAACP v. Alabama, 357 U.S. 449 (1958); the right to ask persons to join a labor organization without registering to do so, Thomas v. Collins, 323 U.S. 516 (1945), the right to dispense and to receive birth control information in private, Griswold v. Connecticut, 381 U.S. 479 (1965); the right to have controversial mail delivered without written request, Lamont v. Postmaster General, 381 U.S. 301 (1965); the right to go to a meeting without being questioned as to whether you attended or what you said, DeGregory v. Attorney General of New Hampshire, 383 U.S. 825 (1966), the right to give a lecture without being compelled to tell the government what you said, Sweezy v. New Hampshire, 354 U.S. 234 (1957), and the right to view a pornographic film in the privacy of your own home without governmental intrusion, Stanley v. Georgia, 394 U.S. 557 (1969).

In light of these authorities, we believe that the First Amendment guarantee of freedom of speech and press extends to the reader or viewer, and protects against state compelled public disclosure of a person's reading or viewing habits, at least in the absence of a showing of a clear and present danger which threatens an overriding and compelling state interest. Even if such a threat were shown to exist, we do not believe that the Open Records Act provides that "precision of regulation," NAACP v. Button, 371 U.S. 415, 438 (1963) which is required in this area to insure that the least drastic means for achieving a permissible purpose are used. Shelton v. Tucker, 364 U.S. 479, 488 (1960).

If by virtue of the First and Fourteenth Amendment, "a state has no business telling a man, sitting alone in his own house, what books he may read or what films he may watch," Stanley v. Georgia, supra at 565, then neither does the state have any business telling that man's neighbor what book or picture he has checked out of the public library to read or view in the privacy of his home.
Thus, it is our decision that information which would reveal the identity of a library patron in connection with the object of his or her attention is excepted from disclosure by section 3(a)(1) as information deemed confidential by constitutional law.

However, we do not believe that this constitutional protection extends beyond the identification of an individual patron with the object of his or her attention. Thus, we do not believe the fact that a person has used the library, owes or has paid a fine is confidential information.

Very truly yours,

John L. Hill
Attorney General of Texas

APPROVED:

DAVID M. KENDALL, First Assistant

C. ROBERT HEATH, Chairman
Opinion Committee
Do you and your colleagues know about . . .

LeROY C. MERRITT HUMANITARIAN FUND

The LeRoy C. Merritt Humanitarian Fund was established as a special trust in memory of Dr. LeRoy C. Merritt. It is devoted to the support, maintenance, medical care and welfare of librarians who are in the trustees' opinion:

1. Discriminated against on the basis of sex, sexual preference, race, color, creed or place of national origin;
2. Denied employment rights;
3. Threatened with loss of employment or discharged because of their stand for the cause of intellectual freedom, including promotion of freedom of the press, freedom of speech, and the freedom of librarians to select items for their collections from all the world's written and recorded information.

The Merritt Fund is governed by a board of three trustees who are elected by the donors to the Fund. Current trustees are: Joan Goddard, Zoia Horn, and Joslyn N. Williams.

Applications for Aid

Applications for aid should be sent to: The Trustees, LeRoy C. Merritt Humanitarian Fund, 50 East Huron Street, Chicago, Illinois 60611 (312-944-6780).

Donations

The Merritt Fund is supported solely by donations and contributions from concerned groups and individuals. Contributions to the Merritt Fund are not tax-exempt because they are used to give direct aid to individuals without reference to Internal Revenue Service requirements regarding tax-exempt organizations. Hence contributions do not qualify as tax deductions for donors.

Who Was LeRoy C. Merritt?

Dr. Merritt, who died in 1970, was one of the library profession's staunchest opponents of censorship and one of its most vigorous defenders of intellectual freedom. Graduated from the University of Wisconsin in 1935 with a B.A. and a certificate in librarianship, Dr. Merritt received a Ph.D. in librarianship from the University of Chicago in 1942. His diversified career included working at the Milwaukee Public Library, serving as librarian at Longwood College, and participating in a Special Services project for the Armed Forces during World War II. From 1946 until 1966, Dr. Merritt served on the staff of the University of California School of Librarianship at Berkeley. He was appointed Dean of the School of Librarianship of the University of Oregon in Eugene in 1966. He was the author of many articles and essays on intellectual freedom.
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Staff Liaison
Intellectual Freedom Round Table
50 East Huron Street
Chicago, Illinois 60611

September 1975