Chair's Message
Fay Golden, 1997-98 IFRT Chair

Many of the meetings and programs that IFRT sponsors give participants a chance to inform us all of the horror stories about attempts to force the removal of materials from library collections, programs, and sometimes the walls. There are too many instances where these attacks are successful. There are too many public officials who run for office by pointing with alarm at what they call obscene or pornographic items in the libraries of their communities.

But I would like to remind our readers that they are heroes, too. Particularly, I would like to commend the trustees of my library for consistently supporting intellectual freedom against censors who have appeared. I would also like to mention the Acting Superintendent of our school district who would not succumb to the lady who created a big media todo about a nude painting that was in the Liverpool Public Library's annual spring show by local art teachers. It was even better that her campaign to collect signatures on a petition to the board demanding its removal was such a failure that we never heard from her again. For that, I want to congratulate the residents of Liverpool.

Speaking of the media, I cannot forget the newspapers in Syracuse that regularly run editorials championing intellectual freedom causes. Another special hero of mine is the Chair of the Committee on Higher Education of the Assembly of New York State. When a bill demanding that libraries not circulate videos rated unacceptable by any rating system for children under 18 showed signs of passing, Ed cashed in all kinds of credits and managed to get the measure referred to his committee, where it sits to this day.

Finally, I would like to praise a hero to us all, Judith Krug, Director of ALA's Office for Intellectual Freedom, who has been given the prestigious Lippincott Award. Congratulations on an honor well deserved!

1998 Annual Conference Meeting Schedule

Friday, June 26
2:00 - 4:00 p.m.
Washington Hilton & Towers Map Room

Monday, June 29
8:00 - 10:00 a.m.
Washington Hilton & Towers Caucus Room

1997-98 IFRT Officers:

Fay Ann Golden, Chair
Carolyn Caywood, Chair-Elect
Douglas Koschik, Treasurer
Rhonda Hiebert, Secretary
Shirley May Byrnes, Director
Christine Jenkins, Director
Candace D. Morgan, Director
Melissa Riley, Director
Chair-Elect's Report
Carolyn Caywood, 1997-98 Chair-Elect

IFRT’s chair-elect has two jobs. The first is to find people to fill committees and the second is to plan a program for the annual ALA Conference. Regarding the first point, please think about getting involved with a committee. Thanks to Don Wood in the Office for Intellectual Freedom, all of the committees are listed on our website. http://www.ala.org/alaorg/oif/ifrt_inf.html. Please contact me as soon as possible if you are interested in serving.

The topic that intrigues me for a program in 1999 is the parent-child-librarian triangle. Are there speakers you feel would do a great job of addressing this topic? Are there other burning issues you would rather we address?

You can contact me through e-mail, fax, or mail with your ideas for my year as chair.

Carolyn Caywood
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voice: 757-460-7519
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IFRT Election Results

The results of the 1998 American Library Association election were announced on Wednesday, April 29. The following members were elected to Intellectual Freedom Round Table offices:


Shirley May Byrnes will serve as secretary for 1998-2000.

Melissa Riley was re-elected to a second term as a Director. She will continue to serve until 2000.

David Cohen was elected to a term as Director. He will serve from 1998 to 2000.

Carolyn Caywood, IFRT’s current chair-elect will serve as chair for the 1998-99 program year. Doug Koschik continues as the Round Table’s treasurer, and Candace Morgan and Christine Jenkins continue as Directors until the close of the 1999 Annual Conference.

IFRT Award Winners Announced

The ALA Intellectual Freedom Round Table has announced the winners of its 1998 intellectual freedom awards.

The Eli M. Oboler Memorial Award will be presented to *Free Speech in Its Forgotten Years* by David M. Rabban (Cambridge University Press, 1997). The Oboler Award is presented bi-annually to an outstanding work in the area of intellectual freedom, and consists of a citation and $500 award. “The Oboler Award selection committee chose *Free Speech in Its Forgotten Years* because of its comprehensive research,” said Gene Lanier, chair of the award committee. “The author vividly describes the rich and varied history of free speech between the Civil War and World War I, uncovers a major episode in the history of American liberal thought for the first time and explores
the transformation of political thought. We found it to be an enormously important and fascinating book for attorneys, historians, and librarians.”


The Illinois Library Association Intellectual Freedom Forum is the recipient of the 1998 SIRS State and Regional Achievement Award for its work in the defeat of Illinois' proposed obscenity ordinance, which would have allowed each county in the state to determine its own definition of obscenity. This legislation would have severely impacted library service in the state, as many libraries serve more than one county and libraries may have been forced to segregate their collections to obey the laws in each county. In addition, inter-library loan services could have been jeopardized throughout the state. The opposition of Illinois librarians was cited as a key factor in the legislation’s defeat.

“The State and Regional Award Committee very much admires the effective and successful fight of the Intellectual Freedom Forum to defeat the Illinois legislative move to accord each county the power to set obscenity standards,” said committee chair Laurence Miller. “The influence of the Forum is indeed worthy of national attention.”

The State and Regional Award is funded by Social Issues Resource Series, Inc., and consists of a citation and $1,000. Past winners include the Georgia First Amendment Foundation (1997), the Long Island Coalition Against Censorship (1996) and the Northern Virginia Citizens Against Censorship (1995).

The John Phillip Immroth Memorial Award for Intellectual Freedom will be presented to the Director and Trustees of the Rutland (VT) Free Library. Director Paula Baker and Trustees Marjorie Meany, Elizabeth Gibson, William Meub, Barry Ferraro, and Paul Bortz were selected for their successful defense of Daddy's Roommate in their library’s collection and their successful mobilization of the community in support of the library’s intellectual freedom policies.

“The ability of those in Rutland to focus the sometimes heated debate on the important underlying principles of intellectual freedom, which resulted in substantial support from a variety of community constituencies, is a model for other libraries to follow,” said Immroth Committee Chair Tom Budlong. “It always takes a commitment from many individuals to win a censorship battle and the Immroth Award Committee is pleased to honor a successful group effort. Your effort proved that the public will rally in support of their public library and their right to read if the issues are clearly presented.”

The Immroth Award consists of a citation and $500. Past recipients include Ronald F. Sigler (1997), The Plaintiffs in Case v. Unified School District (1996), and the Fort Vancouver (WA) Regional Library Board of Trustees (1995).

All three awards will be presented at the opening of the joint Intellectual Freedom Round Table/Intellectual Freedom Committee/Division IFCs program on Saturday, June 27, at 2:00 p.m.
Virginia Residents Challenge Library Filtering Policy

On April 7, 1998, Judge Leonie M. Brinkema of the U.S. District Court for the Eastern District of Virginia rendered the nation’s first judicial decision addressing the use of filtering software in libraries. In *Mainstream Loudoun v. Board of Trustees of Loudoun County Library*, the much-watched constitutional challenge of the restrictive Internet use policy imposed in the public libraries of Loudoun County, Virginia, the defendant library board had filed a motion to dismiss the lawsuit on various grounds, including a contention that the plaintiffs did not state a valid claim under the First Amendment. Judge Brinkema’s decision rejected the contentions of the library board and shaped some of the issues that may now proceed to a trial before the court.

Judge Brinkema held: one, the First Amendment constrains any decision by a public library board to impose “content-based” restrictions on access to Internet speech; and, two, any “content-based” restriction “must be ‘justified by a compelling governmental interest and must be narrowly tailored to achieve that end.’”

Providing public Internet access in a library is like including a set of encyclopedias in the collection, the court stated. Use of filtering software is akin to “laboriously redact[ing] portions [of the encyclopedias] deemed unfit for library patrons.” Such a redaction is a “content-based” restriction on access to the Internet. The question yet to be answered: Is the restriction narrowly tailored to achieve a compelling governmental interest?

Identifying crucial issues, Judge Brinkema noted: “plaintiffs allege that the X-Stop filtering software chosen by defendants restricts many publications which are not obscene or pornographic” and, further, they “allege that the decision as to which materials to block is made by a California corporation based on secret criteria not disclosed even to defendants, criteria which may or may not bear any relation to legal definitions of obscenity or child pornography.”

According to the court, the plaintiffs “adequately alleged a lack of . . . reasonable means” on the part of the defendants to deal with “obscene speech or materials harmful to children.”

Making formal allegations such as these was an essential first step in the lawsuit. Filing the complaint was point A. The court has now ruled, at point B, that the allegations are not insufficient, at least as stated. Between points A and B, here’s the path:

Late last year, the Board of Trustees of the Loudoun County Library had imposed a “Policy on Internet Sexual Harassment.” The policy, designed to shield women and children from a “sexually hostile environment,” unconditionally mandated for adult library users, as well as children, use of X-Stop filtering software, marketed to block “hard-core pornography and other offensive sites on the Internet.” In addition, the library board ordered each of the six Loudoun County branch libraries to place their Internet-access computers in full view of staff and authorized librarians to expel anyone caught trying to access prohibited material.

On December 23, 1997, Mainstream Loudoun, a group of parents and other concerned citizens, filed a forty-seven page complaint in the U.S. District Court for the Eastern District of Virginia. Above and beyond the allegations already noted, the complaint asserted that
the library Internet use policy and filtering software "improperly limit adults to even less information than is fit for children, block access to valuable, educational, and constitutionally protected information" that has nothing to do with sexually explicit materials, fail to promote purported objectives, and "ignore readily available less-restrictive alternatives."

The complaint detailed at length how each member of the plaintiff group depends upon free and open access to materials at the public library and is directly and substantially harmed by the Internet use policy. Citing an article published at <http://www.spectacle.org/cs/xstop.html> by Jonathan Wallace, co-author of Sex, Laws, and Cyberspace, the complaint alleged that the X-Stop filtering software mandated in Loudoun County has blocked numerous websites containing typical public library reference information, e.g., sites of the Religious Society of Friends (Quakers), the American Association of University Women, the Banned Books page at Carnegie Mellon University, the AIDS Quilt Site, the Fileroom Project censorship database, and even the conservative Heritage Foundation, and that attempts to correct the blocks were unreliable.

The complaint seeks both a judicial declaration that the Internet use policy violates the First and Fourteenth Amendments of the U.S. Constitution and an injunction to prevent the library board from enforcing the policy.

On February 2, 1998, the defendants filed the motion that resulted in Judge Brinkema’s determination that the First Amendment applies to the use of filtering software in libraries. The key idea behind the motion, to paraphrase the defendants, had been this: the plaintiffs have made the ridiculous claim that they have "a constitutional right to have publicly financed peep shows in the Loudoun library."

Attempting to sidestep any claim that use of filtering software on Internet access computers represents a removal of material from the shelves of a library, the defendants tried to paint a picture of the Internet as a kind of electronic interlibrary loan system. They had futilely hoped that such a picture would avoid problems with First Amendment standards that constrain what libraries may remove from their collections, as set forth in the well-known case of Board of Education, Island Trees Union Free School District No. 26 v. Pico.

The defendants asserted on the motion that any individual "who 'surfs' the Internet using a library Internet-access computer is, in essence, a patron of a vast electronic library. ... When a patron desires to retrieve a particular publication, the patron simply enters the URL into the selection box on the browser, hits the <ENTER> key and the browser sends the electronic equivalent of an inter-library loan request to the website that houses the requested publication."

In addition, the defendants asserted that the plaintiffs’ lawsuit is barred by the "Good Samaritan" provision contained in the Communications Decency Act. Also, they asserted that the plaintiffs do not have standing or real injuries sufficient for them to maintain the lawsuit.

On February 5, 1998, the American Civil Liberties Union filed a motion that sought the court’s permission for various Internet publishers to intervene. The motion sought to include The
Safer Sex Page, the American Association of University Women Maryland, the Books for Gay and Lesbian Teens/Youth Page, the Renaissance Transgender Association, and other similarly identified Internet publishers as added plaintiffs, pressing their own claims against the defendants.

The added plaintiffs' complaint alleged that the defendants' Internet use policy prevents them "from communicating their constitutionally protected speech to patrons in the Loudoun County Library." The complaint emphasized that the filtering software on the defendants' Internet access computers is "in effect, 'removing books from the shelves' of the Internet." Significantly, the complaint further alleged that the software did not block "a variety of sites that express viewpoints contrary to the viewpoints expressed" by the proposed added plaintiffs.

On February 24, 1998, the court granted the motion to intervene by the Internet publishers. Three days later, Judge Brinkema heard oral argument on the other motions.

On April 7, 1998, Judge Brinkema rendered the decision on the dismissal motion, the latest significant development in the lawsuit. The court made it clear that the defendant library board could not sidestep the well-known case of Board of Education, Island Trees Union Free School District No. 26 v. Pico. The decision relied on that decision and the recent Communications Decency Act (CDA) decision in Reno v. American Civil Liberties Union, and drew from the plaintiffs' analogy of the Internet as an encyclopedia.

In addition to denying the defendant's motion addressed to First Amendment issues, Judge Brinkema also denied that part based on the "Good Samaritan" provision of the CDA that grants immunity from lawsuits to an "interactive computer service." She dismissed several of the plaintiffs whom she found "lacked standing to sue."

On April 20, 1998, the defendant library board answered the Mainstream Loudoun complaint, as well as the added plaintiffs' complaint.

*Mainstream Loudoun v. Board of Trustees of Loudoun County Library* addresses fundamental questions about First Amendment constraints upon public library Internet use policies. The lawsuit promises to answer one of the library profession's profoundly basic questions: whether the U.S. Constitution can ever countenance deliberate actions by a public library directly depriving a library user of freely available constitutionally protected materials.

Annual Conference Meeting Schedule

The Intellectual Freedom Round Table will hold two business meetings at the 1998 ALA Annual Conference. All IFRT and ALA members are welcome to attend IFRT meetings. This is a great opportunity to get involved in IFRT activities.

The meetings will be held Friday, June 26, from 2:00 - 4:00 p.m. in the Washington Hilton & Towers Map Room and Monday, June 29, from 8:00 - 10:00 a.m. in the Washington Hilton & Towers Caucus Room.

For more information, contact Cynthia Robinson, IFRT Staff Liaison at 800/545-2433 x 4221 or crobinso@ala.org.

What is the Future of Privacy Online?

"Privacy Online: Is It Possible? Is It Desirable?" is the topic of a program to be sponsored by the IFRT on Saturday, June 27 at 2:00 p.m. in the Washington Hilton & Towers Jefferson E Room. Privacy online has become a pivotal issue as more and more information becomes available electronically. Concerns have been expressed over the collection and use of information when it is easily available online. But is complete privacy online possible? Is it even desirable? Solveig Singleton, Vice Chair of Publications for the Telecommunications and Electronic Media Practice Group of the Federalist Society for Law & Public Policy Studies, and Kathryn Montgomery, Center for Media Education, will address these issues from their unique perspectives.

The program will begin with the presentation of the IFRT intellectual freedom awards.

The program is co-sponsored by the ALA Intellectual Freedom Committee and the Intellectual Freedom Committees of AASL, ACRL, ALSC, ALTA, PLA, RUSA, and YALSA.

Other Intellectual Freedom Programming at Annual Conference

The 1998 American Library Association Annual Conference will be held June 25-July 1 in Washington D.C. Following is a schedule of intellectual freedom programs and meetings. All ALA members are welcome to attend.

Meetings

Thursday, June 25
Freedom to Read Foundation
8:00 a.m. - 5:30 p.m.
Washington Convention Center Room 29

Friday, June 26
Intellectual Freedom Committee
8:00 a.m.-12:30 p.m.
Washington Hilton & Towers Map Room

Saturday, June 27
Intellectual Freedom Committee
8:00 a.m.-12:30 p.m.
Washington Hilton & Towers Military Room

Committee on Professional Ethics
2:00-4:00 p.m.
Washington Hilton & Towers Map Room

Sunday, June 28
Intellectual Freedom Committee/Committee on Legislation
8:00-9:00 a.m.
Washington Hilton & Towers Military Room
Intellectual Freedom Comm./Intellectual Freedom Round Table/Div. IFCs
9:00-10:00 a.m.
Washington Hilton & Towers Military Room

Intellectual Freedom Round Table Membership Promotion Committee
10:00-11:00 a.m.
Washington Hilton & Towers Bancroft Room

Monday, June 29
Committee on Professional Ethics
11:00 a.m.-12:00 p.m.
Washington Hilton & Towers Map Room

Intellectual Freedom Committee/Association of American Publishers
5:00 p.m.-6:00 p.m.
Washington Hilton & Towers Hemisphere Room

Tuesday, June 30
Intellectual Freedom Committee
2:00-5:30 p.m.
Washington Convention Center Room 21

PROGRAMS

Sunday, June 28, 2:00-4:00 p.m.
Capitol Hilton Pan American Room
Ethics ‘R’ Us

Sponsored by: ALA Committee on Professional Ethics

The Not-Quite-Ready-For-Prime-Time Players present three skits followed by discussion of the ethical issues presented. This year’s topics are academic cooperatives, outsourcing, and library services to the aging population. Join the audience discussion of these important ethical issues.

Monday, June 29
10:00 a.m.-12:00 noon
Washington Hilton & Towers
Georgetown Room
After CDA: Continuing Attempts to Legislate the Internet

Sponsored by: Intellectual Freedom Committee; Committee on Legislation

Bruce Ennis, counsel, Freedom to Read Foundation; and Robert Corn-Revere, author of Rationales & Rationalizations: Regulating the Electronic Media, will describe recent federal, state, and local attempts to legislate the Internet, despite the Supreme Court’s 9-0 decision last June overturning the CDA.

Monday, June 29, 2:00-4:00 p.m.
Washington Convention Center Room 33
Civil Rights and Civil Liberties: Has the Internet Changed the Balance?

Sponsored by: Intellectual Freedom Committee; Association of American Publishers, Inc., Freedom to Read Committee

Juan Williams, author of Eyes on the Prize: America’s Civil Rights Years, 1954-1965; and Elizabeth Coleman, director, Civil Rights Division, Anti-Defamation League, will present a panel discussion on whether there should be limitations placed on the First Amendment in light of concerns regarding hate speech and other free speech issues. The panel will be moderated by Charles Levendosky, editorial page editor of the Casper (WY) Star-Tribune.
Good News From Long Island on Intellectual Freedom

by David Cohen, Co-Coordinator Long Island Coalition Against Censorship & IFRT Member

An extraordinary development has taken place in Levittown, NY, during the past year. Remember the Island Trees case that first broke over twenty years ago that went to the U.S. Supreme Court with some positive results just fifteen years ago? This time the complaint from a parent was about Robert Forsythe's book One Fat Summer. It was removed from a seventh grade reading program.

The faculty committee appointed by the rules to check out the title recommended the retention of the challenged title. The superintendent of schools overruled this action of the Committee. Correspondence and calls went to the superintendent advising him that this action constituted censorship and/or a violation of the academic freedom of the teachers who were involved in the selection of titles for the seventh grade reading list.

On the initiative of the Long Island Coalition Against Censorship, the Nassau Civil Liberties Union, and the National Coalition Against Censorship a process of negotiation was developed with the superintendent of schools, which resulted in the restoration of the book.

At the Long Island Coalition Against Censorship, we are happy to report about this process of negotiation to overcome what was clearly censorship. After extensive discussion with the superintendent, a statement was agreed upon by all the parties that was sent to the teaching staff by the superintendent, retracting any element of censorship or violation of academic freedom. Congratulations to Barbara Bernstein, Don Parker and Roz Uдов for all their hard work in resolving this situation.

ALA Joins Fight Against Lewinsky Subpoenas

The defense of bedrock First Amendment principles supporting the ALA's Policy Concerning Confidentiality of Personally Identifiable Information about Library Users (<http://www.ala.org/alaorg/oif/pol_user.html>) and Policy on Confidentiality of Library Records (<http://www.ala.org/alaorg/oif/pol_conf.html>) propelled ALA to join in legal opposition to twin subpoenas issued by Independent Counsel Kenneth Starr seeking records from two Washington, D.C., bookstores.

According to published news sources, Starr wants receipts, vouchers and other records of Monica Lewinsky's purchases over a 29-month period at Kramerbooks & Afterwards, an independent bookstore and cafe. A similar subpoena has been served on a Barnes & Noble bookstore.

Both bookstores have filed motions to quash the subpoenas. "The independent prosecutor's subpoena violates the First Amendment," said William J. Kramer, one of the owners of Kramerbooks. "If the First Amendment means anything, it means we have the right to purchase books without fear that government will inquire into our reading habits."

On April 2, 1998, ALA and the Freedom to Read Foundation, together with the American Booksellers Association and other First Amendment defense groups, filed a brief amici curiae in the United States District Court for the District of Columbia supporting the motions to quash.
Kramer said he had originally considered complying with the subpoena, but his decision to fight it was made easier after receiving numerous offers of support from booksellers across the country. A motion to quash the subpoena was filed on April 2 by Kramerbooks.

“This is a scenario that belongs in Baghdad or Tehran,” said Pat Schroeder, President of the Association of American Publishers and former congresswoman. “I don’t think the American people could find anything more alien to our way of life or repugnant to the Bill of Rights than government intrusion into what we think and what we read. I suggest that Mr. Starr give some thought to his own reading list. Maybe it’s time for him to re-read the First Amendment.”

“Americans know their rights to privacy are protected in libraries,” said the American Library Association’s Judith Krug. “It’s outrageous to imagine those same rights are not protected in bookstores.”

Christopher Finan, President of the American Booksellers Foundation for Free Expression, promised to support Kramerbooks with legal and financial assistance. He said that booksellers from across the nation are calling to offer their support.

On April 6, Chief Judge Norma Holloway Johnson of the U.S. District Court for the District of Columbia ordered the Office of the Independent Counsel to present the court with evidence and arguments concerning the subpoenas. As stated in her Memorandum Order, the judge found that Kramerbooks & Afterwards and Barnes & Noble had “persuasively alleged a chilling effect on their First Amendment rights.” As a result, the Office of the Independent Counsel is required to show that it has a “compelling need” for the information sought and that there is a “sufficient connection between the information sought and the grand jury investigation.”

The subpoenas seek records of book purchases made by Lewinsky in Washington, D.C., over a 29-month period. The judge acknowledged in her Memorandum Order reports by Kramerbooks that customers, believing records already had been turned over without opposition, had complained “they will no longer shop at the bookstore” because it had revealed their choice of books.

The brief amici curiae in these proceedings, filed on behalf of the American Library Association, the Freedom to Read Foundation and others stressed that state legislatures have enacted statutes protecting the confidentiality of library use. Those statutes, as well as the federal Video Privacy Protection Act, recognize that the books and other materials one chooses to read or use are fundamentally private in nature.
INTELLECTUAL FREEDOM ROUND TABLE
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Bylaws and Organization Committee
Mary Keelan (1997 - 1999)

Membership Promotion Committee
Paul Vermouth & Albert Joy

Nominating Committee
Frederick J. Stielow

Program Committee
Fay Ann Golden

John Phillip Immroth Memorial Award Committee
Tom Budlong

Eli M. Oboler Memorial Award Committee
Gene Lanier

State and Regional Achievement Award Committee
Laurence Miller

Publications Committee
Sue Kamm & Carrie Gardner

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To the Intellectual Freedom Committee:
Pamela G. Bonnell

To the Freedom to Read Foundation:
Cynthia Pirtle

From the Leroy C. Merritt Hum. Fund:
Kay Ann Cassell

From the ALA Executive Board:
Robert Newlen

From the New Members Round Table:
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From the Budget Analysis and Review Committee:
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Cynthia M. Robinson

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 E. Huron, Chicago, IL 60611; ifrt@ala.org; 800/545-2433 x 4223. Letters to the editor are welcome.