

**ALA Committee on Legislation
Report to Council
2013 Midwinter Meeting – Seattle, Washington**

**Vivian Wynn
Chair, ALA Committee on Legislation
January 29, 2013**

The Committee on Legislation (COL) collaborated with many ALA committees on two resolutions. The first resolution addresses copyright's First Sale Doctrine and the second honors Senator Olympia J. Snowe for her 18 years of service as she retires from the U.S. Senate.

We refer you to the *ALA Washington Office Six-Month Report* that gives you more background information about ALA's federal legislative activities since Annual 2012.

The resolution is Council Document # 20.1:

RESOLUTION SUPPORTING THE APPLICATION OF THE FIRST SALE DOCTRINE OF THE COPYRIGHT LAW TO ALL MATERIALS IN LIBRARY COLLECTIONS

Resolved, That the American Library Association (ALA):

1. Reaffirm the essential role of the First Sale Doctrine in ensuring that the education, research, and library communities continue to support the Constitutional purpose of copyright law by promoting the advancement and sharing of knowledge, innovation, and creativity, wherever made; and
2. Urge the United States Congress to pass legislation to remedy any judicial decision that limits libraries ability to lend copies of foreign-made works under the First Sale Doctrine.

Endorsed by the Office for Information Technology Policy (OITP) Advisory Committee

The second resolution is Council Document # 20.2:

RESOLUTION HONORING SENATOR OLYMPIA J. SNOWE FOR HER SUPPORT OF AMERICA'S LIBRARIES, JANUARY 2013

Resolved, That the American Library Association:

1. Extends its deepest appreciation to Senator Olympia J. Snowe for her extraordinary service and record of achievement.
2. Thanks her for years of dedicated commitment to libraries and the American public that depends upon them.

Additionally, COL brings to you the following information items:

During its final meeting at the ALA Midwinter 2013, the COL decided to not endorse a resolution brought forth at the eleventh hour, too late in the conference, to thoroughly discuss. Specifically, the Social Responsibilities Round Table presented to COL a “Resolution Reaffirming ALA Support for Whistleblowers including Bradley Manning and John Kiriakou.” Given the complexity of the resolution, along with a cursory review of the language, raised concerns about its content as well as its accuracy.

Grassroots Subcommittee

The Grassroots Advocacy Subcommittee held two meetings at ALA Midwinter 2013. The Subcommittee learned that COSLA is interested in finding ways to distribute Washington Office advocacy webinars for continuing education purposes. Advocacy consultant Stephanie Vance briefed the group on a survey she is distributing to gauge the state of advocacy in ALA. She also discussed future webinars and possible ways to improve the medium. Members were briefed on plans for using Mobile Commons in the new Congress. At the second meeting, the subcommittee heard from John Chrastka, founder of EveryLibrary, a new library SuperPAC. The subcommittee was also briefed on the activities of the School Library Task Force and Advocacy Coordinating group. Members discussed ways to use the subcommittee’s resources to support both groups.

Broadband and Telecommunications

The COL Subcommittee on Telecommunications continues to meet jointly with the OITP Subcommittee on Telecommunications. The joint meeting members worked on a resolution paying tribute to Senator Olympia J. Snowe for her 18 years of public service and unwavering support of libraries, including championing the E-rate program and net neutrality, among other issues. The meeting also included an overview and discussion of digital literacy initiatives, updates and a discussion on the E-rate program and the potential for its reform, and a brief review of coalition activities (as the ALA is a member of the Schools, Health & Libraries Broadband Coalition, EdLiNC, and others). In addition, the members discussed ideas for future activities including developing education and communication materials (i.e. constructing fast facts web pages, webinars, etc.), on emerging telecommunications policy and legislative issues.

Copyright

The Copyright Subcommittee held one meeting at ALA Midwinter 2013. After a brief legislative update, the subcommittee members worked extensively on a resolution highlighting the importance of preserving the First Sale Doctrine. The First Sale Doctrine is the principle from copyright law that allows libraries to lend materials. Specifically, when you buy a copy of a material, you own that material and can give it away, resell it or (as is vital for libraries) lend it. An adverse decision in the case *Kirtsaeng v. Wiley & Sons, Inc.*, currently before the U.S. Supreme Court, could potentially restrict the application of the First Sale Doctrine to copies of materials manufactured in the United States. In addition, an adverse decision could threaten the ability of libraries to fulfill their role by limiting the right to lend materials manufactured abroad in their collections.

After amending the resolution, the subcommittee forwarded it to COL with the recommendation that it be endorsed. The subcommittee will continue to hold monthly conference calls to continue its committee work.

Government Information

The Government Information Subcommittee (GIS) held one meeting at ALA Midwinter 2013. The meeting was held jointly with the Government Documents Round Table's (GODORT) Legislation Committee. During this meeting, the subcommittee received an update from the chair of the Committee on Legislation's Federal Depository Library Program Taskforce, Maggie Farrell. The group also heard an update from the Government Printing Office's Deputy Public Printer, Mary Alice Baish on the possibility of a new national needs and offers database. The Subcommittee will continue the discussion on conference calls.

E-Government Services

The Subcommittee on E-Government Services met once during the ALA Midwinter 2013 conference. The members discussed updates needed for the E-Government Toolkit and what activities they should focus on in the coming year. They are currently planning a webinar, E-Government in Action: Matching People with Jobs and a program at the Annual conference, Best of E-Government Services. The Subcommittee will continue to hold monthly conference calls to continue their work.

This ends our report at this Midwinter conference. Thank you for your time and consideration.

**RESOLUTION SUPPORTING THE APPLICATION OF THE FIRST SALE DOCTRINE OF THE
COPYRIGHT LAW TO ALL MATERIALS IN LIBRARY COLLECTIONS**

- WHEREAS,** Article I, Section 8, Clause 8 of the U.S. Constitution, known as the Copyright Clause, empowers the U.S. Congress “To promote the Progress of Science and the useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;” and
- WHEREAS,** U.S. copyright law relies on a balance between the right of copyright holders to control the initial public distribution of copies of their works and the subsequent right of the public to dispose of their lawfully acquired copies of those works; and
- WHEREAS,** Public, academic, school, and special libraries, by promoting the advancement and sharing of knowledge, innovation, and creativity, fulfill the Constitutional purpose of copyright law; and
- WHEREAS,** The ALA Code of Ethics states, “We respect intellectual property rights and advocate balance between the interests of information users and rights holders;” and
- WHEREAS,** 17 U.S.C. Section 109, known as the “First Sale Doctrine” in U.S. copyright law, states that “the owner of a particular copy or phonorecord lawfully made under this title...is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy;” and
- WHEREAS,** For almost four hundred years, libraries in America have promoted democratic values and an informed public by lending books and other materials published throughout the world, and currently loan over 4.42 billion items annually in reliance on the First Sale Doctrine; and
- WHEREAS,** The Supreme Court is currently considering the case of *Kirtsaeng v. Wiley*, the subject of which is the First Sale Doctrine; and
- WHEREAS,** A decision to restrict the application of the First Sale Doctrine to copies manufactured in the United States could threaten the ability of libraries to fulfill their vital role to the American people by limiting their right to lend the more than 200 million items already in their collections, including most children’s picture books, and to acquire foreign materials at an affordable cost; and now, therefore, be it

**RESOLUTION SUPPORTING THE APPLICATION OF THE FIRST SALE DOCTRINE OF THE
COPYRIGHT LAW TO ALL MATERIALS IN LIBRARY COLLECTIONS/2**

RESOLVED, That the American Library Association (ALA) on behalf of its members:

1. Reaffirms the essential role of the First Sale Doctrine in ensuring that the education, research, and library communities continue to support the Constitutional purpose of copyright law by promoting the advancement and sharing of knowledge, innovation, and creativity, wherever made; and
2. Urges the United States Congress to pass legislation to remedy any judicial decision that limits libraries ability to lend copies of foreign-made works under the First Sale Doctrine.

Adopted by the Council of the American Library Association
Tuesday, January 29, 2013
in Seattle, Washington



Keith Michael Fiels
ALA Executive Director and Secretary of the ALA Council

**RESOLUTION HONORING SENATOR OLYMPIA J. SNOWE FOR HER SUPPORT OF AMERICA'S
LIBRARIES, JANUARY 2013**

- WHEREAS,** Whereas, Senator Olympia J. Snowe has served as United States Senator representing the state of Maine for 18 years and leaves a legacy of leadership and strong, unyielding support for libraries and the public interest; and
- WHEREAS,** She has been an enthusiastic champion of the work of the American Library Association (ALA) and the work of all types of libraries; and
- WHEREAS,** She was instrumental in leading a bipartisan effort to establish the E-rate program in the U.S. Telecommunications Act of 1996, resulting in more than \$2 billion annually for public libraries and K-12 schools; and
- WHEREAS,** She vigorously supported the E-rate program following its inception to make telecommunications and internet access affordable and accessible to public libraries and K-12 schools; and
- WHEREAS,** She repeatedly championed the anti-discrimination principles of network neutrality that upholds unfettered public access to information via the internet; and
- WHEREAS,** Her work and dedication to the public interest leaves a long-lasting and positive impact on library patrons, the public, and students in her home state of Maine and in communities across the country; and
- WHEREAS,** She has demonstrated her unwavering commitment to the American public through her steadfast leadership and tireless work in her role as an elected official; and
- WHEREAS,** She has championed the value of libraries and supported legislative efforts of the ALA; now, therefore, be it

RESOLUTION HONORING SENATOR OLYMPIA J. SNOWE FOR HER SUPPORT OF AMERICA'S LIBRARIES, JANUARY 2013/2

RESOLVED, That the American Library Association on behalf of its members:

1. Extends its deepest appreciation to Senator Olympia J. Snowe for her extraordinary service and record of achievement.
2. Thanks her for years of dedicated commitment to libraries and the American public that depends upon them.

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