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# Librarians' Free Speech: The Challenge of Librarians' Own Intellectual Freedom to the American Library Association, 1946–2007

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## ABSTRACT

Traditionally the concept of intellectual freedom has developed out of the perspective of users' rights to access library materials. The American Library Association (ALA) codified this with the Library Bill of Rights, Code of Ethics, and Freedom to Read Statement. However, librarians' own intellectual freedom has been largely overlooked. Because of this, safeguarding librarians' own free-speech rights has received little attention even within the profession. This article examines over a half-century of cases involving librarians' attempts to defend their own intellectual freedom. The article also explores ALA's conflicting responses and how it struggled to define intellectual freedom, especially in the late 1960s and 1970s when it established the Office for Intellectual Freedom, Freedom to Read Foundation, LeRoy C. Merritt Humanitarian Fund, and several committees that investigated such cases. This article explores key incidents that led ALA to create policies or change directions regarding professional's free-speech rights. It shows the struggle within ALA on the controversial idea of defending librarians' intellectual freedom.

## INTRODUCTION

Over the past half-century, intellectual freedom has become the heart of American librarianship's professional identity, ethical standards, and vision of service. This intellectual freedom, however, is usually defined and defended only from the perspective of the rights of information producers and receivers. The intellectual freedom of information professionals such as librarians has not been considered a fundamental part of this paradigm. In other words, the profession celebrates the free-speech rights of librarians only in cases when they use it to promote access to materials. Other forms of expressions fall upon deaf ears.

Although the American Library Association (ALA) passed the Library Bill of Rights in 1939, it was not until 1946 that the association adopted the *Statement of Principles of Intellectual Freedom and Tenure for Librarians* as its first official document to define a librarian's own intellectual freedom (American Library Association, 1952, pp. 41–42). It followed the model of a 1940 declaration by the American Association of University Professors (AAUP) defending academic freedom. The ALA emulated its path in hopes of boosting the social status and confidence of librarianship as a profession, especially during the McCarthy era. The document states that academic freedom for librarians means helping citizens assume their responsibilities by participating in democratic society through library service. It includes “freedom in the selection of books, in the presentation of material on all sides of controversial questions, and in the dissemination of information on all subjects.” It further states that librarians' tenure is meant to allow librarians to “devote themselves to the practice of their profession without fear of interference or of dismissal for political, religious, racial, marital, or other unjust reasons.” In other words, ALA placed librarians' freedom to provide information as the basis of library service and tied this with librarians' status and job security. Although ALA recognized librarians' intellectual freedom, it was because they should be able to provide unfettered information to library users, and not because they could contribute their own knowledge and work to improve society, like university professors. This seemingly unequivocal and uncomplicated definition of librarians' intellectual freedom described in the 1946 statement, however, would later raise many questions and interpretations concerning how the definition applies to real situations and how the association actually should promote its execution. Librarians' demand for a right to intellectual freedom created conflicts within ALA, and was heatedly debated many times in the following decades as we shall see.

This paper examines the cases of several librarians who either were fired, lost their positions, or endured social stigma because they pursued their own intellectual freedom rights. These cases also affected ALA's policies on the subject. The study classifies these cases into three categories of librarians' intellectual freedom: (1) librarians engaged as professionals, (2) librarians exercising intellectual freedom as a right outside work, and (3) librarians exercising rights to intellectual freedom at the workplace. These categories are not meant to be exhaustive or exclusive to each other, as one incident could fall into more than one category. However, these categories help analyze ALA's reactions to different elements of incidents.

The first category typically includes defending library materials against censorship. For example, Daniel Gore (in 1968), John Forsman (in 1968), and Richard Rosichan (in 1969) lost their positions defending library subscriptions to alternative magazines that were opposed by the right-wing

John Birch Society and local conservatives. These unjustly fired librarians, who observed the Library Bill of Rights and safeguarded library materials, inspired fellow librarians, especially young professionals, to establish the Freedom to Read Foundation in 1969 as well as the LeRoy Merritt Humanitarian Fund in the following year.

The second category deals with cases where librarians sought their professional association's support to defend their rights of intellectual freedom. For example, T. Ellis Hodgin (in 1969) was fired and became violently ostracized from the community where he lived when he joined a lawsuit against his daughter's public school for requiring pupils to engage in religious practice. In another example, Michael McConnell's contract for employment was cancelled (in 1970) by the University of Minnesota Library because he attempted to marry his same-sex partner. In another case, Zoia Horn (in 1972) was jailed for protecting the privacy of an anti-Vietnam War activist. Many librarians have trouble evaluating cases like these, which are not traditional defense-of-library situations but intellectual freedom struggles. This was the exact point of contention between leaders of the ALA Intellectual Freedom Committee who projected a narrow window of defended behaviors and activists who demanded ALA provide institutional support for job security and intellectual freedom even when practiced outside of the workplace.

The details of library activists organizing the Social Responsibility Round Table (SSRT) in the late 1960s and 1970s have been researched. Louise Robbins's (1996) and Toni Samek's (2001) books revealed how intellectual freedom became one of the central points of controversy during the Vietnam War era. However, this paper sheds light on how SSRT impacted ALA's definition and policy on librarians' intellectual freedom, which should be examined within the framework of a much longer passage of time beyond the frame of Samek's study.

The third category specifies librarians' intellectual freedom in the workplace. This includes "freedom of speech at work," "whistle-blowing," "racial discrimination," and "exercising an individual's religious and political beliefs." Again these subcategories are not exhaustive. The most notable case involves respected cataloger Sanford Berman (in 1999). He was forced to retire after becoming locked in conflict with his library administration over library operations and services. In another example, Donna Kennedy (in 1997) expressed her concern about safety and security in her library after a colleague became the victim of a sexual assault by an intruder. Paul Deane (in 2004) was also fired after rejecting an order to send e-mail to registered voters requesting them to vote in support a mill rate increase. The paper focuses on Berman's case, which pushed ALA to produce critical documents to define their stance on librarians' speech rights.

The study examines over sixty years of ALA's efforts to safeguard intel-

lectual freedom for some librarians. It will help to partially understand the evolving footsteps of ALA's definition of librarians' intellectual freedom—its depth and width, and the development of the defending mechanism. It demonstrates that ALA was far from completely united and consistent on the idea of defending librarians' intellectual freedom. It creates a sharp contrast to that of the rights of library users, which have evolved and fortified as the association fought for it.

### LIBRARIANS' INTELLECTUAL FREEDOM—ENGAGED AS A PROFESSIONAL

Although there were a few cases of dismissal of librarians who fought against censorship during the McCarthy period in 1950s, such as Ruth W. Brown (in 1950) and Emily Reed (in 1956), many more took place in the late 1960s when America experienced the social turmoil of Vietnam War and conflict over the rights of women, minorities, and gays and lesbians. Daniel Gore (in 1968), John Forsman (in 1968), and Richard Rosichan (in 1969) all defended library materials and consequently lost their positions. They believed that what drove them was professional ethics and, therefore, felt their professional organization should support their cause. These three cases particularly became the impetus for library reformers to organize and push their agenda to challenge the status quo to make ALA more responsive to meeting the lofty goals pledged by ALA's Library Bill of Rights.

#### *Daniel Gore's Case (1968)*

Daniel Gore, McMurry College Library Director, became embroiled in a fight over the countercultural magazine *Evergreen Review*. He resigned after the president and faculty argued that the magazine was obscene and should be banned from the library. The literary magazine, first issued in 1957, had over forty thousand subscribers and had published Albert Camus, Allen Ginsberg, Henry Miller, and other influential radical writers of that time. By the end of 1960s, *Evergreen* became so controversial that Los Angeles Library Commissioners seized all copies of the periodical and placed them under "protective custody" in response to the public's outrage over keeping the "pornographic magazine" available in open stacks ("Evergreen Review," 1969, p. 92).

At McMurry College located in Abilene, Texas, on the southern end of the Bible belt, the educational principles were to conform to community values and promote Christian education. Library materials containing content in opposition to these principles were considered off-limits and kept in a locked library room (Gore, 1969, p. 194). In front of the library committee, Gore stated that as an ALA member, he was "unconditionally opposed to library censorship activities on any basis," and that "for an academic librarian, the principle of freedom from censorship is as critical to the right conduct of his profession" (p. 198). After being outnumbered in

a vote to cancel the subscription, Gore submitted his letter of resignation to the president. Subsequently, he notified ALA and *Library Journal*, feeling it was a professional duty to report the censorship incident (p. 199).

*ALA Intellectual Freedom Committee's Response—The 1968 ALA Annual Conference in Kansas City*

Shortly after his resignation from McMurry College, Gore discussed his censorship incident in the Intellectual Freedom Committee (IFC) meeting at the 1968 ALA Annual Conference in Kansas City. Gore proposed that ALA apply sanctions against institutions who censor. Following the AAUP model, the idea was to challenge administration, faculty, and students to publicly discourage censorship. Although it was somewhat a novel idea, and some saw it an "impractical daydream," it received a warm reception. However, William North, ALA's legal counsel, attempted to squash it, stating he doubted the number of censorship martyrs would bring them victory. He argued that librarians should "distinguish between a strategic withdrawal and total defeat. . . . Make moderation your virtue" (Nyren, 1968, p. 2821). Despite North's critical remarks, the IFC passed a resolution fully supporting Gore's courageous efforts and submitted it to the ALA Council. It read, "In carrying out the declared principles of the Association as embodied in the Library Bill of Rights, librarians have placed their careers in jeopardy and have, in occasion, been forced to relinquish their employment; that the American Library Association, other than advice, has no adequate means for giving assistance to librarians who appeal to it for help; and that there is an inescapable obligation of the Association to support its members who act in accordance with the Library Bill of Rights" ("Gaines Reports," 1968, p. 54). The proposal was to authorize the IFC to investigate the feasibility and legality of establishing a support fund for librarians as well as an action program to "discourage" violations of the spirit of the Library Bill of Rights. IFC should prepare a report on the action program either for the 1969 Midwinter meeting or Annual Conference ("Gaines Reports," 1968, pp. 54–55). It was supposed to include specific means to sanction violators; however, the word "sanction" was considered problematic and was removed in the hope of political expediency ("ALA Council," 1968, p. 2804). The motion was unanimously passed with sonorous applause from council and audience ("Growing Pains," 1968).

The IFC resolution mentioned above was proposed by Ervin Gaines, the outgoing committee chairman. Addressing the council, he expressed his fears for librarians' vulnerability in defending library materials and professional principles when they face a censor's orchestrated hostility. Gaines reprimanded the ALA for expecting librarians to be brave and offering rhetoric of intellectual freedom, yet not extending substantial assistance. He argued, "The Association has in effect cut its members adrift and let them survive as best they could in rough weather." He ex-

pressed frustration when observing Gore and other librarians' struggles in which "we could only sit on the sidelines and watch these dramas unfold" ("Gaines Reports," 1968, p. 54). The purpose of Gaines' action was to obtain a pledge from the council to endorse "the basic principle of full support of librarians who request assistance" ("ALA Council," 1968, p. 2804).

Gaines' concern was grounded. Historically, a long toil for intellectual freedom existed thirty years prior, when Montana State University's (presently the University of Montana) head librarian, Phillip Keeney, was fired. He later proposed that ALA take strong actions to defend its members from unfair dismissals (Keeney, 1939). Nine years later, Robert Leigh, a sociologist who studied librarianship, proposed a concrete scheme for the profession to deal with censorship at the 1948 ALA Annual Conference (Leigh, 1948).<sup>1</sup> As time went by, whenever librarians were involved with censorship cases and became victims of mistreatment, the profession cried out for measures of prevention, resistance, protest, sanction, and support. Many argued that with a rather large organizational and financial foundation, ALA could undertake the task of establishing a system to strengthen the efforts of librarians and rescue them from the plight. Even thirty years earlier when Keeney was fired, the AAUP—a much smaller organization—had already established a physical and financial mechanism to investigate and defend their member's professional tenure and academic freedom (Keeney, 1939, 664). The ALA, on the other hand, had been passive and often seemed ambivalent about presenting and representing their position.

#### *John Forsman's Case (1968)*

Another famous case of the time was when Richmond (California) Public Library director John Forsman resisted a censorship attempt by a local chapter of the right-wing John Birch Society called Concerned Richmond Citizens. They tried to remove liberal magazines, particularly the local underground newspaper the *Berkeley Barb*, which they branded as "filthy and anti-American" ("Richmond, Calif. Librarians," 1968). The California Library Association (CLA) decided to use Forsman's case to try to halt censorship attempts that had recently begun spreading all over the state. The CLA made posters and TV and radio announcements to publicize their stand on the incident ("California Censorship," 1968). Around that time, the California legislature had introduced numerous obscenity and pornography bills; however, CLA's lobbying stopped them from becoming law (Cully, 1969). The CLA was proud to defeat local censorship cases in defense of the freedom to read. The Richmond Library Commission and City Council also joined the efforts to support Forsman's efforts. However, the censors organized a countermeasure to collect signatures and won over a city council member who verbally attacked the librarian ("Richmond, Calif. Librarians," 1968). At this stage, Forsman asked ALA

for assistance in fighting the censors. He received only a box of "Library Bill of Rights" brochures—along with a bill (Forsman, 1969, 305). Despite CLA's efforts, the Library Commission later reversed its stance and voted to remove *Berkeley Barb* and another magazine, *Avant Garde*. This reversal encouraged censors to apply even more pressure. Three months later, in January 1969, Forsman resigned—a choice made as a preventive strategy in order to protect his library's service to Black and Spanish-speaking immigrants. Forsman had been nurturing this program for some time, and hoped to protect it from the aggressive censors who would see it as another chance to attack Forsman and to get free publicity in the upcoming city council election ("Richmond Librarian Resigns," 1969). Forsman left California for Washington, DC, and organized a grassroots group "Librarians for 321.8" (the Dewey Decimal Classification for participatory democracy) to democratize ALA. In July 1969, he proposed many changes and reforms including the levying of sanctions for infringements of the Library Bill of Rights. His proposals became the basis for an organized campaign to reshape ALA's mission, structure, goals, and priorities through the Activities Committee on New Directions for ALA (ACONDA) (Samek, 2001).

*ALA-IFC's Response—The 1969 ALA Annual Conference in Atlantic City*

The 1969 ALA conference set a new attendance record with over ten thousand librarians who gathered in Atlantic City. This included a hundred young activist librarians and library school students primarily from the East Coast. *Library Journal* called them "the new constituency." They were representatives of grassroots organizations, such as "Librarians for 321.8," the "Congress for Change," "National Call for Librarians," and the "Social Responsibility of Libraries Roundtable," which would officially become an ALA roundtable during the conference. Library censorship victims Gordon McShean and John Forsman also participated in order to share their censorship struggles and to call for organizing professional support for future victims. Gordon McShean had suffered from community harassment and eventually was forced to resign in 1967 from the Roswell Public Library, New Mexico, because he organized a "hippy poetry reading" ("Roswell Librarian," 1967). These groups were frustrated about the state of library education, library services for minorities and the poor, the Vietnam War, and most of all, a bureaucratic, conservative ALA (Berry, 1969a). Promoting intellectual freedom and giving financial support for librarians who became victims of a censorship struggle were high on their agenda. They were anxious to hear IFC's proposal on an action program that, during the last annual conference in Kansas City, the ALA Council had passed the motion for the committee to study and report back on during this conference.

IFC Chairman Edwin Castagna, Gaines' successor, presented the long-awaited action program. Its summary read: (I) IFC would accept written

complaints from ALA members or anyone else reporting an incident of a Library Bill of Rights infringement. The IFC then would provide a standard form which should be completed, signed, and returned by the complainant to IFC. (II) IFC would determine whether the problem involved intellectual freedom and whether IFC had the capacity to act. (III) IFC would determine the most appropriate action, i.e., whether it should be referred to the ALA Library Administration Division, the American Civil Liberties Union, or a local/state intellectual freedom committee. (IV) If IFC decided to handle the case, an investigation will be carried out to judge whether the librarians' rights were violated based on the 1949 "Policy and Procedure Regarding Tenure Investigations" established by the Library Administration Division. (V) IFC would report the findings and recommend appropriate action to the ALA Executive Board, which would implement it. Possible recommendations for action might include (1) publish a summary of the investigation in the *ALA Bulletin*, and (2) send it to other national and professional media; (3) suspend or exclude individuals and institutions involved from ALA; (4) assist victimized librarians to find a job if needed; (5) appoint the librarian for temporary work as an Office for Intellectual Freedom (OIF) consultant; and (6) list institutions found in violation of the Library Bill of Rights in an ALA publication. Ervin Gaines, the former IFC chair and a councilor-at-large, amended the motion by proposing IFC take three steps while the committee continued to investigate the feasibility of establishing a support fund. Gaines suggested IFC should (a) solicit gifts from members and other sources, (b) widely publicize in order to solicit gifts, and (c) give IFC Director the discretion over the gifts based on advice from ALA Executive Director and Legal Counsel. The council passed the amended motion ("Program of Action in Support," 1969).

At a conference membership meeting, a delegate from the Congress for Change also read their proposal for an action program. The delegate explained how an increasing number of librarians sacrificed their careers in order to adhere to their professional belief of intellectual freedom. For example, the most recent case (referring to Richard Rosichan),<sup>2</sup> in Kingston, New York, happened just days before the conference. Although their proposal was almost identical to the IFC's, they threatened, "if the Association does not undertake the steps proposed in this demand, the Congress for Change will do so independently" ("Great Show," 1969, p. 932). Indeed, activists established a separate fund, the National Freedom Fund for Librarians, which helped pressure ALA into action (Samek, 2001, p. 68).

#### *The Freedom to Read Foundation*

Although the "Program of Action in Support of the Library Bill of Rights" ("Program of Action") was finally implemented at the 1969 Atlantic City



annual conference, IFC and its council failed to establish a support fund, which was at the very heart of the defense mechanism that would give actual relief for librarians in financial need who were dismissed or had resigned because of defending intellectual freedom. At the conference, IFC did no more than promise to continue investigating the possibility. The key concern was for protecting ALA's tax-exempt status, which spared ALA from paying real estate and sales taxes. More importantly, tax-exempt status allowed ALA to receive money from the Rockefeller, Ford, and Carnegie Foundations. Of ALA's total revenue, thirty percent or \$1,500,000 came from such sources. This would be lost if ALA became involved in court cases defending members.<sup>3</sup> Furthermore, there was another question: should the support body be inside ALA's structure or a separate body outside it (Krug, 1970b)?

The debate over the establishment of a defense mechanism had been around since the late 1930s. Besides Keeney's aforementioned proposal to establish a professional defense mechanism, Leigh, at the 1948 Annual Conference, urged the creation of "group policy, solidarity, and action," and argued librarians were not merely employees; their loyalty also belonged to "the standards of their profession" (Robbins 1996, p. 34). At the 1963 ALA Annual Conference in Chicago, President Frederick Wagon, in his inaugural speech, also proposed the establishment of a defense apparatus (Robbins, 1996, p. 126). In 1964, IFC Chairman Archie McNeal proposed ALA raise \$75,000 over three years to create a defense fund, but the issue stalled (McNeal, 1964). The next IFC chair, Martha Boaz, organized a two-day meeting on intellectual freedom called "More than Lip Service: Backstopping the Library Bill of Rights" (Moon, 1965). As result of the meeting, Boaz took two proposals to the 1965 midwinter conference. ALA Council approved one of the ideas, establishing the Office of Intellectual Freedom, but assigned the IFC to continue exploring how to best establish an appropriate defense mechanism ("Highlights of the Midwinter Meeting," 1965). IFC did consult an insurance company to explore the possibility of securing an insurance policy, following the example of the National Education Association. ALA would be responsible for both the financial risk and responsibility of administration, including determining the validity of claims (Krug, 1970a).

All struggles and disputes seemed to end in November 1969 when the Freedom to Read Foundation (FTRF) was incorporated as a not-for-profit organization, which was established outside of ALA, yet was closely affiliated as ALA's defense agency. The following December, it was formally approved by the ALA Executive Board. The mission of the foundation was (and is) to promote and defend First Amendment rights, including the freedom to read and access information. It particularly extends various supports for court cases. ALA's official monthly publication, *American Libraries*, solicited memberships starting at ten-dollar dues ("Intellectual

Freedom,” 1970). The establishment of the FTRF brought extreme happiness and made Krug write: “The Foundation was at once heralded as the ‘dream-come-true,’ the ‘answer-to-all-our-problems,’ and conversely, as a many-headed monster which should be dealt the deathblow immediately” (Krug, 1970b).

Preceding the ALA annual conference in Detroit, the FTRF Board of Trustees held its annual meeting on June 26, 1970. They introduced the board members and officers, including Alex P. Allain (president), Everett Moore (vice president), Daniel Melcher (treasurer), and Judith F. Krug (secretary). In addition, the board appointed an executive committee that was authorized to allocate grants to those requesting assistance.<sup>4</sup> The executive committee announced that Joan Bodger, who defended student newspapers, and T. Ellis Hodgkin (whom we will examine later) each would receive a \$500 grant as the first recipients (Krug & Harvey, 1970b).<sup>5</sup> The board also celebrated the establishment of the LeRoy C. Merritt Humanitarian Fund, which would award immediate financial aid to librarians denied employment over the issue of intellectual freedom.

#### *Richard Rosichan’s Case (1969)*

Another victim of Birch Society censorship was Richard Rosichan, director of Kingston Area Library in New York. Rosichan wrote the OIF on August 6, 1969, to request an investigation under the newly established Program of Action (Krug & Harvey, 1970a). The result of Rosichan’s appeal was the first report to be published under the Program of Action. It appeared in *American Libraries*. Rosichan claimed that his contract was not renewed by the library board because he resisted pressure by a local censor group to remove *Evergreen Review* from the library and rejected the board’s compromise to place a minor’s restriction on the magazine. The board, however, claimed it did not renew his contract because he supposedly mishandled library administration and budget issues. Although the board was indignant over the Birch attack, they feared it would become more intense if it did not purge the publication. This motivated the board to retreat. Rosichan said, “Despite [its] adoption of Library Bill of Rights some five years before . . . the Board mounted a severe attack on his choice of the *Evergreen Review*.” To defend himself, he received statements of support from the New York Library Association, the New York Library Trustees Association, and the Dutchess County Library Association. He was hoping that ALA would sanction the board, especially since he claimed there were three librarians fired before him, all involved with censorship incidents, in the past seven years (“Kingston NY Firing Blamed on Censorship,” 1969, p. 2991).

Receiving Rosichan’s request for action, IFC Chairman Castagna appointed an investigation team. It conducted a study over several weeks

through correspondence, telephone, and personal interviews. The investigation team did not find evidence that the nonrenewal of Rosichan's contract was due to his refusal to remove the magazine. It verified, however, that the board's decision to apply an age restriction to the magazine did indeed violate the spirit of the Library Bill of Rights. The team recommended the following actions to IFC: (1) no action on Rosichan's claim regarding his dismissal, (2) the investigation report should be discussed with Rosichan, (3) IFC should send the board a notice on the violation of the Library Bill of Rights, and (4) the report summary should be published in *American Libraries*. IFC accepted the report without revisions (Krug & Harvey, 1970a).

Rosichan later criticized what he saw as an unfair investigation process and critiqued the IFC for not imposing actual sanctions, even though they found the board to be in violation. He explained that when he decided to fight the library trustees and the Birchers, he thought "help would be immediately forthcoming" from the ALA, as well as local library associations (Rosichan, 1970, p. 425). Forty years later, Rosichan recounted that his library science education at Emory College led him to think that "the ALA and its Intellectual Freedom Office would come galloping to the rescue in the event of censorship attacks on libraries and librarians . . . , but nothing could have been further from the truth." Instead, all that actually happened was that Krug sent him a package of pamphlets in response to his request for support (Rosichan, personal communication, June 19, 2010).

The letters secured by the investigation team as part of the study reveal difficulties the team members faced because of the nature of the investigation. Some contacts voiced hesitancy to express their opinions, since doing so would influence IFC's judgment and might become grounds for a lawsuit. Several letters found some fault in Rosichan's administration as well as the library board's action. As one respondent wrote, "I cannot answer the essential question as to how important the censorship discussion was in the firing" (Locke, 1969). Rosichan's case became a test case for library activists and librarians fighting local censorship. While it was probably encouraging to see the Program of Action finally at work, it must have also been disheartening to so soon see the real limitations of the program. The case was evidence that judging their cases could not yield clean-cut decisions, and that any decision would have critiques.

Although it had been over thirty years since Keeney called for the association to defend librarians, many ALA members were very proud to witness the establishments of the OIF, the Program of Action, Freedom to Read Foundation, and LeRoy C. Merritt Humanitarian Fund. To the young reformers, however, the process of change was exasperatingly sluggish and painful. Each proposal had to pass through numerous bureau-

cratic hoops. For example, a resolution might start in a membership meeting, where it might be amended, then voted on, before being taken to the council. Once there, a resolution would often be dramatically reworded or forwarded to a subcommittee either to be killed or tabled for further study to be reported back at the next conference six months later. It was a clash of cultures between young activists who demanded ALA make revolutionary changes to bring libraries to the people and intellectual freedom absolutists who campaigned for librarian neutrality, as well as conservatives who resisted both approaches. It should be clear that ALA was far from united in this project. As was examined, ALA legal counsel North and the OIF (or Krug) were often criticized for being reluctant, or at least ambivalent, in dealing with some librarians' pleas for support in censorship battles. Even some rank-and-file librarians were made irate by Gore's article "A Skirmish with the Censors" (1969). One wrote a letter to the editor calling it a "misleading article written in the name of intellectual freedom." Another criticized, "If religious principles require that certain acts such as smoking or drinking or reading *Evergreen Review* be prohibited, why should Mr. Gore object on the grounds of his academic freedom? . . . . The protection needed by college librarians can be obtained from AAUP and need not be duplicated by ALA" (Fetros, 1969, p. 534; Elstein, 1969, p. 533). Nonetheless, as ALA launched its defense apparatus and support fund for librarians upholding the professional principle of freedom to read, the membership was still split on supporting the very fundamental level of librarians' intellectual freedom. As we will examine next, ALA would face an even greater challenge when some librarians sought help from the professional organization to stand by their side in defense of their exercise of intellectual freedom as individuals.

## LIBRARIAN'S INTELLECTUAL FREEDOM—AN INDIVIDUAL'S RIGHT OUTSIDE OF WORK

### *T. Ellis Hodgkin's Case (1969)*

One of the most seminal librarian's intellectual freedom challenges took place in Martinsville, a southern Virginia city with a population around twenty thousand, of which five thousand were Afro-Americans. T. Ellis Hodgkin was the director of Martinsville's public library, which held about twenty thousand books (Berry, 1969b). His sudden dismissal stemmed from his filing a complaint against his daughter's public elementary school, which required students to attend weekly religious education classes sponsored by a local church group. After the school board ignored his appeal, he and several parents filed a lawsuit with the local Civil Liberties Union. Six days after filing the suit, on July 25, 1969, Hodgkin was fired by the city manager who simply called it an "administrative decision" ("Virginia Librarian," 1969).

Hodgin decided to sue the city over his dismissal and contacted ALA for support. Representing ALA, IFC Chairman Castagna testified as an expert witness on Hodgin's behalf in Federal District Court on March 24, 1970. When Hodgin lost his suit, ALA offered aid to appeal the case ("Intellectual Freedom Committee," 1970). On December 30, 1970, the US Court of Appeals, Fourth Circuit delivered its verdict. It supported the city's claim that Hodgin's "improper and unauthorized accounting method . . . and his concealment of invoices" caused his dismissal and that it was not retaliation for his participating in the lawsuit (*T. Ellis Hodgin*, 1970, p. 1). Hodgin further appealed all the way to the US Supreme Court but was turned down in June 1972.

*FTRF's Response to Hodgin's Case*

Hodgin's case was different from other cases that were in defense of materials, and came in the FTRF's first year, so it is important to examine how the FTRF responded. On July 1, 1970, FTRF awarded \$500 to Hodgin, who had taken the case regarding his firing to appellate court. It also filed an *amicus curiae* brief, stating, "Inasmuch as it is the obligation of the librarian to protect free speech and a free press through his work as a librarian, it is then particularly appropriate that, when he is deprived of his job because of his own exercise of free speech, the Freedom to Read Foundation assist him in his defense of his freedom" ("Hodgin Suit," 1971, p. 39). This clearly demonstrates that FTRF believed "his dismissal from the Martinsville, Virginia, Public Library involved intellectual freedom issues" ("Freedom to Read Foundation," 1971, p. 53). After losing the case at the Fourth Circuit Court, Hodgin requested \$550 more to take his appeal to the Supreme Court. After a long debate at a January 1971 Los Angeles meeting, the foundation decided to award this second amount. Initially, FTRF recognized Hodgin's dismissal was related to intellectual freedom and extended support; however, the appellate court decision changed this premise, and to some the case seemed to have moved beyond the foundation's purview. Fully aware of the changing nature of the case, the FTRF board yet determined "the question of librarian's employment rights is a significant one" and also suggested ALA issue an *amicus curiae* brief or provide appropriate aid ("Freedom to Read Foundation," 1971, p. 53).

*ALA v. Social Responsibility Round Table on Hodgin's Case*

As was mentioned, IFC Chairman Castagna testified on Hodgin's behalf at US District Court in March 1970. However, he might have felt somewhat ambivalent about his role as Hodgin's defender, reluctantly responding to political pressure from activist groups. Many ALA leaders felt they could no longer ignore the activists' demands, since they produced immediate, concrete results. For example, responding to this case, Gordon McShean and several library professionals in the Pittsburgh area established their own National Freedom Fund for Librarians to give Hodgin immediate

support (Samek, 2001, p. 68). In contrast, at the 1970 Detroit ALA annual conference, Castagna voiced his concern to the ALA Council about the role of ALA in defense of librarians' intellectual freedom. The outgoing IFC chair claimed that the first batch of cases given to the committee made him question to what extent ALA should carry its responsibility as a professional association; i.e., should it extend assistance to non-ALA members or their members' personal activities. He warned, "We are the American *Library* Association, not the American Civil Liberties Union" ("Intellectual Freedom Committee," 1970). Castagna's remarks fueled discussion on ACONDA's March recommendation to expand ALA's jurisdiction and intensify its commitment to defending intellectual freedom ("New Directions," 1970). Foreseeing the increase of defense requests coming to IFC, Castagna expressed his concern over "moving away from clearly defined censorship and intellectual freedom cases to an open-ended involvement in any problem outside the librarian's professional responsibilities" ("Intellectual Freedom Committee," 1970). These remarks echo those of lawyer North and the FTRF's concern and the debate that followed Hodgin's second request for aid.

The main catalyst behind ACONDA was the establishment of the Social Responsibilities Round Table (SRRT) during the 1969 Annual Conference in Atlantic City. SRRT was and remains a pressure group inside ALA, providing a forum in which to discuss "the responsibilities of libraries in relation to the important problems of social change" (DeJohn, 1987). In the beginning, it coordinated efforts with other grassroots organizations, such as the Congress for Change, and Librarians for 321.8. Many activists had developed political skills on civil rights or antiwar campaigns. The activists not only demanded change but also positioned themselves in ways that would influence the organization. For example, when organizing ACONDA and its effort to challenge ALA values, SRRT and the Junior Members Round Table (JMRT) were each entitled to nominate six members to the twelve-member ACONDA committee. Of the twelve candidates nominated, the ALA president was to select three from each round table. With the president's selection of another six, who were among twelve people nominated by the Executive Board, these two parties made up ACONDA. ALA President William Dix's selection was called "the Dix Mix," a mix of "the ancient regime and its challengers" (Raber, 2007, p. 681). The selection process of ACONDA members reflects the participation of a new force in ALA politics. The ACONDA Subcommittee on Intellectual Freedom criticized FTRF in its report: "The scope of intellectual freedom encompasses considerably more than just the freedom to read. Support must also be rendered to the librarian who is fired for sporting a beard, for expressing unpopular opinions as a private citizen, for engaging in civil rights activities, etc., etc. And he should not have to claim 'poverty' in order to receive it" (Alfred & Curley, 1970, p. 53).<sup>6</sup>

The organizers of the National Freedom Fund for Librarians (NFFL) pressured the IFC, which was in the process of establishing the FTRF and submitting their proposal to ALA's Executive Board in November 1969 for approval. The NFFL threatened, "should meaningful action be taken, we propose to turn the funds collected over to ALA; otherwise, we will continue to expand this separate support fund" ("Call to Action," 1969, p. 91). The activists hoped this tactic would both help librarians in need and advance their agenda.

Although IFC Chairman Castagna and the SSRT and other activists shared only some aspects of the same vision, they were in agreement that ALA was obligated to help librarians who were struggling to defend intellectual freedom. However, Castagna and probably some FTRF board members eventually drew a line between cases involving librarians fighting to defend library materials and others related to librarians' own intellectual freedom, tenure, or First Amendment rights as citizens. They wanted to confine ALA's sphere of intervention only to the former cases. The next case, that of Michael McConnell, became an ever deeper challenge to ALA's commitment to librarians' defense and exacerbated the discrepancy between the perspectives of ALA/IFC and SSRT/library activists on the extent of protection.

*Michael McConnell's Case (1970)*

Michael McConnell received an offer to be Cataloging Department Head of the University of Minnesota's St. Paul campus library on April 27, 1970. He immediately accepted and subsequently resigned from his position at Park College in Kansas City. At this point, his employment had not been approved by the University's Board of Regents; however, moving without it seemed like the normal practice. In the previous decade, they had not rejected any candidates recommended for employment by academic staff (*James Michael McConnell v. Elmer R. Anderson et al.*, 1970, p. 3). So, McConnell moved to Minneapolis and joined his life partner, Jack Baker, who was studying law at the university. They applied for a marriage license on May 18th at the Hennepin County Clerk's office. Their act received substantial media coverage in Minnesota as they openly admitted they were homosexuals (*James Michael McConnell v. Elmer R. Anderson et al.*, 1970). On June 24th, the university attorney informed McConnell they were revoking his appointment ("Report of the Fact," 1975, p. 549). On July 9th, McConnell and his attorney were invited to a Regent's committee for an interview and hearing. This committee recommended Mr. McConnell's appointment "not be approved on the ground that his personal conduct, as represented in the public and University news media, is not consistent with the best interest of the University." This was adopted in full by the Regents the following day (*James Michael McConnell v. Elmer R. Anderson et al.*, 1970, p. 3).

McConnell filed a suit, represented by the Minnesota Civil Liberties Union, in Federal District Court, accusing the university of violating his constitutional rights—breaching his contract solely on the basis of his public announcement of homosexuality. The board stated, “Even though the plaintiff may be a very capable librarian, his professed homosexuality connotes to the public generally that he practices acts of sodomy, a crime under Minnesota law. The Regents cannot condone the commission of criminal acts by its employees and thus plaintiff has rendered himself unfit to be employed” (*James Michael McConnell v. Elmer R. Anderson et al.*, 1970, p. 3). The court found that there had been no case in the US Supreme Court of an employee being either dismissed or refused for employment due to his homosexuality, and no circuit court cases of a government employee discharged for homosexuality *per se*. However, on September 9, 1970, it ruled that the “plaintiff does not have an inalienable right to be employed by the University but he has a right not to be discriminated against under the Fourteenth Amendment due process clause. He has a constitutional right that the terms of his public employment which he must meet be ‘reasonable, lawful and non-discriminatory.’” The court granted McConnell’s motion and issued an injunction restraining the university from refusing his employment (*James Michael McConnell v. Elmer R. Anderson et al.*, 1970, p. 6). On October 18, 1971, the US Court of Appeals for the Eighth Circuit overturned the decision and found that the regents had authority to oversee university administration, and that judicial review had a limitation to intervene (*James Michael McConnell v. Elmer R. Anderson et al.*, 1971). On April 3rd, 1972, the US Supreme Court denied a writ to review the case (*James Michael McConnell v. Elmer R. Anderson et al.*, 1972).

#### *Request for Action*

While the case was still in appellant court, McConnell requested an investigation of his case on January 11, 1971, under ALA’s Program. He submitted sixteen pages of documents and 127 attachments (Bronson, 2004). He wrote that the University of Minnesota refused to approve his appointment, and that “the reason, though never publicly admitted by the regents, was that I applied for a marriage license to marry my male lover.” The letter continued on to assert that the university regents violated “the *Principle of Intellectual Freedom* as adopted by the ALA Council” (“Report of the Staff,” 1974). In his letter, McConnell referred to a 1946 document, *Tenure in Libraries: A Statement of Principles of Intellectual Freedom and Tenure for Librarians*. In articles (2) and (4) of the “Principle,” it guarantees “appointments and promotions based solely on merit without interference from political, economic, religious, or other groups,” and “the opportunity for the librarian to devote himself to the practice of his profession without fear of undue interference or dismissal and provides



freedom from discharge for political, religious, racial, or other unjust reasons" (American Library Association, 1952, pp. 42–43).

During the 1971 midwinter conference in Los Angeles, the IFC reviewed McConnell's request and decided the case failed to show an infringement of the Library Bill of Rights, which was the primary purpose behind the Program of Action. IFC chair David Berninghausen, who also worked at the University of Minnesota, explained to McConnell that the 1946 policy should be applied to a case like his, but the jurisdiction and procedures were unspecified (Bronson, 2004). Appalled by IFC's evasive attitude, the Task Force on Gay Liberation, then an ALA SRRT division, appealed to the ALA president, stating, "The IFC decision seems to be a clear attempt to hide this obscene incident" (Bronson, 2004, p. 17). The case then was forwarded to the Association of College and Research Libraries (ACRL), which claimed the case was in its jurisdiction. After its investigation, the ACRL denounced the University of Minnesota Board of Regents and implored them to rescind their decision and employ McConnell (American Library Association, 1971). However, it failed to push the ALA to press the decision on behalf of the entire association.

*Program of Action for Mediation, Arbitration, and Inquiry (1971)*

The 1969 Program of Action, which had established the IFC investigation processes, seemed at the time to be an almost revolutionary defense mechanism for the profession. Its mandate was to defend librarians embroiled in intellectual freedom issues in libraries. In the late 1960s to 1970s, however, ALA saw librarians who were dismissed or forced to resign because they practiced their own intellectual freedom or First Amendment rights as citizens, such as Hodgkin and McConnell, as falling outside the purview of the Program of Action. Therefore, another program encompassing employment and tenure issues for librarians was sought at the 1971 annual conference in Dallas.

On June 25, the ALA Council adopted an expanded "Program of Action for Mediation, Arbitration, and Inquiry (PAMAI)." It overwhelmingly passed with a vote of 214 and only two opposed. This new plan was to be operated by the Staff Committee on Mediation, Arbitration, and Inquiry (SCMAI), which would consist of five members, including the executive secretaries of ACRL and the Library Administration Division, the OIF director, one staff member-at-large, with the ALA Executive Director serving as chairman. The new Program of Action would be responsible for (1) handling violations involving tenure, status, fair employment practices, due process, ethical practice, and intellectual freedom; (2) interpreting pertinent ALA policies; (3) determining appropriate courses of action (formal or informal mediation, arbitration filing a brief, or inquiry); (4) appointing a fact-finding subcommittee to investigate a case, if efforts described in (3) are not appropriate solutions; (5) producing a written

report with recommendations based on an investigation; and (6) submitting it to the ALA Executive Director. A report would be effective upon Executive Board approval (“Program of Action for Mediation,” 1971, pp. 828–831). Unlike the earlier Program of Action, PAMAI was responsible for dealing with all types of alleged violation. It also could specify sanctions, removal of sanctions, and other actions, many inherited from the previous Program of Action but with more details. However, it also added an important constraint, which restrained SCMAI’s interventions: “No formal inquiry will be made into cases which are in litigation” (p. 830). OIF Director Judith Krug had insisted on this clause (“Action Council Resolutions,” 1974, p. 4).

Berninghausen stated to the council, for the record, that although IFC saw cases outside of its authority and had not acted on them, the committee believed Michael McConnell’s First Amendment rights were infringed on by the university as the Federal District Court ruled. He stated that the new program would make McConnell’s case “high priority for action.” Berninghausen also explained that the council had passed many similar or overlapping policies over the years without checking precedent; consequently, conflicts and difficulties arose to carry out actions. That was exactly what happened to the IFC’s dealing with McConnell, he explained.<sup>7</sup> He moved to rescind the Policy on Sanctions (July 3, 1970) and the previous Program of Action (January 20, 1971) and proposed they be superseded by PAMAI. This was unanimously approved by the council (“Intellectual Freedom at Dallas,” 1971, p. 2449). Here Berninghausen was going against his employer but was calling for ALA to establish a clear policy for dealing with cases.

*A SCMAI Report on Michael McConnell (1972)*

Michael McConnell’s request for action officially came under the charge of PAMAI after the June 1971 Dallas annual conference. However, the new SCMAI did not immediately begin investigating, since the new program barred formal inquiries while cases were in litigation. PAMAI resumed its engagement with the case after the Supreme Court denied McConnell’s writ for review on April 3, 1972. At that time, the decision of the US Court of Appeals for the Eighth Circuit was left standing: that the University of Minnesota Board of Regents had the authority to choose employees suitable to the institution and had not abused their power in refusing McConnell’s employment (“ALA Report,” 1974). On August 7, 1972, in addition to the SCMAI investigation team (Krug and two other members), three ALA members, including Barbara Gittings, a founder of SRRT’s Task Force on Gay Liberation, were appointed to assist in reviewing a SCMAI report on McConnell.<sup>8</sup>

The report was supposed to be submitted to the Executive Board at the 1973 ALA midwinter meeting in Washington DC. However, the report was leaked beforehand and widely distributed during the conference.

The Executive Board discussed it in a closed session and immediately returned it to SCMAI for revision (Gerhardt and Schuman, 1973; Emerick, 1973). ALA President Katherine Laich, who felt the air of discontent among membership and the council, announced that the report was rejected for further study. *Library Journal* wrote that, in the unofficially circulated SCMAI report, the committee had identified its job as "to determine what standards are currently prevailing" but not to "become an advocate of change." The journal questioned the role of SCMAI, wondering if it could really function in a case where "'currently prevailing' standards are inadequate" ("New Management," 1973, p. 830). Another piece in *Library Journal* ridiculed the report under the headline "SCMAI Strikes Out" (Gerhardt and Schuman, 1973, p. 979).

In support of the board's rejection of the SCMAI report, the SRRT Action Council conducted a political maneuver to make the council aware of the report's injustice and also telegraphed an appeal to the Executive Board (Emerick, 1973, p. 2). At the SRRT Action Council's meeting during the midwinter conference, it boasted that their pressure successfully caused the report to be rejected, and also proudly reported that some twenty-five SRRT members became ALA councilors via petition ("New Management," 1973). Besides the McConnell case, SCMAI was also busy dealing with a major discrimination case at the Library of Congress (LC). Its first report, upholding LC, had been rejected by the council the prior year. This time, SCMAI's second report concluded that the need for their intervention ceased since LC had remedied the situation. ALA Executive Director Robert Wedgeworth, who read it before the council, received criticisms, and the report was again rejected by the council (Gerhardt and Schuman, 1973).

#### *The Revised SCMAI Report (1973)*

SCMAI's second investigation on McConnell was conducted only on the basis of a thorough review of the court documents, since they claimed "all the pertinent facts had been gathered during the judicial process." The committee upheld the legal determination that the university had the right to reject McConnell's employment, and since McConnell had never been employed by the university, SCMAI was "precluded from taking any meaningful action toward mediation or arbitration of the case." The ALA Executive Board approved the report on November 1, 1973 ("ALA Report," 1974, p. 4).

After reading SCMAI's second report, the Minnesota SRRT immediately called for SCMAI to reinvestigate the case. On January 24, 1974, the call was endorsed and resolved by ALA SRRT, who claimed, "SCMAI has made no formal inquiry into McConnell's request for action since the conclusion of litigation, particularly with regard to the University of Minnesota's bad faith conduct"; therefore, their statement that SCMAI "'has been precluded from taking meaningful action' . . . is not supported by

said ‘report of the facts’” (“Action Council Resolutions,” 1974, pp. 2, 4). Furthermore, the next day, January 25, ALA Council passed an “Equal Employment Opportunity (EEO)” policy in the midwinter meeting in Chicago. It was written to assure “a policy of equality of opportunity for all library employees, or applicants for employment, regardless of race, color, creed, sex, age, individual life style, or national origin” (“Draft: ALA Equal Opportunity Policy,” 1973, p. 261). The following year, at the conference in New York, the ALA Council passed a motion to refer the McConnell case back to SCMAI again and asked them to conduct a formal investigation based on the new EEO policy on July 12, 1974. The SCMAI established a new Fact-Finding Committee on McConnell on August 29, and the case was reopened after ten months of the persistent efforts orchestrated by SRRT and other supporters (“Report of the Fact,” 1975).

*The Final Investigation by the SCMAI Fact-Finding Committee (1975)*

Although SRRT and McConnell’s support group complained and demanded that SCMAI have a formal inquiry instead of relying solely on court documents, the Fact-Finding Committee, a SCMAI subcommittee, began its investigation with a review of information already obtained, including McConnell’s Request for Action, correspondence, and the court records. The subcommittee also consulted with SCMAI members and ALA’s legal counsel. It also revisited the provisions of PAMAI to acquaint themselves with them, and learned that SCMAI’s review and appropriate actions were limited to examining only issues raised by the complainant. In other words, SCMAI could review the case and make a move only on the basis of McConnell’s formal request. In essence, McConnell’s demands were for a public apology by the University of Minnesota; for them to change employment policies; and for ALA to take a firm stance on intellectual freedom cases (“Report of the Fact,” 1975, p. 550). He had not wished to secure the position or charge the university with violation of due process, which he recognized as being impossible to achieve. McConnell stated that ALA had a reputation for not taking strong political stands, so he said he had rather realistic expectations. He believed “censure of the Regents would be the only solution that would have any impact at all” (“Report of the Fact,” 1975, p. 550).

A report released by the Fact-Finding Committee summarily justified the investigatory procedures and conclusions of the previous SCMAI report. It explained that after the Supreme Court denied McConnell’s appeal for review, the ruling by the Eighth Circuit Court of Appeal supporting the university’s action remained effective and the regents “had no obligation whatever to any investigatory body of the ALA.” SCMAI realized that “ALA had no power or legal grounds to force those involved to discuss the case or to reveal facts they would not wish to disclose.” The subcommittee supported SCMAI’s judgment that “a formal inquiry is not warranted” since it found no violation of ALA policies

by the regents ("Report of the Fact," 1975, p. 550). The subcommittee report also regretted that the council reacted in a hasty manner to the second report by SCMAI and sent the case back to SCMAI without first verifying facts or considering alternatives. The report added that SCMAI failed in its communication with the council in terms of conveying its rationale behind the action (p. 551). The subcommittee recommended SCMAI close the case. This was the unhappy ending of a long five-year struggle for both ALA and McConnell.

*Implications of the McConnell Case*

The McConnell case is multifaceted and is therefore significant in the development of ALA policy on intellectual freedom of librarians. The 1969 Program of Action for Support of Library Bill of Rights was thought to be a major breakthrough in building a defense scheme in support of librarians defending intellectual freedom. However, cases such as McConnell's whose cases involved their own rights guaranteed by the First Amendment proved the Program of Action insufficient. In 1971, the PAMAI was established to replace the original Program of Action as a centralized approach encompassing issues beyond intellectual freedom, including tenure, status, fair employment, and ethical practices, which had been so problematic before. It embodied ALA's intention to deal with injustice and insure the professional status of librarians. Its creation is evidence that the professional association decided to widen its definition of intellectual freedom of librarians and wanted to include it in its defense mechanism. A group of young librarians and library students—the main constituency of SRRT—played a critical role to this end. Their consistent and organized political pressure pushed the rather conservative ALA to be more responsible to its rank-and-file members. The SCMAI's first report was rejected by the ALA Executive Board, while the second was rejected by the council. As was examined, this demonstrates SRRT's increased organized political influence in ALA's legislative body and also how the roundtable's political messages were permeating among fellow librarians.

However, SCMAI's final report on the McConnell case—compiled by the Fact-Finding Committee—clearly demonstrated a problem inherent in the defense system: ALA lacked any authority or practical means to deal with violators. (We might compare this with other professions, like doctors or lawyers, who have tighter control over who can be recognized as a professional.) Under one of the SCMAI's founding principles, the committee could not formally investigate while a case was in court. This pre-empted ALA's involvement and various types of support (whether moral, physical, or legal assistance) for fellow librarians. This limitation was critical since such support could feasibly have substantial impact on a court decision. After a court delivers its verdict, it is usually too late to intervene, even if so desired. The report also found the University of Minnesota Regents were not obliged to deal with SCMAI, especially since the

court found they had not legally committed any wrongdoing in McConnell's nonhiring. However, the report claimed there would be no difference even if the court had found the regents were guilty. This point was clearly spelled out in the report: "ALA had no power or legal grounds to force those involved to discuss the case or reveal facts they would not wish to disclose" ("Report of the Fact," 1975, p. 550). After all the struggles and contentions, ALA realized that it could not develop an adequate and effective censure, besides publicizing the finding, even if an employer was found infringing upon intellectual freedom. The McConnell incident helped expand the definition and jurisdiction of ALA in defense of librarians' intellectual freedom, but also was the catalyst for many in ALA to realize that they needed to again narrow down their approach to a manageable size. We will examine this in the following sections.

### *SCMAI Closing*

In 1973, the SCMAI announced, the two-year-old PAMAI has received forty-six cases and seven inquiries for information. Of the forty-six, sixteen cases were still under investigation, nineteen had been closed, and eleven had been withdrawn by the complainant, mostly due to appropriate changes in the situation based on SCMAI suggestions. The breakdown of the forty-six includes seven in tenure and academic status; seventeen in unfair employment; fifteen regarding due process; two concerning unethical procedures; three related to intellectual freedom; and two classified as "others" ("SCMAI Report to ALA," 1973). This indicated that most of the cases were employment problems and only three cases brought into PAMAI were related to intellectual freedom. The statistics proved IFC's initial concern—"We are the American *Library* Association, not the American Civil Liberties Union," as Castagna forewarned ("Intellectual Freedom Committee," 1970). Most of all, when the statistics were reported, only a few ALA staff members were allocated to work for SCMAI, and they were busy dealing with sixteen cases. It must have been a big burden on top of their regular work, although a subcommittee appointed by SCMAI helped conduct investigations.

In the late 1980s, ALA President Regina Minudri appointed a committee to study SCMAI. It recommended that the work of the committee (1) focus on mediation and inquiry rather than arbitration, (2) be reconsidered by relevant ALA policies, and (3) receive briefings from legal counsel (American Library Association, n.d.c). SCMAI encountered many problems and was eventually dismantled in 1988. The committee ceased its seventeen years of service for the following reasons: "(a) imbalance between available resources and potential demand, (b) lack of clarity regarding the basis for decisions, and (c) the danger of raising member expectations that could not, in fact, be met" (American Library Association, n.d.c). The following year, in 1989, the Standing Committee on Review,

Inquiry and Mediation (SCRIM) replaced SCMAI. However, it too was abolished in 1991 after dealing with another twelve cases. We can see how daunting a task it was for ALA staff to adjudicate librarians' intellectual freedom in the following quote from an interview Judith Krug gave in 2006.

They [LeRoy Merritt Humanitarian Fund board] wanted to deal with discrimination also and we did not believe that that was our goal. You know, very often, discriminatory actions can be interpreted as involving intellectual freedom principles but (pause) you have to be careful with interpretations. I think that the Foundation Board's feeling, and certainly my feeling, was that we had a *huge* mouthful that we were trying to chew and we honestly didn't need anything else, nor could we accommodate anything else. I'm still the Lone Ranger in this office at that point. So, it's like, Help! It's enough already guys! (Gage, 2006, p. 112)

This created a striking conflict between library activist groups, such as SRRT, versus ALA office staff, IFC board members, and other conservative parties. The former strove for change and tried to democratize their association to make it what they envisioned as a socially responsible organization. For them, creating an apparatus to defend their members, regardless of problems, should be a concern for the entire profession, which should respond with all organizational resources. The latter established the action programs, FTRF, and the LeRoy Merritt Fund to strengthen their support system and political influence; however, their primary concern, especially after experiencing various cases, eventually was only cases where librarians tried to safeguard intellectual freedom for library users. They were very hesitant to expand their jurisdiction to protect librarians' own intellectual freedom. Even though Krug and others wished to draw a line in the sand about defending librarians' intellectual freedom, the question would come back to ALA within a decade.

### LIBRARIANS' INTELLECTUAL FREEDOM—THE INDIVIDUAL'S RIGHTS IN THE WORKPLACE

#### *Sanford Berman's Case (1999)*

Sanford Berman, a recipient of the Margaret Mann Citation Award—ALA's highest recognition for catalogers—resigned from his position as cataloging department head in the Hennepin County Library (HCL), Minnesota, on June 10, 1999. He had earned wide acclaim as “one of the profession's most valued and significant contributors to the advances made in cataloging classifications in this century” (Rogers & Oder, 1999). However, Berman's outspoken, strong criticism of old racist subject headings and other cataloging conventions had created long-standing contentions with his library administrators. The incident that triggered his early retirement stemmed from the library's decision to participate in OCLC.

The HCL was famous worldwide for its unique cataloging system, which Berman and his colleagues strived to make user-oriented. This included creating subject headings for fiction, using commonly used words instead of jargon, and eliminating LC's biased and racist subject headings (Berman, 1993). In its public announcement of Hennepin's joining, OCLC fêted the fact that its cataloging records would become part of the system. HCL's library administration, however, had viewed Berman's cataloging efforts a waste of labor and time and had sought an opportunity to replace the professional cataloging team with paraprofessional copy-catalogers. They were "building up a case to fire him for speaking against automatic acceptance of LC names . . . and the overall LC cataloging record" (Freedman, 1999).

Berman wrote a letter to representatives of MINITEX, the regional network and OCLC vendor, to ensure that HCL's cataloging practices would continue and that MINITEX would not "inhibit or impede" sharing cataloging data among the HCL's library network (Berry, 1999, p. 15). He shared this letter with his cataloging staff, in which he criticized the LC cataloging system and AACR2, and invited colleagues to join his campaign. His supervisors, Director Charles Brown and Assistant Division Manager Elizabeth Feinberg, were furious and reprimanded Berman, claiming his action was inappropriate and undermined HCL's smooth transition. It read: [You have] "the right as a citizen to express your opinion," but "you may not initiate discussion of that opinion on work time nor route that opinion to staff at work." Berman requested the reprimand be withdrawn, explaining that it "was a professional communication" and tried to "open a dialogue on issues that were otherwise being ignored here." He and the staff members had never been consulted about the implementation of OCLC or AACR2 ("Cataloger Demands," 1999, pp. 20, 22). Learning that his request had been rejected, Berman considered this incident a free-speech issue at work and waged an appeal to fellow librarians via e-mail lists and websites, which invoked overwhelming support for Berman. Meanwhile, administrators removed Berman from his cataloging duties and assigned him to produce an in-house cataloging manual. Berman and his supporters saw his demotion as retaliation and "another attempt to remove me from the system" ("Citing 'Deception,'" 1999, p. 14). In the end, Berman was forced to retire from his more than twenty years of service at HCL.

Mark Rosenzweig and two other ALA councilors presented a motion to censure HCL for its "infringements of Berman's free-speech rights, its retribution against him, and its overall violation of his professional rights" at the 1999 ALA Annual Conference in New Orleans ("From Powell to Berman," 1999, p. 92). A councilor opposed the motion, stating that the ALA Council should not be involved with an individual's personnel matters. Another resolution establishing an ad hoc committee to investigate the



incident was also defeated on the grounds that an individual whose rights were violated should seek legal recourse. Berman, also on the council, proposed amending the Library Bill of Rights to include the clause, "Libraries should permit and encourage a full and free expression of views by staff on professional and policy matters." This was again defeated: several suggested the proposed amendment was appropriate for the Code of Ethics, while others warned any changes in the Library Bill of Rights would need approval from various ALA committee sections. Berman contended that "a muzzled or chilled staff is frankly unlikely to render the most effective service to library users" ("From Powell to Berman," 1999, p. 92). In the end, the council sent the motion to the Professional Ethics Committee. Rosenzweig sought to pass alternative solutions to handle cases like Berman's. He suggested establishing a standing committee to "deal with egregious violations of professional rights and responsibilities of librarians within libraries themselves." One councilor reminded the council of the unsuccessful SCRIM, which had problems intrinsic to its ambivalent status, whether it represents individual librarians or institutions; both are ALA members. The council struck down this resolution as well ("From Powell to Berman," 1999, p. 92).

His appeal might have received different reactions from the council if it had been during the 1970s. As we have examined before, library activists and library students organized themselves to challenge authorities and make libraries more democratic organisms for both library workers and users. SRRT was, for example, strategically sending their members to influence ALA's policy making and control agenda. Berman, Rosenzweig, and many of Berman's supporters, who were active and influential SRRT members, must have realized that SRRT and ALA itself had changed in terms of culture, agenda, and political influence.

*"Questions & Answers on Librarian Speech in the Workplace"*

At the 2000 ALA midwinter meeting in San Antonio, the Professional Ethics Committee gave its report on Berman's proposal to add protection of librarians' workplace free speech to the Library Bill of Rights. The committee claimed workplace free speech was already encompassed in Articles 1, 5, and 7 of the ALA Code of Ethics, and concluded Berman's amendment was not necessary. However, the committee agreed on the importance of the subject and established a subcommittee to produce a draft statement on librarians' intellectual freedom for the committee to further examine (see Harmon and Berman, 2000–2001, draft document). On December 14, 2000, Professional Ethics Committee Chair Charles Harmon sent a draft copy of an explanatory statement of the ALA Code of Ethics, the "Questions & Answers on Librarian Speech in the Workplace" (henceforth, Q&A) to Berman and solicited his comments (Harmon and Berman, 2000–2001). Four days later, Berman responded

to Harmon with a severe rebuke: “The document frankly appears to be a manifesto supporting ‘managerial prerogatives,’ not free speech” (Harmon and Berman, 2000–2001, letter, December 18, 2000). Later, Harmon thanked Berman for his comments and reported, “the committee considered all the suggestions we received,” and that it is “available on our Web site” (Harmon and Berman, 2000–2001, letter, August 3, 2001).

The following are summaries and extracts of the some of the Q&A adopted in July 2001 (see Harmon and Berman, 2000–2001). It helps us understand Berman’s reaction to the document. In Q5, the ALA committee ensured librarians’ ethical obligation to raise questions and initiate change about detrimental policies to the public interest or to the profession, on the basis of the Code of Ethics: “We provide the highest level of service to all library users.” Further, in Q9, the ALA encourages members “to create a workplace that tolerates employee expression.” It asks, “If librarians are denied the ability to speak on work related matters, what does this say about our own commitment to free speech?” It emphasizes, “We need to demonstrate our commitment to free speech by encouraging it in the workplace.” Then, in Q2, it mentions *Pickering v. Board of Ed.* (1968), in which the Supreme Court conducted a balancing test between the interests of a citizen (the government employee) raising a public concern and that of the government, and the Q&A optimistically states, “If you are a government employee . . . and it doesn’t hamper your employer’s ability to provide public services, then the courts may be on your side.” However, the core message of the document lies in the following Q&A:

Q1. As a Librarian, do I have free-speech rights on policy related matters in my place of work?

A1. Through the *Library Bill of Rights* and its *Interpretations*, the American Library Association supports freedom of expression and the First Amendment in the strongest possible terms. The freedom of expression guaranteed by the First Amendment, however, has traditionally not been thought to apply to employee speech in the workplace. Many court decisions support employers on this issue.

Q6. What are some issues to consider when speaking out on a library policy matter?

A6. Try to know all the facts on the issue and attempt to understand it from your employer’s point of view. Is the issue important enough to you to risk retribution? Can you build support among your colleagues for your position? If your convictions are strong enough, are you willing to resign? You will have to exercise your own professional judgment in assessing your workplace environment.

Q7. If I speak out in the workplace on a matter of professional policy, and my employer retaliates against me, will the ALA support me?

A7. The ALA does not at this time provide mediation, financial aid, or legal aid in response to workplace disputes. Your employer has an array of sanctions that may or may not be imposed on you. . . . If you decide to speak out on a matter involving professional policy, it will

be a matter between you and your employer (Harmon and Berman, 2000–2001).

In each of the above responses, the ALA is very discouraging, warning librarians of the consequences. The essence of the document is to clarify the association's stance—the ALA does not endorse or support its members who decide to follow one's professional ethics and speak out on policy matters: you are on your own. In the letter to Harmon, Berman wrote, "I applaud the candor expressed in the answer to Question 7, namely that ALA does not and will not support staff involved in 'workplace dispute.' It is, however, a sad state of affairs" (Harmon and Berman, 2000–2001, letter, December 18, 2000).

The most recent 2013 Q&A is even more clear in disowning any responsibility to provide protection to members who "create conflicts" with their employers. The *Garcetti v. Ceballos* (2006) case seems to account for the statement's assertiveness. The Supreme Court decided, "Public employees who make statements pursuant to their official duties are not speaking as citizens for First Amendment purposes and may be disciplined by their employer for that speech" (American Library Association, n.d.a). It definitely denied the hope—"the courts may be on your side"—in Q2 of the 2001 version.

Another document, the *Enforcement of the Code of Ethics of the American Library Association: Questions and Answers* adopted in January 2009, explained the ALA's administrative policy on the Code of Ethics. It was also compiled by the Professional Ethics Committee probably to be a companion document to the *Questions & Answers on Speech in the Workplace*. It is no less blunt than the Q&A. It answers, "As a voluntary membership organization, ALA does not enforce the Code of Ethics for a variety of reasons," to the question, "What is ALA's procedure to enforce the Code of Ethics?" (Q1). In other words, there is no enforceable means to execute the document. Question 3 asks "What can be done about violations of the Code of Ethics?" It responds that since individual libraries are encouraged to adopt the "Code of Ethics" as a local policy, this transfers the enforcement of the Code to the level of government where the library exists. Such an infringement of the Code may then be a violation of various levels of government law. For example, many states have legal provisions protecting the confidentiality of users' library records, which is also addressed in Principle III of the Code (American Library Association, n.d.b).

These two official ALA documents summarize its position on librarians' speech and intellectual freedom in the workplace. It proclaims that librarians have responsibilities to provide the best possible library services, work environment, and library administration, and their speech in this cause should be encouraged. However, the association itself does not have any way of enforcing violations of the Code of Ethics. ALA simply

hopes municipal or state governments will adopt ALA codes and enforce them using local laws. Regarding government employee's speech at work, the organization acquiesces to the Supreme Court's ruling in *Garcetti v. Ceballos*. On this basis, ALA provides neither arbitration, nor financial or legal support. The motivation behind these Q&A documents definitely was ALA's long struggle to deal with librarians' intellectual freedom cases.

## CONCLUSION

The study examined six decades of development of American librarians' intellectual freedom in ALA history. In the late 1960s, librarians fought organized censors to protect library materials, which often forced them to stand alone without organizational support and eventually face dismissal alone. During this period, library students and young, activist librarians demanded ALA become a more democratic and active organization that would participate in the cause of social change. They also saw many fellow librarians lose their jobs unfairly and called for ALA to safeguard their positions, social status, and speech rights. Various grassroots organizations, especially newly established SRRT, became the epicenter of this force and orchestrated their efforts to tactically influence ALA's policy-making machinery. ALA's response to the call was not uniform. Many ALA officers and staff rejected the idea and thought it was not within the organization's purview, while some IFC members saw it as an opportunity to finally establish a librarians' defense mechanism, which they had campaigned for over many years. The establishment of an investigatory system, SCMAI, seemed to expand the definition of librarians' free-speech rights beyond their professional work, and to proclaim it was ALA's concern as the profession's association. However, given a lack of resources, it was overwhelmed by members' demands and expectations, and the organization soon realized it possessed no legal grounds to enforce professional ethics. On one hand, the closure of SCMAI and SCRIM signified ALA's failure to meet its members' dreams and to earn the social status and respect to the profession it existed to create. On the other hand, it helped ALA recalibrate its interpretation of intellectual freedom in the profession, which became much more narrow—focusing only on library users. For conservatives and advocates of librarians' neutrality, the *Questions & Answers on Speech in the Workplace* and *Enforcement of the Code of Ethics of the American Library Association: Questions and Answers* clearly pulled back ALA's ambition to reality.

For critics, it showed that the ALA is not a librarians' professional association but is greatly influenced by library administration and trustees who have interests different from those of librarians when it comes to questions like free speech in the workplace. This paper shows the importance for library workers, regardless of whether they are administrators or rank-and-file librarians, to be aware of the complex history that shaped

how the profession has responded to the question of librarians' own free speech.

## NOTES

1. Robert Leigh conducted the Public Library Inquiry of the Social Science Research Council.
2. For Rosichan's case, see Krug and Harvey (1970a, 433).
3. The fear of loss of tax-exempt status might not have been as much of a real threat. According to the Activities Committee for New Directions for ALA (ACONDA), which contacted the American Association of University Professors (AAUP), the association also has a tax-exempt status, but it never had problems with the IRS despite its long history of involvement in defending the rights of its members, including academic librarians (Samek, 2001). On the other hand, the Nixon administration had used the IRS to target those it saw as opponents.
4. The executive committee could allocate a grant up to \$500 for individual cases. For over a \$500 grant, the entire board needed to be involved in the decision.
5. The third recipient was the Marshall E. Woodruff Legal Defense Fund, Maryland.
6. The phrases "sporting a beard" and "expressing unpopular opinions as a private citizen" are referring to McShean and Hodgins, respectively.
7. According to Berninghausen, the *ALA Policies Manual* had some twenty-five policies on intellectual freedom, none of which had ever been rescinded ("Intellectual Freedom at Dallas," 1971, p. 2449).
8. The other two members who assisted SCMAI were Connie R. Dunlap, librarian at the University of Michigan, and Gary Purcell, Dean of the Graduate School of LIS at the University of Tennessee.

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