

THE FREE LIBRARY AND OTHER HISTORIES

1833 The first tax-supported public library was established in the town of Peterborough, New Hampshire.

"The account of the establishment of a town library at Peterborough, New Hampshire, is unique in that here we have an instance of what appears to be the spontaneous generation of an entirely new form. Here, without the stimulus of private donation, without the permission of state legislation, without the semblance of a model in the mother country, a tax-supported town library was born. The circumstances surrounding the creation of this institution raise an interesting historical question involving local circumstance and group motivation to which no answer has yet been offered. In January a group of farmers and small manufacturers under the leadership of the Rev. Abiel Abbot formed a social library whose shares sold at two dollars and whose annual membership fee was fifty cents. On April 9, the town, apparently under the inspiration of the same Rev. Abbot voted to set aside for the purchase of books a portion of the state bank tax which was distributed among New Hampshire towns for library purposes. This was the way the first American town library to be continuously supported over a period of years was begun."

1872 Anthony Comstock founded the New York Society for the Suppression of Vice, whose slogans were: "Morals not Art and Literature!" and "Books are feeders for brothels!" Comstock campaigned tirelessly for the expansion of obscenity and censorship laws, not only to stamp out erotic subject matter in art or literature, but to suppress information about sexuality, reproduction, and birth control.

March 3, 1873 The *Comstock Act*, was passed by the United States Congress under the Grant administration; an "Act for the Suppression of Trade in, and Circulation of, Obscene Literature and Articles of Immoral Use." The Act criminalized usage of the U.S. Postal Service to send any of the following items: erotica, contraceptive, abortifacients, sex toys, personal letters alluding to any sexual content or information, or any information regarding the above items. In places such as Washington, D.C., where the federal government had direct jurisdiction, the act also made it a misdemeanor, punishable by fine and imprisonment, to sell, give away, or have in possession any "obscene" publication. Half of the states passed similar anti-obscenity statutes that also banned possession and sale of obscene materials, including contraceptives. Violators of *The Comstock Act* faced steep fines and even time in prison.

Comstock was appointed special agent of the U.S. Post Office and given the express power to enforce the statute. Over the next forty years Comstock prosecuted over 3,500 individuals (although no more than 10% were found guilty) and claimed to have destroyed over 160 tons of literature.

Comstock's counterpart in Boston, the Watch and Ward Society, was equally unrelenting: its annual

report in 1893 warned that "even the briefest of stimulating passages" in literature "could plunge the helpless reader into that state of excitement in which principle is overcome by passion and nothing but opportunity is wanted for unbridled indulgence."

Works that would be suppressed under state obscenity laws, banned from importation by U.S. Customs, or from the U.S. mails, included Giovanni Boccaccio's *Decameron*, Leo Tolstoy's *Kreutzer Sonata*, Ernest Hemingway's *For Whom the Bell Tolls*, Honoré de Balzac's *Droll Stories*, Theodore Dreiser's *An American Tragedy* (the subject of a major censorship case in Massachusetts in 1927), Edmund Wilson's *Memoirs of Hecate County*, Andrew Lang's *The Arabian Nights*, D.H. Lawrence's *Lady Chatterley's Lover*, Henry Miller's *Tropic of Cancer*, James Joyce's *Ulysses*.

1873 *Lysistrata*, the controversial play written in 411 BC by Aristophanes was banned in the U.S. by the *Comstock Law*. An anti-war drama, *Lysistrata* is an account of one woman's mission to end the Peloponnesian War; she convinces the women of Greece to withhold sexual privileges from their husbands and lovers as a means of forcing the men to negotiate peace. The ban on *Lysistrata* was not lifted until 1930.

1881 Walt Whitman's collection of poetry *Leaves of Grass*, was withdrawn from circulation in Boston, after Oliver Stevens, the District Attorney, in cooperation with the New England Society for the Suppression of Vice, threatened criminal prosecution for the use of explicit language in some poems. The publisher James Osgood demanded that certain poems with pronounced allusions to sex and sexual preference, such as "Song of Myself," be revised and that certain poems such as "A Woman Waits for Me" and "To a Common Prostitute" be removed from the collection. Whitman refused stating, "The list whole & several is rejected by me, & will not be thought of under any circumstances."

1896 The Carnegie Library of Homestead broke ground. It was the sixth public library commissioned by Carnegie of the 1,689 that would be built in the U.S. "Carnegie's gift to Homestead was an exceedingly elaborate gesture. Through the auspices of the Carnegie Land Company, Carnegie reserved prime hilltop real estate, only a few blocks above the Homestead Steel Works. The library itself occupied an entire city block; on all four sides, company controlled real estate insulated the library from possible encroachment of either mill or working class housing from Homestead. Above the library to the east the grounds were surrounded by a string of superintendent's mansions. . . ." The plan exemplified the struggle between class and culture.

The event was overshadowed by the recent brutality of the Homestead lock-out and the steel industry labor struggle. Despite the staggering expansion of Carnegie's steel empire, his persistent

demand for lower costs to keep profits growing had pushed his workers to the limits of endurance. In 1892, at Homestead Steel Works, contract negotiations with the Amalgamated Association of Iron and Steel Workers had come to a halt. In the attempt to break the union at Homestead, 800 union members had been locked out; another 2,000 non-union steelworkers followed, walking out in sympathy, effectively closing the plant. In an attempt to bring in scab labor, 300 Pinkerton agents, a private police force with more men and guns than the U.S. military, had been called in by Henry Clay Frick, fellow industrialist tasked by Carnegie to oversee the plant. Badly miscalculated, the standoff resulted in the death of 9 steel workers and countless others sustained injuries. State militia were deployed to end the standoff, but ultimately Carnegie's victory signaled the weakening of organized labor in the steel industry for decades.

"The most consciously political workers decried the library as a shameless bribe. . . . Others who could look past Carnegie's role in the strike regarded the library as an impractical institution that was hardly set up around workers' schedules. . . . One Homestead steelworker noted the irony and concluded that although Carnegie claimed to build libraries for the "workingman," "what good are libraries to me, working practically eighteen hours a day?"

Similar sentiment characterized the library as "a philanthropy which provides opportunities for intellectual and social advancement while it withholds conditions which make it possible to take advantage of them."

May 18, 1896 The U.S. Supreme Court decision *Plessy v. Ferguson* established the "separate but equal" law that legalized segregated libraries.

"In the United States, attempts to curtail the reading of the black population date from the earliest days of slavery. In order to prevent slaves from rebelling, it was essential that they remain illiterate. If slaves learned to read, it was argued, they would become informed of political, philosophical and religious arguments in favour of abolition, and rise against their masters. Therefore, slaves who learned to read, even the Bible, were often punished with death; it was assumed that, while conversion of the slaves was "convenient," knowledge of the Scriptures was to be acquired only through the eyes of their white masters."

Manguel, Alberto

"The Library as Oblivion," *The Library at Night*

April 3, 1902 W.E.B. DuBois, Professor of Economics and History at Atlanta University, published "The Opening of the Library" in the *Atlanta Independent*:

"With simple and appropriate exercises the beautiful new Carnegie Library was thrown open to the

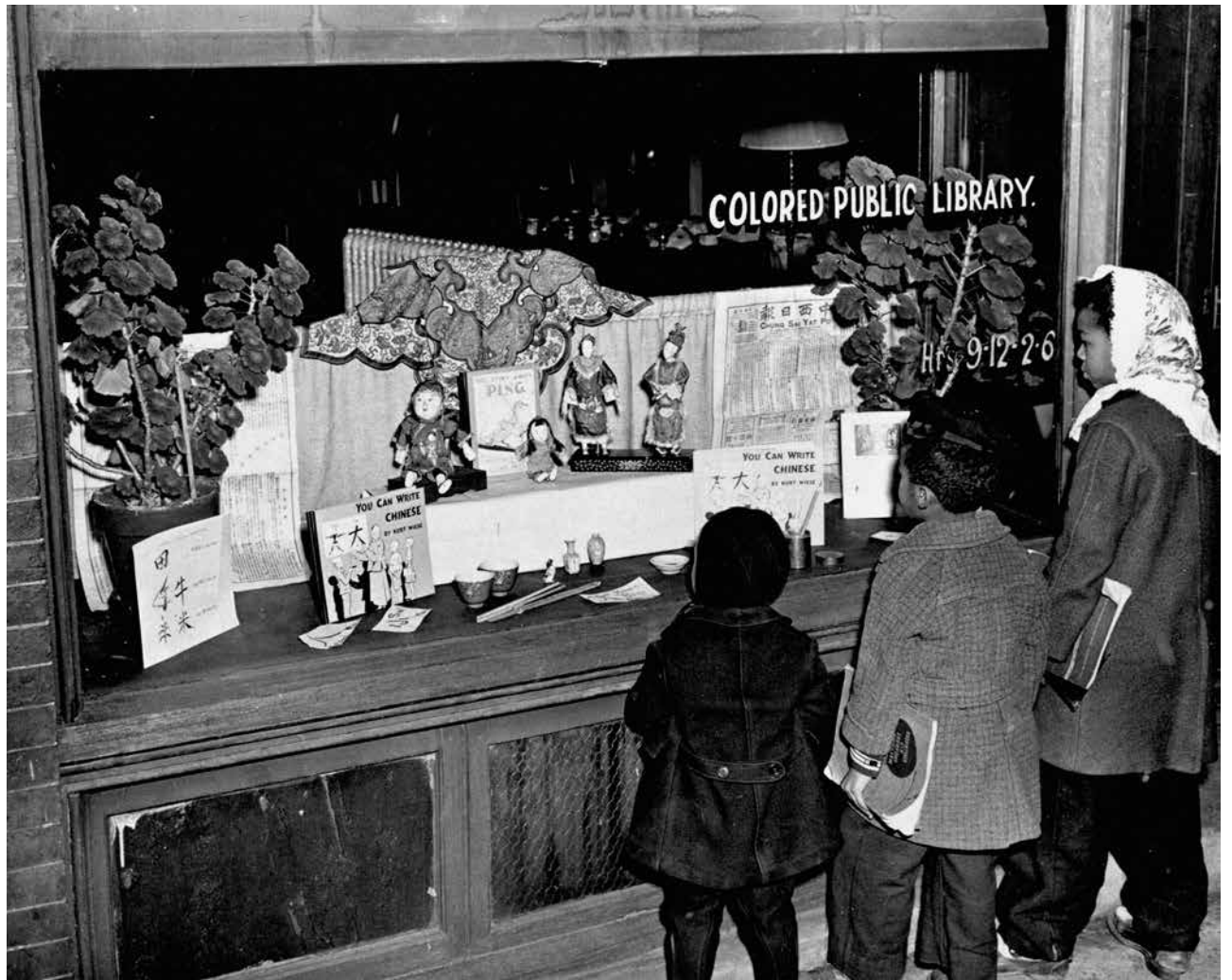
public yesterday." So says the morning paper of Atlanta, Georgia . . .

The white marble building, the gift of Andrew Carnegie, is indeed fair to look upon. The site was given the city by a private library association, and the City Council appropriates \$5,000 annually of the city moneys for its support. If you will climb the hill where the building sits, you may look down upon the rambling city. Northward and southward are 53,905 white people, eastward and westward are 35,912 African Americans. And so in behalf of these 36,000 people my companions and I called upon the trustees of the Library on this opening day, for we had heard that black folk were to have no part in this 'free public library,' and we thought it well to go ask why."

case and the birth control movement, the government decided to avoid further publicity and withdrew charges.

1916 Mary Wright Plummer, President of the American Library Association (ALA) and previous director of Pratt Institute Free Library, credited with originating the idea of ethics for the library profession, addressed (in absentia) the 1916 ALA Ashbury Park Conference with a powerful statement for democracy and intellectual freedom: "What has all this to do with LIBRARIES? This: that free-will to choose must be based upon a knowledge of good and evil; access to all the factors for making choices must be free to the people of a democracy which can flourish and develop and improve only as it

A Project by Ann Messner



Children looking at the window of the Colored Public Library once housed in the YMI (Young Men Institute) Cultural Center in Asheville, North Carolina. Circa 1960. Photo: Pack Memorial Library, NC Collection.

Commissioned by Franklin Furnace Archive, Inc. and The Pratt Institute Libraries as part of the annual exhibit and events series *LIVE AT THE LIBRARY*

February 1 – April 6, 2018
Pratt Institute Library – Brooklyn Campus,
Main Floor

March 1914 Margaret Sanger published the first issue of her radical, anarchist monthly, *The Woman Rebel*, edited by Sanger, who sought to educate and raise the consciousness of working women through a newspaper devoted to their specific needs. The publication generated controversy, as each issue included discussions of such radical issues as the use of violence as a tool of striking workers to women's right to sexual freedom. Sanger used the journal to assert that every woman had a right to be "absolute mistress of her own body," including the right to practice birth control. Circulating this work through the U.S. postal service, effectively violated the law, and in April, Sanger was notified she had violated obscenity laws. She responded in the May issue by declaring that *The Woman Rebel* was "not going to be suppressed by the Post Office until it has accomplished the work which it has undertaken." Three months later Margaret Sanger was formally indicted for violating the federal Comstock Law, in *United States v. Margaret Sanger*. Unwilling to risk spending 20 years in jail, she sailed to England with a false passport under the name "Bertha Watson." Notable supporters sent letters and petitions to President Wilson affirming their support for her, while others raised defense funds. Sanger returned to face trial and in 1916, with the intensified coverage of *The Woman Rebel*

continues to make wise choices. The FREE LIBRARY is one of the few places where education and wisdom can be obtained for preparation in the making of choices. [. . .] Where truths are being debated, no matter how strenuously, the people know that the library will give them both sides, that they may have all the material for a decision."

1917 The war brought with it increasingly restrictive information controls and a nearly complete stifling of dissent. Congress passed several pieces of legislation designed to regulate information content and transmission. The *Espionage Act*, gave broad powers to the U.S. Postmaster General by declaring that any materials containing treasonous or revolutionary content would not be allowed in the mail. The *Trading with the Enemy Act*, authorized the establishment of an official censorship board. In practice, these acts increased the Postmaster's censorship powers.

May 1917 The first public library union, the New York Public Library Employees' Union (LEU), was created, largely dominated by women. Maude Malone, head of the union's publicity committee, stated what the union advocated was equality of opportunity, including the principle of "equal pay for equal work," and a total revision of the library's

hiring procedures. Given the prevailing negative attitudes toward women's work and female participation in unionism, these proposals encountered unremitting opposition from both administrators and librarians in general. Union opponents appealed to the image of the librarian as a selfless public servant unattracted to material concerns defining librarianship in terms of service, sacrifice, and subordination—traditional ideals of feminine behavior. This was precisely the view of librarianship that had antagonized female librarians and channeled them into trade unionism igniting a heated debate during the annual ALA conference in June 1919.

New York union members presented a resolution before the entire association demanding discussion and a vote on the matter. The resolution decried that low and inadequate salaries paid to librarians in the public libraries were due solely to the fact that all of the rank and file in the work were women; that highest salaried positions were given to men effectively removing women from all positions of responsibility and largest financial returns; that the discrimination was based on sex, and not on any superiority of intelligence, ability, or knowledge. It resolved to open all positions in library work, from Librarian of Congress down to that of the page, to men and women equally, and for equal pay.

The resolution was overwhelmingly defeated 121 to 1 by voters who were four-fifths women. That virtually all women repudiated the resolution revealed the extent to which library women embraced complacent assumptions about the passivity and subordination of women's role, apparently believing that sexual equality was too divisive an issue hindering all librarians—male and female—in their efforts to establish librarianship as a profession. With the defeat of the New York union's resolution, library unionism and serious discussion of the status of library women disintegrated.

1918 Congress passed the *Sedition Act of 1918*, substantially limiting free speech by making it illegal to speak, write, print, or publish anything critical of the U.S. government. Penalties for breaking this law included steep fines and incarceration. Throughout this period, the library community voiced no public or private objections. In addition to information restriction, military authorities also requested librarians' assistance in patron surveillance. Military intelligence issued an order to remove from libraries any materials on explosives, as well as to report the names of requestors to the Army.

Librarians responded complying with both the letter and spirit of these laws and regulations. Library boards endorsed the removal or segregation of German language books, in several cases burning German materials. The U.S. Army published the *Army Index* of books allowed at camp libraries; librarians eagerly adopted these lists as "a de-selection list for public libraries across the country." In a public environment that legitimized fear, hysteria, and xenophobia, most librarians were anxious to avoid confrontations with state councils of defense and other zealous citizen groups that threatened funding and/or employment loss. The pressure to conform suppressed nearly all dissent. The library community abandoned the very few librarians brave enough to hold opposing views.

1921 *New York State vs. Anderson and Heap* (New York Supreme Court)—The obscenity trial over the

publication of James Joyce's *Ulysses* in *The Little Review*, an American literary magazine, effectively banned publication of Joyce's novel in the U.S. Prior to publication as a book, the work was serialized in *The Little Review*, a literary magazine. This periodical published the "Nausicaa episode," which contained a masturbation scene. Copies were mailed to potential subscribers and "a girl of unknown age read it and was shocked" and a complaint was made to the Manhattan District Attorney. As the magazine could both be purchased in a New York bookshop and *The Little Review*, the publisher, was based in the city, the local district attorney was able to prosecute in New York. The court convicted and fined publishers Margaret Caroline Anderson and Jane Heap after a trial in which one of the judges stated that the novel seemed "like the work of a disordered mind."

The editors were found guilty under laws associated with the Comstock Act; they incurred a \$100 fine and were forced to cease publishing *Ulysses* in *The Little Review*. This stopped publication of *Ulysses* in the U.S. for over a decade. James Joyce published *Ulysses* in its entirety in Paris in the following year.

1924 *Evans v. Selma Union High School District of Fresno County* (California Supreme Court)—The California State Supreme Court held that the King James version of the Bible was not a "publication of a sectarian, partisan, or denominational character" that a State statute would have required a public high school library to exclude from its collections. The "fact that the King James version is commonly used by Protestant Churches and not by Catholics" does not "make its character sectarian," the court stated. "The mere act of purchasing a book to be added to the school library does not carry with it any implication of the adoption of the theory or dogma contained therein, or any approval of the book itself, except as a work of literature fit to be included in a reference library."

1928 The West Virginia Supreme Court ruled that Charleston libraries could not exclude black patrons since, as taxpayers, they are equally entitled to library service. The court ruled that segregation of the white and negro races in the public schools of West Virginia does not extend to public libraries, holding that "the governing body of a public library may not exclude persons from there on account of their color, race or previous condition of servitude."

April 16, 1929 The obscenity trial for Theodore Dreiser's *An American Tragedy* opened in Boston Superior Court. This was the appeal trial for the book's publisher Donald S. Fried, who had been found guilty under Massachusetts obscenity laws, for selling a copy of the book to the vice squad in Boston, two years prior in 1927. The ban on *An American Tragedy* was part of a dramatic upsurge in censorship activity in Boston between 1926 and 1929, fortified by the suppression activities of the Watch and Ward Society, in which 65 different books were withdrawn from distribution in the city. Fried's legal team was lead by Arthur Hayes and Clarence Darrow. Darrow had lead defense council in the Scopes 'monkey' trial.

In defense of Fried, Massachusetts' anti-censorship forces staged a free-speech rally, complete with satirical skits, while the trial was in progress. Birth control crusader Margaret Sanger, who the previous Boston Mayor James Curley had only recently banned from speaking publicly in Boston, sat on the stage with a large piece of tape across her mouth.

Fried lost the appeal and was offered the choice of ninety days in jail or a \$300 fine.

June 17, 1930 Congress passed the *Tariff Act of 1930*, better known as the *Smoot-Hawley Tariff Act*, implementing protectionist trade policies adding considerable strain to the international economic climate of the Great Depression. The act included a provision that made it illegal to import any obscene or immoral materials. This act tasked customs officials with seizing and destroying such materials. Its obscenity provision defined "the moral sense of the average person" as the standard for determining exclusion, although there were exceptions for 'classics.'

Senator Bronson Cutting proposed an amendment to the *Smoot-Hawley Tariff Act*, which was debated, ending the practice of having United States Customs censor allegedly obscene imported books. Senator Reed Smoot vigorously opposed such an amendment, threatening to publicly read indecent passages of imported books in front of the Senate. Although he never followed through, he included D.H. Lawrence's *Lady Chatterley's Lover* as an example of an obscene book that must not reach domestic audiences, declaring "I've not taken ten minutes on *Lady Chatterley's Lover*, outside of looking at its opening pages. It is most damnable! It is written by a man with a diseased mind and a soul so black that he would obscure even the darkness of hell!"

1930 U.S. Customs officials banned *Ars Amatoria*, "The Art of Love," by Roman poet, Ovid, written in 8 CE.

1933 Random House, which had the rights to publish the entire book *Ulysses* in the United States, decided to bring a test case to challenge the de facto ban, so as to be able to publish the work without fear of prosecution. An arrangement was made to import the edition published in France, and to have a copy seized by the U.S. Customs Service when the ship carrying the work arrived. Although Customs had been told in advance of the anticipated arrival of the book, the local official declined to confiscate it, stating "everybody brings that in." Finally convinced to seize the work, the United States Attorney took seven months before deciding whether to proceed further; while the Assistant U.S. Attorney assigned to



Margaret Sanger, "gagged" in protest of her being banned from speaking publicly in Boston. April, 1929. Photo: uncredited.

assess the work's obscenity felt that it was a "literary masterpiece," he also believed it to be obscene within the meaning of the law. The office decided to take action against the work under the provisions of the *Tariff Act of 1930*, which allowed a district attorney to bring an action for forfeiture and destruction of imported works which are obscene. This set up the test case anticipated by the publisher.

December 6, 1933 *United States v. One Book Called Ulysses*—The United States District Court for the Southern District of New York, ruled in favor freedom of expression. At issue was whether James Joyce's novel *Ulysses* was obscene, and in deciding it was not, Judge John M. Woolsey opened the door to importation and publication of serious works of literature that used coarse language or involved sexual subjects. The trial court's decision was upheld by the United States Court of Appeals for the Second Circuit, which confirmed that offensive language in a literary work was not obscene where it did not promote lust.

1938 *Tropic of Cancer*, first published in 1934 by the Obelisk Press in Paris, was banned from entering the United States by the U.S. Government, along with all other Henry Miller novels. Miller's *Tropic of Cancer* dealt explicitly with his sexual adventures and challenged models of sexual morality.

1938 The House Un-American Activities Committee (HUAC), a committee of the U.S. House of Representatives, was created to investigate alleged disloyalty and subversive activities on the part of private citizens, public employees, and those organizations suspected of having Communist ties.

1939 John Steinbeck's *Grapes of Wrath* was pub-

lished. The book was banned in many libraries and copies were symbolically burned in towns across the U.S. W.B. Camp, cotton farmer and president of the Associated Farmers of Kern County in California, an organization bent on keeping wages low and labor unorganized in California, tried to discredit the book by organizing a photo opportunity during which he burned the book and declared, "We are angry, not because we were attacked but because we were attacked by a book obscene in the extreme sense of the word." The Associated Farmers of California dismissed the novel as a "pack of lies" and "communist propaganda." Kern County Librarian Gretchen Knief, convinced the ban set an unwanted precedent, risked her own job while trying to convince the Library Board of Supervisors to overturn the ban they had passed so easily 4-1, a few months after the book was published. *Grapes of Wrath* won the 1940 Pulitzer Prize for Literature.

The ALA's seminal position opposing censorship emerged, in part in response to the targeting of *Grapes of Wrath* around the United States. While some objections to the book referred to "immorality", most opposed the social views advanced by the author. The ALA's first response to these pressures was adoption of the 1939 *Library's Bill of Rights*, precursor of the present *Library Bill of Rights*. It became the profession's basic policy statement on intellectual freedom involving library materials:

Library Bill of Rights

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

1 Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.

2 Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

3 Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.

4 Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.

5 A person's right to use a library should not be denied or abridged because of origin, age, background, or views.

6 Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

Adopted June 19, 1939. Amended October 14, 1944; June 18, 1948; February 2, 1961; June 27, 1967; January 23, 1980; and January 23, 1996, by the ALA Council.

August 21, 1939 Five African-American men (William "Buddy" Evans, Edward Gaddis, Morris L. Murray, Clarence "Buck" Strange and Otis Lee Tucker)

0-20 (Rev. 1-28-59)

s.t
wa

Mr. Tolson ✓
Mr. Belmont ✓
Mr. DeLoach ✓
Mr. McGuire ✓
Mr. Mohr ✓
Mr. Parsons ✓
Mr. Rosen ✓
Mr. Tamm ✓
Mr. Trotter ✓
Mr. W.C. Sullivan ✓
Tele. Room
Mr. Holloman
Miss Gandy

K
fell to

UPI-24
(LADY CHATTERLEY)
NEW YORK—THE PUBLISHER AND A DISTRIBUTOR OF THE UNEXPIRED
"LADY CHATTERLEY'S LOVER" SAID TODAY THEY WERE CONFIDENT THE FEDERAL
COURTS WILL OVERTHROW THE OBSCENITY RULING OF POSTMASTER GENERAL SUMMER-
FIELD AND PERMIT THE 31-YEAR-OLD NOVEL TO BE SENT THROUGH THE MAILS.
ONE COURT ACTION, TO ENJOIN THE NEW YORK POSTMASTER FROM INTER-
FERING WITH MAILING OF THE BOOK, IS ALREADY ON FILE IN FEDERAL COURT
HERE. GROVE PRESS, INC., THE PUBLISHER, AND THE READERS' SUBSCRIPTION,
WHICH SEEKS TO DISTRIBUTE THE BOOK TO ITS MEMBERS, SAID FURTHER STEPS
WOULD BE TAKEN "TO LIBERATE 'LADY CHATTERLEY'S LOVER' FROM THIS
INTOLERABLE CENSORSHIP."
6/12--JD944A

1145-1731-A-
NOT RECORDED
176 JUL 21 1959

WASHINGTON CAPITAL NEWS SERVICE

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI

DATE: JAN 2 1968

FROM : SAC, NEW YORK (105-91898) (C)

SUBJECT: GROVE PRESS INC
IS
RA

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4-24-81 BY SP-3 BJA/SLK

b1
b3 50 U.S.C. Section 403-1(i) (1) and 403g

Re Bureau letter, dated 10/19/67.

Enclosed for the Bureau are five copies of an LHM setting forth information in this case. Also enclosed for the Bureau are three lists of books obtained on November 30, 1967, from the Grove Press, Inc., which indicates the type of literature Grove Press publishes. These were obtained from Grove Press headquarters under pretext of securing a Christmas gift list.

In the attached LHM, NY T-1 is CIA and NY T-2 is [redacted] Memorandum is being classified "Secret", since information furnished by CIA was so classified.

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 05-23-2012

AGENCY State CIA, FBI, [redacted] (No further request needed)
SAC, NEW YORK [redacted] (No further request needed)
SAC, NEW YORK [redacted] (No further request needed)
SAC, NEW YORK [redacted] (No further request needed)
SAC, NEW YORK [redacted] (No further request needed)

ENCLOSURE

REC-23

105-173326-2

17
JAN 2 1968

[ST-110]

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WHERE SHOWN OTHERWISE

NAT. INT. SEC.

JJB:cav
(3)

FEB 9 1968

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walked into the whites-only library in Alexandria, Virginia. The men, who ranged in age from 18 to 22, asked for library cards and were refused. They then sat down in the library and read quietly, ignoring requests to leave, while about 300 spectators gathered outside. The men were arrested and charged with disorderly conduct, but their case never came to trial. The following year, the city built a library branch for the sole use of "colored people," filling it with castoff books and used furniture. Lawyer Samuel W. Tucker, who had organized the sit-in, was furious with this approach. Invited to apply for a library card at the new branch, he responded in a letter, "I refuse and always will refuse."

1940 In response to the war in Europe *The Library—1940*, a statement of policy, was adopted by the Council of the American Library Association.

The Library—1940

"The social and intellectual unrest growing out of the present world situation may lead to confusion and hopelessness; or it may lead to something of a renaissance of critical inquiry and constructive thinking. Whether the result will be the one or the other will depend in no small measure on the ability of libraries and other agencies of enlightenment to supply the facts and materials needed by people for answering their questions."

...
"Democracy may or may not be at stake, but it cannot now be taken for granted. An unusual opportunity exists to increase understanding of what democracy is in its political, economic, and cultural aspects, and how it can be perfected. Because some knowledge of the governmental systems with which it is or may be in competition is

essential to such understanding, reading should be encouraged and facilitated not only on democracy, but on other ideologies. Propaganda should not so much be feared and avoided as confronted with evidence and informed interpretation.

The essential internationalism of intellectual materials should lead every librarian and library trustee to assist in maintaining respect for the cultural achievements of all peoples, and to advocate continuing cultural relations with all nations, in spite of difficulties."

...
"Intellectual freedom is never permanently assured. It is especially endangered by war. The right of the citizen to find in his library the best material on all sides of controversial public questions must be protected at any cost."

...

1940 The ALA established the Committee on Intellectual Freedom to Safeguard the Rights of Library Users to Freedom of Inquiry, later named the Intellectual Freedom Committee (IFC). The charge to the IFC was "to recommend such steps as may be necessary to safeguard the rights of library users in accordance with the *U.S. Bill of Rights* and the *Library's Bill of Rights*, as adopted by Council."

During the Early Cold War period, the IFC's Chairman, David K. Berninghausen, was a strong voice against censorship and loyalty oath programs, exhorting librarians to "realize that it is their essential duty to prevent censorship and encourage free inquiry."

1941 Ernest Hemingway's *For Whom the Bell Tolls* was declared unfit to mail because it was seen as pro-Communist by the U.S. Post Office, charged

in part to monitor and censor distribution of media and texts. The storyline contained references to Marxism, and the book included the Communist party slogan "Hold out and fortify, and you will win."

1942 The War Department ordered libraries to remove materials on munitions and cryptology, as well as to report to the Federal Bureau of Investigation (FBI) the names of individuals requesting the materials. The Secretary of War disseminated the order via the ALA, which readily forwarded it to 187 libraries "thought most likely to contain such material." Compliance was common; librarians who questioned the order did so on practical rather than ethical grounds.

In addition, the Office of Facts and Figures (OFF), an early World War II propaganda agency, asked individual libraries to collect intelligence on public perceptions. The enthusiastic response of librarians to government-ordered actions, as well as the many voluntary suppressions of information and contributions of intelligence, suggested that the rank and file did not readily accept the emerging notion of intellectual freedom, even as lauded by the profession's leaders. Although the 1939 ALA Code of Ethics stated, "It is the librarian's obligation to treat as confidential any private information obtained through contact with library patrons," librarians apparently considered privacy a peacetime luxury, one that would return with victory and peace.

1946 President Truman ordered loyalty checks of all federal agency employees. The House Un-American Activities Committee (HUAC) accused the Library of Congress of harboring "aliens and foreign-minded Americans."

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

SECRET

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 12-20-2011

TO : Mr. D. J. Brennan, Jr. DATE: February 1, 1968

FROM : S. J. Papich

SUBJECT: GROVE PRESS
INTERNAL SECURITY MATTER
Grove Press Incorporated

On January 31, 1968, Richard Ober, Central Intelligence Agency (CIA), advised that information received by CIA has clearly indicated that the captioned publishing firm, located in New York City, seems to be heavily engaged in publishing material supporting communist and other left wing causes. He wanted to know if the Bureau was investigating the firm. He stated that he would be interested in receiving any results, including identifying and background information on the key officials. He commented that the material being printed by Grove Press is rapidly circulating into many foreign countries.

Ober stated that Grove Press regularly has large advertisements in Ramparts, and it is now prepared to publish the memoirs of Kim Philby and that it publishes a left wing magazine called "Evergreen."

ACTION:

The above information is being directed to the attention of the Internal Security Section.

SJP:clb
(6)

1 - Mr. C. D. Brennan
1 - Mr. G. C. Moore
1 - Mr. Branigan
1 - Liaison
1 - Mr. Papich

51 FEB 20 1968

SECRET

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

SECRET

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 12-20-2011

TO : Mr. D. J. Brennan, Jr. DATE: March 4, 1968

FROM : S. J. Papich

SUBJECT: GROVE PRESS INCORPORATED
INTERNAL SECURITY - [redacted]
New York, NY

On February 27, 1968, Richard Ober, Central Intelligence Agency (CIA), furnished the following described items (enclosed) to the Liaison Agent:

(1) March, 1968, issue of "Ramparts." (2) February, 1968, issue of "Evergreen" (published by Grove Press); (3) Copy of an article concerning Grove Press which appeared in an issue of "The New York Times," date not known.

Ober stated that in the opinion of CIA the captioned firm is publishing articles, books, and material all following a political line which appears to be pro-communist and certainly prejudicial to the national security. CIA strongly believes that an investigation should be conducted in order to obtain a better evaluation of the firm and its officers. The Agency points out that "Evergreen" definitely should be considered as a propaganda outlet for the "New Left."

CIA takes the position that an examination of the contents of "Evergreen" indicates that the publication follows the political lines and themes of "Ramparts," a periodical which is currently under investigation by the Bureau. CIA suggests that there may even be a close working relationship between the two. It has been noted that Grove Press does considerable advertising in various issues of "Ramparts." CIA further emphasizes that Grove Press is publishing Kim Philby's memoirs bearing in mind that Philby's writings undoubtedly are monitored, controlled, and directed by the KGB.

Enclosures

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* 50 U.S.C. Section 403-1(i)(1) and 403g

With the end of World War II and the onset of the Cold War, changes in the nation's political climate created challenges that awakened what had become a largely dormant Intellectual Freedom Committee (IFC). On the one hand, a strong belief in a unique American pluralist democratic system prevailed over totalitarianism, both among ordinary people and among political intellectuals. On the other hand, fear of communism (like fascism, a "foreign" ideology) led to a wariness of difference, of dissent; almost any criticism of the status quo could be interpreted by someone as an attempt to subvert the "American way of life." This was the beginning of an intensely charged period of suspicion, innuendo, accusation, and retribution.

1947 The House Un-American Activities Committee (HUAC) conducted nine days of highly publicized hearings into alleged communist propaganda and influence in the Hollywood motion picture industry. These government actions heightened the atmosphere of fear and conformity. The committee wielded its subpoena power as a weapon and called citizens to testify in high-profile hearings before Congress. This intimidating atmosphere often produced dramatic but questionable revelations about Communists infiltrating American institutions and subversive actions by well-known citizens. HUAC's controversial tactics contributed to the fear, distrust and repression that existed during the anticommunist hysteria of the 1950s.

1948 *The Nation* magazine was banned in all New York City schools because officials deemed a series of articles disrespectful of the Catholic Church. IFC Chairman Berninghausen, at a special hearing opposing the prohibition, protested the ban on ALA's behalf as "a threat to freedom of expression and contrary to the *Library Bill of Rights* and the *U.S. Bill of Rights*." It was the first time ALA spoke out against censorship at an official hearing. Some in ALA questioned the wisdom of the action. Although the ban on *The Nation* was not finally removed until 1957, actions taken by the IFC in support of the *Library Bill of Rights* demonstrated the library profession's willingness to work with other groups to fight censorship.

At the ALA annual conference, intellectual freedom was a major topic, and librarians were exhorted "to uphold democratic values of free inquiry and to combat censorship." The ALA Council adopted a newly strengthened *Library Bill of Rights*, asserting, "Censorship of books [. . .] must be challenged by libraries in maintenance of their responsibility to provide public information and enlightenment." The *Rights* also included an exhortation to "enlist the cooperation of allied groups in the fields of science, of education, and of book publishing in resisting all abridgement of the free access to ideas."

1949 *Rosenberg v. Board of Education of City of New York (Supreme Court Kings County)*—After considering the charge that *Oliver Twist* and the *Merchant of Venice* were "objectionable because they tend to engender hatred of the Jew as a person and as a race," the Supreme Court, Kings County, New York, decided that these two works could not be banned from the New York City schools, classrooms or libraries, declaring that the Board of Education "acted in good faith without malice or prejudice and in the best interests of the school system entrusted to their care and control, and, therefore, that no substantial reason exists which compels the suppression of the two books under consideration."

1950 In February an attack on Ruth W. Brown, long time librarian of the Bartlesville Public Library in Oklahoma, began just a week after Wisconsin Senator Joseph McCarthy's infamous speech accusing the Truman Administration of harboring Communists in the State Department. Although Brown was accused of circulating subversive magazines, chiefly *The Nation* and *The New Republic* by a citizens' committee led by members of the American Legion, she was, in fact, suspect because of her activities in support of racial integration. The library board, in support of Brown, used the *Library Bill of Rights* and information about the 'challenged periodicals,' in its reports to the City Commission. The efforts proved fruitless, resulting in both the board and Brown's dismissal. The City Commission took over operation of the library.

During the summer the ALA struggled to reach a consensus on a statement opposing loyalty programs that failed to protect individuals' civil rights. This debate preoccupied the Committee on Intellectual Freedom (IFC) for almost two years, bitterly dividing federal librarians subject to loyalty investigations as a condition of employment and those led by the IFC who felt such investigations threatened intellectual freedom and fostered a dangerous conformity.

In Montclair, New Jersey, the Sons of the American Revolution demanded not only that the library label and restrict circulation of all "Communistic or subversive" literature, but also that it keep a roster of patrons who used it. Following librarian Margery Quigley's request for advice, the IFC decided unanimously to formulate an anti-labeling statement for IFC adoption, hoping the statement would respond as well to earlier requests for advice from librarians wanting to know how to handle propaganda.

July 1951 The ALA adopted the proposed *Statement on Labeling* asserting that librarians have a responsibility to oppose the establishment of criteria for "subversive publications" in a "democratic state." Nor was it likely that any "sizable" group could agree on what should be designated as "subversive." Furthermore, the statement said, libraries do not endorse ideas found in their collections. The statement called labeling "an attempt to prejudice the reader," and thus "a censor's tool."

Leon Carnovsky, University of Chicago's Graduate Library School, noted how far librarians would have to move to complete this embrace. "I have never met a public librarian who approved of censorship or one who failed to practice it in some measure." Faulting librarians for betraying the public library's "nobler function" of "presenting [. . .] all points of view, however unpopular, even loathsome," his denunciation of censorship reaffirmed the centrality of the defense of intellectual freedom to librarianship: "Censorship is an evil thing. In accepting it, in compromising, in 'playing it safe,' the librarian is false to the highest obligations of his profession."

June 1953 The *Freedom to Read Statement*, adopted by the American Library Association Council and the American Book Publishers Freedom to Read Committee, was co-authored by a large coalition of librarians, publishers, and educators. The statement asserted the value of "diversity of views and expressions," as well as denounced the practice of selecting books based on "the personal history or political affiliations of the author." In addition, it argued against collection labeling and any other mechanism for restricting access, and clearly ar-

ticulated the professional responsibility of librarians and publishers to defend intellectual freedom.

"[. . .] reading is among our greatest freedoms. The freedom to read and write is almost the only means for making generally available ideas or manners of expression that can initially command only a small audience. The written word is the natural medium for the new idea and the untried voice from which come the original contributions to social growth. It is essential to the extended discussion that serious thought requires, and to the accumulation of knowledge and ideas into organized collections."

"We do not state these propositions in the comfortable belief that what people read is unimportant. We believe, rather, that what people read is deeply important; that ideas can be dangerous; but that the suppression of ideas is fatal to a democratic society. Freedom itself is a dangerous way of life, but it is ours."

The ALA Committee on Intellectual Freedom (IFC) made reprints of the statement freely available in an effort to assist working librarians in defending their libraries against calls for censorship.

"In the American South, libraries were not open to the black population until the early twentieth century. The first one recorded was the Cossitt Library in Memphis, Tennessee, which agreed to provide the LeMoyne Institute, a school for black children, with a librarian and a collection of books. In the Northern states, where public libraries had opened their doors to black readers a few years earlier, the fear of treading forbidden territory was still present as late as the 1950s. The young James Baldwin remembered standing at the corner of Fifth Avenue and Forty-second Street, admiring "the stone lions that guarded the great main building of the Public Library." The building seemed to him so vast that he had never yet dared enter it; he was terrified of losing himself in a maze of corridors and marble steps, and never finding the books he wanted. "And then everyone," he wrote, as if observing himself from the distance of many years, "all the white people inside, would know that he was not used to great buildings, or to so many books, and they would look at him with pity."

Manguel, Alberto

"The Library as Oblivion," *The Library at Night*

1954 The *Brown v. Board of Education (U.S. Supreme Court)* decision declared "separate but equal" facilities based solely on race unconstitutional.

1957 U.S. Customs seized all 520 copies of Allen Ginsberg's *Howl and Other Poems* (1955), which had been printed in England, under the 1930 *Tariff Act*. In response, Lawrence Ferlinghetti, fellow beat poet, publisher, and owner of City Lights Book Store in San Francisco, decided to keep production in the U.S. and printed 2,500 copies. Following a sting operation by the Juvenile Bureau of the San Francisco Police Department, Ferlinghetti was charged with publishing and selling obscene works.

October 3, 1957 *People of the State of California v. Lawrence Ferlinghetti*—Ferlinghetti was charged with distributing obscene materials for publishing Ginsberg's *Howl*. Judge Clayton W. Horn presided without a jury in San Francisco Municipal Court.

American Civil Liberties Union (ACLU) lawyers for the accused had to prove that *Howl* had literary merit as a whole and did not appeal to “prurient interest,” according to the U.S. Supreme Court ruling in *Roth v. United States*, which a few months earlier had established that the First Amendment protected literature, but not obscenity.

Over the objection of the prosecution the defense produced nine expert witnesses, some with outstanding qualifications in the literary field. All of the defense experts agreed that *Howl* had literary merit, that it represented a sincere effort by the author to present a social picture, and that the language used was relevant to the theme. Judge Horn found Ferlinghetti not guilty and ruled that *Howl and Other Poems* was not obscene but contained “redeeming social importance” and was therefore protected by the First Amendment.

1959 William Burroughs' *Naked Lunch* was first challenged by the U.S. Post Office, which argued that both the novel and excerpts from the novel were prohibited from mailing because of obscene content; excerpts of the book had been published in a magazine run by students at the University of Chicago.

The French publisher, *Olympia Press*, having just purchased the rights to *Naked Lunch*, attempted to send copies of the entire book into the U.S. The books were intercepted and confiscated by U.S. Customs. The Bureau of Customs claiming jurisdiction under the *1930 Tariff Act* to prevent the import of “any obscene book pamphlet, paper, writing, advertisement, circular [. . .] or other article which is obscene or immoral” decided that *Naked Lunch* was contraband material. In November 1961, following a Customs Bureau literary reassessment, the U.S. Attorney General Office notified the Commissioner of Customs that seizure of the book would be “neither appropriate or desirable.”

July 21, 1959 *Grove Press, Inc. v. Christenberry* (U.S. District Court S.D. New York)—Barney Rosset, the publisher of Grove Press, sued the U.S. Post Office for confiscating copies of the uncensored version of D. H. Lawrence's 1928 novel *Lady Chatterley's Lover*, which had long been banned for its graphic sex scenes. In 1957, the U.S. Supreme Court had ruled in *Roth v. United States*, a case involving a bookseller sending erotic literature through the mail, that the First Amendment's guarantees of free speech did not apply to obscenity. The case against *Lady Chatterley's Lover* seemed cut and dry; that whatever the book's literary merits might be, it met the legal definition of obscenity.

Charles Rembar, attorney for the plaintiff Grove Press, however, spotted a loophole in the *Roth* decision. The opinion, written by Justice William J. Brennan, noted that the First Amendment's purpose was “to assure unfettered interchange of ideas” and that “all ideas having even the slightest redeeming social importance—unorthodox ideas, controversial ideas, even ideas hateful to the prevailing climate of opinion—have the full protection of the guarantees.” Justice Brennan asserted, “The fundamental freedoms of speech and press have contributed greatly to the development and well-being of our free society and are indispensable to its continued growth. Ceaseless vigilance is the watchword to prevent their erosion by Congress or by the States. The door barring federal and state intrusion into this area cannot be left ajar; it must be kept tightly closed and opened only the slight-



The “Howl” trial opens with defendants Lawrence Ferlinghetti and Shigeoyoshi Murao (inside railing at left), defense attorneys Lawrence Speiser (left of table) and Jake Ehrlich (in front of the bar at right). October 3, 1957. Photo: City Lights Archive.

est crack necessary to prevent encroachment upon more important interests.” But, Brennan went on, “implicit in the history of the First Amendment is the rejection of obscenity as utterly without redeeming social importance.”

Pure expression could be forbidden, Rembar argued, only if it was “utterly without social importance.” With the assistance of several literary critics' testimony, he presented *Lady Chatterley's Lover* as a novel of “ideas that inveighed against sex without love, the mechanization of industrial life and morbid hypocrisy, arguing that it was a novel of ideas that had redeeming social value.”

On July 21, Judge Frederick Bryan of the United States District Court for the Southern District of New York ruled in favor of Grove Press and ordered the Post Office to lift all restrictions on sending copies of *Lady Chatterley's Lover* through the mail. This, in effect, marked the end of the Post Office's authority to declare a work of literature “obscene” or to impound copies of those works or prosecute their publishers. *Lady Chatterley's Lover* was published by Grove Press, with the complete opinion by Judge Bryan, which first established the standard of “redeeming social or literary value” as a defense against obscenity charges.

Rembar went on to defend Henry Miller's *Tropic of Cancer* and William Burroughs's *Naked Lunch*, banned in dozens of states and cities. He represented G.P. Putnam's Sons as the publisher of John Cleland's *Memoirs of a Woman of Pleasure*, popularly known as *Fanny Hill*, which had been first published in London in 1748.

1960 *The First Freedom: Liberty and Justice in the World of Books and Reading* was published by the ALA. It exemplified the celebrated public role that the American Library Association had achieved in the defense of intellectual freedom. Although it was published six years after *Brown v. Board of Education* had eliminated legal justification for “separate but equal” public facilities, *First Freedom* evinced no evidence of the questioning begun, albeit quietly, within ALA about the intellectual freedom dimensions of segregation.



Jake Ehrlich, defense attorney, “Howl” trial. Photo: City Lights Archive.

First Freedom included a section on censorship in Ireland but made no mention of censoring titles in states adhering to Jim Crow laws. The book's final section was unrelentingly optimistic, including titles like “Why I Like America” and “Freedom of Inquiry Is for Hopeful People,” but never mentioned the absence of other voices (people of color and lesbian and gays, for example) in America's channels of communication. *First Freedom* extolled the “free marketplace of ideas” while failing to acknowledge that the marketplace was anything but free.

March 1, 1960 In Greenville, South Carolina, a group of African-American students entered the whites-only library around 4:45 p.m. They read quietly at tables for about 45 minutes before library trustees declared the library closed, more than three hours before closing time. On March 16,

Negro Students Wait To Be Booked After Sit-In



The Greenville Eight arrested for entering and sitting down to look through magazines and books in the reading room of the whites-only County Public Library, Greenville, South Carolina. July 16, 1960. Photo: Alexandria Black History Museum, S.W. Tucker Collection.



William Evans, Otto L. Tucker, Edward Gaddis, Morris Murray and Clarence Strange escorted by police from the Alexandria Library after they attempted to get a library card and then sat quietly reading. They were charged with disorderly conduct. Alexandria, Virginia. Friday, August 21, 1939. Photo: uncredited.

seven students again entered the library and were soon arrested by city police.

July 16, 1960 Eight young African-American students, under advice from the Rev. S.E. Kay, entered the library in protest of the library's segregation policies. After peacefully refusing to leave, the "Greenville 8" were arrested by city police and released after spending about 45 minutes at the city jail.

Donald Sampson, an African-American attorney in Greenville who represented the group, filed a suit in Federal court to integrate the Greenville public libraries. On Sept. 2, the libraries closed "in the face of the lawsuit" according to the library system record, and a few days later, Judge C. C. Wyche dismissed the suit, on the grounds that the libraries were at that point "nonexistent." On Sept. 19, in response to public outcry, the Greenville Public Library reopened as an integrated facility to everyone "with a legitimate need." Charges against all students were dismissed. To avoid "racial mixing," however, tables were initially labeled "male" and "female."

April 2, 1960 Following the February sit-ins at Woolworth's in Greensboro, North Carolina, sixteen students of color from John M. Langston High School walked into Danville Public Library in Virginia to check out books. When the library refused service, the students sat at tables on the first floor and did homework assignments, until twenty minutes later, the head librarian closed the library. Two days later, the city council of Danville voted to restrict library access to those who had a library card. The students tried to sit-in at the library again, but the new policy prevented them from being there without risking arrest. The local chapter of the NAACP helped the students file an injunction against the City of Danville for unequal treatment at the public libraries. In May, although the NAACP won the injunction in the United States District Court, the city council voted to close all library branches before integration was ordered to take place at the end of the month. Over the summer, the city council decided to put the future of the libraries to a city-wide vote: either the public library system

would remain closed, or it would reopen on an integrated basis.

In response, the Danville Library Foundation, a strong opponent of library integration, stated that if the public library system closed, the private library system would continue serving white patrons. In June, in a 2 to 1 margin, voters voted in favor of keeping the public libraries closed. The vote, however, was not representative of the population; in a city of 47 thousand people, less than 20 percent were registered voters due to voting restrictions such as poll taxes.

In September, the city council reopened and integrated the public libraries, partly because the private library system could not handle all the patrons. Integration occurred under several conditions: first, libraries had to remove all tables and chairs; second, patrons could not search for books on their own, but must place requests at the front desk; and third, patrons would have to pay a \$2.50 usage fee (\$19.40 adjusted for 2013 inflation) to receive an updated library card.

March 27, 1961 Nine African-American students who were members of the Tougaloo NAACP Youth Council participated in Mississippi's first civil rights "read-in" at the whites-only Jackson Municipal Public Library. The Tougaloo Nine, four females and five males, entered the segregated main branch of the municipal library in search of source material for a class assignment. When the students took seats and began reading, a library staff member called the police. After refusing orders by the police chief to leave the library, the Tougaloo Nine were arrested. The read-in drew support from students at Jackson and Tougaloo colleges as well as Millsaps, a predominantly white college in Jackson. The Tougaloo Nine were charged and convicted of breach-of-peace. Each of them was fined \$100 and given a 30-day suspended sentence.

1961 American Library Association (ALA) amended the *Library Bill of Rights* to include "the rights of an individual to the use of a library should not be denied or abridged because of his race, religion, national origins, or political views."

1961 The *Tropic of Cancer* (1934) ban was lifted, although the work was deemed "obscene" by the Citizens for Decent Literature, a pro-censorship advocacy body founded in 1958 by the Roman Catholic anti-pornography campaigner Charles Keating which advocated reading classics, not "smut." Over 60 obscenity lawsuits in over 21 states were brought against booksellers that sold it. The opinions of courts varied; for example, in his dissent from the majority holding that the book was not obscene, Pennsylvania Supreme Court Justice Michael Musmanno wrote *Cancer* was "not a book. It is a cesspool, an open sewer, a pit of putrefaction, a slimy gathering of all that is rotten in the debris of human depravity."

In the fall of 1961, police officials in the Chicago area systematically intimidated bookstores who sold the novel, making several arrests. The book's U.S. publisher, Grove Press, along with the American Civil Liberties Union (ACLU), filed a lawsuit arguing it was illegal for officials to interfere with the sale of the novel. During the first year of publication Grove Press spent more than \$100,000 fighting 60 cases nationwide. It was not until 1964 that the U.S. Supreme Court finally declared *Tropic of Cancer* not to be obscene and its sale protected by the U.S. Constitution.

January 9, 1962 A group of African-American teenagers entered the Carnegie Library, for white patrons only, in Albany, Georgia and were refused library cards. They left without any incident. On the next afternoon a group of eight youths returned to the library and according to *The Albany Herald*, they reportedly sat in the reading rooms, opened card catalogs, and drank from the water fountains in the library. When the group attempted to apply for library cards they were informed by the librarians they could not register for cards, however, they would be able to at the Monroe Library for blacks. They were asked to leave.

Aug 2, 1962 African-American student protesters knelt on the steps of the Albany Carnegie Library and sang the freedom song "Ain't gonna let nobody turn me 'round," as they were arrested by Albany police. Students had been active in protesting segregation with the Albany Movement since the arrival of Student Nonviolent Coordinating Committee (SNCC). The Albany Movement leaders had repeatedly requested that the Albany City Commissioners begin dialog with them about concerns of the African-American community; the commission refused to compromise. After the Interstate Commerce Commission (ICC) desegregation rule went into effect desegregating bus and train service stations, students began actively testing public facilities, protesting segregation. In response to desegregation efforts, the Albany Carnegie Library closed in 1962. The desegregated library reopened a year later, but no longer had any chairs.

September 15, 1963 In Anniston, Alabama, two African-American pastors, Nimrod Quintus Reynolds and Bob McClain, asked for library cards at the town's Carnegie Library. They were viciously beaten by a white mob, but managed to escape. The next day, members of the library board accompanied McClain and another black minister, George Smitherman (Reynolds was recovering from his injuries), as they went to the library and applied again for library cards, this time successfully.

1964 Freedom Libraries were established throughout Mississippi. These libraries provided library services and literacy guidance for many African-Americans, some who had never had access to libraries before. Freedom Libraries ranged in size from a few hundred volumes to more than 20,000. They operated on small budgets and were usually run by volunteers. Some were housed in newly constructed facilities while others were located in abandoned buildings.

1964 The *Civil Rights Act of 1964* prohibited racial segregation in schools, public accommodations and employment. "All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, and privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin."

1964 The U.S. Supreme Court, in *Grove Press, Inc. v. Gerstein*, overruled state court findings that *Tropic of Cancer* was obscene.

1965 *Attorney General vs. A Book Named "Naked Lunch"* (*Superior Court of Boston*)—Grove Press succeeded in having the book tried instead of isolated cases of individual retailers—as a means of protecting its constitutional rights. Allen Ginsberg

testified as an expert witness on behalf of Grove Press speaking about the novel in court for more than an hour, discussing its structure, themes and literary merit. He dissected every element of the book and demonstrated how it acted as an incredibly complex piece of social criticism, and was therefore an important piece of art:

". . . [The title, *Naked Lunch*] relates to nakedness of seeing, to be able to see clearly without any confusing disguises, to see through the disguise. . . . 'Naked,' in the title; and 'Lunch' would be a complete banquet of all this naked awareness."

Regardless of the testimonies of Ginsberg, Norman Mailer, among other notable literary figures, the Court found *Naked Lunch* 'obscene.'

1966 On appeal the Massachusetts Supreme Judicial Court ruled *Naked Lunch* by William Burroughs not obscene, reversing the earlier decision of the Supreme Court of Boston and removing the threat of a state-wide ban on the book. This 1966 Supreme Court decision that finally cleared *Naked Lunch* of obscenity charges was a license to speak. In the space of three and a half years the unspeakable had become speakable. The controversy surrounding the novel's publication was the last instance of complete literary censorship in the U.S.

1966 *Brown v. Louisiana (U.S. Supreme Court)*—The Court ruled that five African-American demonstrators arrested during a 1964 sit-in at the Audubon Regional Library in Clinton, Louisiana, should not be charged with disturbing the peace. This was the only library segregation case to be argued in the U.S. Supreme Court.

1966 *Memoirs v. Massachusetts (U.S. Supreme Court)*, reversed the state court's ruling that the 1749 book *Memoirs of a Woman of Pleasure* by John Cleland, commonly known as *Fanny Hill*, was obscene. The reason, explained the court, was that the book, despite its content (much of which could be construed as offensive) geared toward prurient interest, was not "utterly" without redeeming social value. To be obscene, the book would have to have prurient appeal, offensiveness, and utter lack of redeeming social value. Marking a turning point for the Court, which had been struggling to come up with a definition of "obscenity" that recognized both the importance to a free society of protecting literature and information about human sexuality, and the apparent political necessity of having laws in place to censor sexual material that—in the Court's words—lacked "serious value" and was "no essential part of the exposition of ideas."

Memoirs v. Massachusetts lead to years of debate about what was and was not obscene and the conferring of more power in these matters to proponents of local community standards.

July 16, 1970 The American Library Association (ALA) issued an advisory statement warning that the Internal Revenue Service of the Treasury Department had requested access to the circulation records of public libraries in Atlanta, Georgia and Milwaukee, Wisconsin, for the purpose of determining the identity of persons reading matter pertaining to the construction of explosive devices. The Association further advised that such requests were not based on any process, order, or subpoena authorized by federal, civil, criminal, or administrative discovery procedures.

July 29, 1970 The Secretary of the Treasury, David M. Kennedy, announced a change of policy, that agents would no longer be permitted to make a general search of libraries to find out who reads certain books, but would be allowed to investigate what books are checked out by a particular suspect.

January 12, 1971 U.S. Attorneys charged "the Harrisburg Seven" with conspiracy to "seize, kidnap, abduct and carry away presidential adviser Henry Kissinger" and blow up steam tunnels in Washington "thereby rendering inoperative the heating system in government buildings of the United States." The proof rested upon a series of clandestine, quasi-love letters between Father Philip Berrigan (in jail for burning draft files) and Sister Elizabeth McAlister smuggled out of Lewisburg Federal Penitentiary by a paid FBI informant, prisoner and part-time Bucknell student Boyd Douglas. FBI Director J. Edgar Hoover claimed the nation's greatest threat is "a militant group, self-described as being composed of Catholic priests and nuns, teachers, students and former students" whose principal leaders "are Philip and Daniel Berrigan." The Berrigans' emphasis on nonviolence and peaceful protest appeared to be swaying public opinion against the war in Vietnam, so the full resources of the FBI were unleashed to discredit them.

Zoia Horn, an activist librarian, who had been hired as Head of the Reference Department at Bucknell University in Lewisburg, PA and who had worked with peace activists and participated in vigils protesting against the Vietnam War, was asked by the FBI for evidence involving Philip Berrigan. During the trial, Horn, subpoenaed to testify for the prosecution, refused as a matter of conscience because such forced testimony would have violated her professional principles of privacy and intellectual freedom. She served 20 days in Dauphin County Jail, and was released when the case against her was declared unreliable. Our nation "stands on freedom of thought," wrote Horn, "but government spying in homes, in libraries and universities inhibits and destroys this freedom."

After an extraordinarily long deliberation, the jury remained hung and "the Harrisburg Seven" were freed. There were minor convictions for a few of the defendants, based on smuggling mail into the prison; most of those were overturned on appeal.

January 20, 1971 The ALA's Intellectual Freedom Committee (IFC) adopted the advisory statement in the introduction to its *Policy on Confidentiality of Library Records* strongly recommending that the responsible officers of each library in the United States:

- 1 Formally adopt a policy which specifically recognizes its circulation records and other records identifying the names of library users to be confidential.

- 2 Advise all librarians and library employees that such records shall not be made available to any agency of state, federal, or local government except pursuant to such process, order, or subpoena as may be authorized under the authority of, and pursuant to, federal, state or local law relating to civil, criminal, or administrative discovery procedures or legislative investigative power.

- 3 Resist the issuance or enforcement of any such process, order, or subpoena until such time as a



The Tougaloo Nine, left to right, Joseph Jackson, Jr., Geraldine Edwards, James "Sammy" Bradford, Evelyn Pierce, Albert Lassiter, Ethel Sawyer, Meredith Anding, Janice Jackson and Alfred Cook. 1961. Photo: AP/Courtesy of Tougaloo College Archives.

proper showing of good cause has been made in a court of competent jurisdiction.

The ALA Council also adopted the statement on *Destruction of Libraries*; "[t]hat the membership of the American Library Association deplores the destruction of libraries, library collections and property, and the disruption of the educational process by that act, whether it be done by individuals or groups of individuals and whether it be in the name of honest dissent, the desire to control or limit thought or ideas, or for any other purpose."

June 26, 1971 *New York Times Company v. United States (U.S. Supreme Court)*—In the "Pentagon Papers" case, the U.S. government attempted to enjoin the *New York Times* and the *Washington Post* from publishing classified documents concerning the Vietnam War. Applying the doctrine of prior restraint the Court found that the government's claims that publication of the documents would interfere with foreign policy and prolong the war were too speculative, and bore a heavy burden of presumption against its constitutionality. The Court asserted that "the Government has not met that burden," freeing both papers to resume immediate publication of the articles.

June 20-26, 1971 The Intellectual Freedom Committee (IFC) proposed the *New York Times Resolution* at the ALA Annual Conference; the resolution was approved and adopted ALA Council.

"The controversy between the federal government and the *New York Times* has drawn into question the policies of the federal government relating to the classification and declassification of information." The ALA "strongly supports the right of the public to hear what is spoken and to read what is written," and "believes that it is a gross abuse of the purpose and intent of security classifications to suppress information which does not directly and immediately endanger the national security."

The ALA "endorses a full Congressional investigation of the policies of government relating to the



Tougaloo Nine. 1961. Photo: Mississippi Department of Archives and History.

classification and declassification of information to: Assure that such policies preserve the rights of the people; Guarantee that such policies do not operate to contravene freedom of the press; Protect the trust of the people in the integrity of their government from being abused or exploited."

At the Annual Conference, the issue of the federal government's abuse of authority was brought before the general membership at the ALA's Annual Conference. Zoia Horn and Patricia Rom (librarians at Bucknell University in Lewisburg, PA) introduced the *Resolution on Governmental Intimidation*, which was approved by the membership and adopted by the ALA Council. Below in full:

Resolution on Governmental Intimidation

Whereas, ALA is concerned with the preservation of intellectual freedom, and

Whereas, The freedom to think, to communicate, and discuss alternatives are essential elements of intellectual freedom, and

Whereas, These freedoms have been threatened by actions of the federal government through the use of informers, electronic surveillance, grand juries, and indictments under the Conspiracy Act of 1968 as demonstrated in the case of the Harrisburg 7,

Now, therefore, be it Resolved:

1 That ALA Membership meeting at Dallas recognizes the danger to intellectual freedom presented by the use of spying in libraries by government agencies;

2 That ALA go on record against the use of the grand jury procedure to intimidate anti-Vietnam War activists and people seeking justice for minority communities;

3 That ALA deplore and go on record against the use of the *Conspiracy Act of 1968* as a weapon against the citizens of this country who are being indicted for such overt acts as meeting, telephoning, discussing alternative methods of bringing about change, and writing letters;

4 That the ALA Membership at Dallas assert the confidentiality of the professional relationships of librarians to the people they serve, that these relationships be respected in the same manner as medical doctors to their patients, lawyers to their clients, priests to the people they serve;

5 That ALA assert that no librarian would lend himself to a role as informant, whether of voluntarily revealing circulation records or identifying patrons and their reading habits.

At that same conference, the IFC proposed the *Resolution on Challenged Materials*; the resolution was approved and adopted ALA Council:

"The *Library Bill of Rights* states that no library materials should be proscribed or removed because of partisan or doctrinal disapproval, and whereas, Constitutionally protected expression is often separated from unprotected expression only by a dim and uncertain line, [. . .] the American Library Association declares as a matter of firm principle that no challenged library material should be removed from any library under any legal or extra-legal pressure, save after an independent determination by a judicial officer in a court of competent jurisdiction and only after an adversary hearing, in accordance with well-established principles of law."

1972 *Todd v. Rochester Community Schools (Michigan Court of Appeals)*—In deciding that Kurt Vonnegut's *Slaughterhouse-Five* could not be banned from the libraries and classrooms of the Michigan schools, the Court of Appeals of Michigan declared: "Vonnegut's literary dwellings on war, religion, death, Christ, God, government, politics, and any other subject should be as welcome in the public schools of this state as those of Machiavelli, Chaucer, Shakespeare, Melville, Lenin, Joseph McCarthy, or Walt Disney. The students of Michigan are free to make of *Slaughterhouse-Five* what they will."

1974 The ALA, having gone on record in support of the *Equal Rights Amendment (ERA)*, joined a "conference boycott" of states that had not approved the ERA. It would be seven years before an ALA Annual Conference or Mid-winter Meeting resumed in

Chicago. Issues related to gay rights later resulted in a council resolution calling on the association not to complete conference site contracts with jurisdictions that discriminate by law.

1976 *Minarcini v. Strongsville (Ohio) City School District (6th Circuit)*—The Strongsville City Board of Education rejected faculty recommendations to purchase Joseph Heller's *Catch-22* and Kurt Vonnegut's *God Bless You, Mr. Rosewater* and ordered the removal of *Catch-22* and Vonnegut's *Cat's Cradle* from the library. The U.S. Court of Appeals for the Sixth Circuit ruled against the School Board, upholding "the students' First Amendment right to receive information and the librarian's right to disseminate it."

1977 In the wake of Anita Bryant's homophobic anti-gay crusade, the elected policy-making ALA Council passed a strong gay rights resolution. "There now exists a climate of hostility toward equal rights for gay citizens, [. . .] Much of this hostility is generated by individuals and groups who perpetuate ignorance and fear through misinformation." The resolution continued, "Council reaffirms its support for equal employment opportunity for gay librarians and library workers." It also affirmed that to "combat the current campaign against full human rights for gay American citizens, Council recommends that libraries reaffirm their obligation under the *Library Bill of Rights* to disseminate information representing all points of view on this controversial subject."

1978 *Right to Read Defense Committee v. School Committee of the City of Chelsea (US District Court, Massachusetts)*—The Chelsea, Massachusetts School Committee decided to bar from the high school library a poetry anthology, *Male and Female under 18*, because of the inclusion of an "offensive" and "damaging" poem, "The City to a Young Girl," written by a fifteen-year-old girl. Challenged in U.S. District Court, Joseph L. Tauro ruled: "The library is 'a mighty resource in the marketplace of ideas.' There a student can literally explore the unknown, and discover areas of interest and thought not covered by the prescribed curriculum. [. . .] The most effective antidote to the poison of mindless orthodoxy is ready access to a broad sweep of ideas and philosophies. There is no danger from such exposure. The danger is mind control. The committee's ban of the anthology *Male and Female* is enjoined."

June 4, 1987 Two FBI agents entered Columbia University's Mathematics and Science Library and asked a clerk about foreign library users. Overhearing the request the reference librarian referred the agents to the Acting University Librarian, Paula Kaufman, who refused to cooperate with the FBI. She reported the incident to the IFC, triggering letters to the FBI and *Freedom of Information Act* (FOIA) requests.

September 18, 1987 The story of this encounter in the library broke in the national media with a front-page article in the *New York Times*, describing the FBI as requesting library staff members to "watch for and report on library users who might be diplomats of hostile powers recruiting intelligence agents or gathering information potentially harmful to U.S. security."

May 1988 The directors of the American Research Libraries (ARL) member libraries adopted a statement specifically addressing library users' right to confidentiality. The *Library Users' Right to Confidentiality* stated, "The Association of Research Librar-

ies is committed to the principle that unrestricted access to and dissemination of ideas are fundamental to a democratic society. Libraries, in addition to their other information services, exercise a unique responsibility in preserving the freedom of citizens to receive and exchange ideas. Public confidence in libraries must not be shaken by any breach in the confidentiality of individual use of library resources."

"The Association of Research Libraries condemns the efforts of any government agency to violate

the privacy of library users, to subvert library patron records, and to intimidate or recruit library staff to monitor so-called "suspicious" library patrons or report on what or how any individual uses library resources. Such actions are an affront to First Amendment freedoms, individual privacy, and all citizens' right to know. These actions violate the basic tenets of a democratic society."

July 1988 After twice denying the existence of the Library Awareness Program, the FBI responded to a *Freedom of Information Act* (FOIA) request



Janice Jackson, Evelyn Pierce, and Ethel Sawyer of the Tougaloo Nine, under arrest for the crime of reading in a "white only" library. Jackson, Mississippi. March 27, 1961. Photo: uncredited.



On the way to court, shortly before the trial of the Tougaloo Nine began. Jackson, Mississippi. March 29, 1961. Photo: AP/Jackson Clarion-Ledger.

submitted by the National Security Archive by releasing thirty-seven heavily excised pages describing counter-intelligence activities in New York City's libraries. All pages were unnumbered and stamped "SECRET" or "TOP SECRET," and all names and dates were expunged throughout. In a subsequent meeting with the ALA's Intellectual Freedom Committee, FBI spokesmen revealed that the Library Awareness Program functioned from 1973 through 1976 and from 1985 to date [1988].

Shortly after the Library Awareness Program was publicly exposed, the New York Library Association (NYLA) wrote to California Representative Don Edwards, chairperson of the House Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, warning, "[s]hould the citizens of this nation perceive the library and its staff as a covert agency of government watching to record who is seeking which bits of information, then the library will cease to be creditable as a democratic resource for free and open inquiry. Once the people of this country begin to fear what they read, view or make inquiry about may [. . .] be used against them or made the object of public knowledge, then this nation will have turned away from the very most basic principle of freedom from tyranny which inspired this union of states."

Representative Edwards, himself a former FBI agent, spoke skeptically of the Bureau's purposes, "They think they can learn what the Russians are doing scientifically if they know what they are reading. But turning librarians into agents is terribly chilling. It's reminiscent of the domestic intelligence files the FBI kept for many years. I thought those bad old days were gone," Edwards reflected, "One wonders what's going to happen to people who write controversial, creative works if they think they are going to be looked at by an FBI agent [. . .] or be reported by library employees who are working for the FBI."

June 20 and July 13, 1988 Chairperson Edwards of the House Subcommittee on Civil and Constitutional Rights scheduled hearings on the *FBI Counterintelligence Visits to Libraries* to scrutinize the efforts of the FBI to collect counter-intelligence data from librarians regarding their patrons.

The ALA's Intellectual Freedom Committee (IFC) Chairman C. James Schmidt's testimony referred to the *ALA Statement of Professional Ethics and Policy on Confidentiality of Library Records*, as well as to the *Library Bill of Rights*, identifying all three with the U.S. Constitution's *First Amendment*. He challenged the strategic value of monitoring and/or restricting access to unclassified information, concluding that the "Library Awareness Program is a threat to the fundamental freedom of this nation."

The ALA filed an appeal with the Justice Department for a full disclosure of the FBI program. ALA Executive Director Linda F. Crismond told a *Library Journal* reporter, "We feel we have been grossly misled about the nature, scope, and continuation of the FBI Library Awareness Program."

July 13, 1988 The ALA Council adopted the *Resolution in Opposition to FBI Library Awareness Program* calling for the immediate cessation of the program "and all other related visits by the Bureau to libraries where the intent is to gain information, without a court order, on patrons' use." As "the attempts by the American Library Association through letters of inquiry, Freedom of Information Act requests, and

offers to meet with FBI representatives in order to secure full background information from the FBI concerning the scope of its activities under the FBI Library Awareness Program and similar programs have been mostly in vain;" and as "the American Library Association opposes any use of governmental prerogatives which leads to the intimidation of the individual or the citizenry from the exercise of free expression; [. . .] The ALA resolves, that copies of this resolution be forwarded to the President of the United States of America, the Senate Judiciary Subcommittee on Technology and the Law, the House Judiciary Subcommittee on Civil and Constitutional Rights, and to the Director of the Federal Bureau of Investigation."

October 30, 1989 The National Security Archive received a response to a FOIA request of over 1,200 previously secret heavily excised FBI documents that provided the disturbing information that the FBI had conducted over 100 background searches on librarians or their associates, many of whom were presumably "those who had criticized the [Library Awareness] program." Additionally, although the FBI had announced the closure of the program in December 1987, these newly released documents showed that investigative contacts continued through 1989. The publication *American Libraries* quoted Judith Krug, ALA's Director of the Office of Intellectual Freedom, objecting: "Talk about being led down the garden path. We believed what we were told, but these documents show that librarians have continued to be contacted after 1987, that people who opposed the program have been investigated, and we are not as secure as we thought."

Tuesday, November 6, 1989 The *New York Times* published an article on the first page exposing the FBI's Library Awareness Program: "Documents Disclose FBI Investigations of Some Librarians," by David Johnston.

"Librarians and others who had criticized a Federal Bureau of Investigation program aimed at finding spies using libraries were themselves subjected to FBI scrutiny earlier this year, according to bureau documents. The bureau conducted a records search to see if some of the critics might have come under Soviet influence to discredit the library program, which sought to keep Soviet agents from using libraries to obtain technical or scientific data. As part of the program, FBI agents interviewed librarians primarily in the New York area, and asked them to report contacts with people who identified themselves as Soviet-bloc nationals or as people assigned to Soviet-bloc organizations."

. . .

"The FBI never understood why people were upset with the Library Awareness Program," said Representative Don Edwards, Democrat of California, who is chairman of the House Judiciary Subcommittee on Civil and Constitutional Rights. The panel held hearings on the program last year."

"The FBI has never understood that the librarians and other Americans think that libraries are sacred," said Mr. Edwards. "It's very dismaying that the FBI so failed to understand what was the source of this criticism."

. . .

"Many librarians were highly critical of the surveillance program because it sought to use library circulation records, which lists the users of library information, as part of the investigation. "We consider circulation records to be private," said Judith

F. Krug, director of the office of intellectual freedom for the American Library Association, "It's nobody's business what you read but yours."

Friday, November 17, 1989 The *New York Times* published an editorial exposing further the FBI's Library Awareness Program, "Card-Carrying Librarians?"

"It sounded at first like the wacky plot of a "Get smart" spy spoof: FBI agents whispering into the ears of librarians urging them to keep an eye peeled for "hostile intelligence service activities" among readers. But the story proved true. Last year the FBI admitted that for more than a decade it had tried to recruit librarians as sentries in the cold war, and FBI Director William Sessions promised to curtail the program.

Now there's a new chapter. Declassified documents show that the FBI conducted cursory investigations of librarians and others who publicly criticized its program. The agency says it did nothing more than a "routine" check of in-house files to see if those who spoke out were urged to do so by the Soviets.

But the documents also show a disturbing indifference to citizens' rights. In a memo complaining of resistance from Brooklyn librarians, an agent asserted that "this attitude . . . should not remain unchallenged." Yet in New York, as in 34 other states, libraries may not reveal information about users except by court order.

Last week, Mr. Sessions spoke approvingly of the librarian investigations—even though he told Congress last year that he would limit the program and that participation by librarians would be voluntary. If his agents fear spies in the stacks, let them get a court order to check it out. His main mission ought to be to end this offensive encroachment of the rights of library workers and users."

January 16, 1991 The ALA Council adopted the *Universal Right to Free Expression*, an endorsement of the principles set forth in the *Universal Declaration of Human Rights* adopted by the United Nations General Assembly:

"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

Everyone has the right to freedom of peaceful assembly and association.

No one may be compelled to belong to an association."

. . .

"There is no good censorship. Any effort to restrict free expression and the free flow of information aids the oppressor. Fighting oppression with censorship is self-defeating. [. . .]"

"Threats to the freedom of expression of any person anywhere are threats to the freedom of all people

everywhere. Violations of human rights and the right of free expression have been recorded in virtually every country and society across the globe."

June 28, 1995 The ALA Council adopted an amended *Code of Ethics of the American Library Association*. The statement began:

"As members of the American Library Association, we recognize the importance of codifying and making known to the profession and to the general public the ethical principles that guide the work of librarians, other professionals providing information services, library trustees and library staffs.

Ethical dilemmas occur when values are in conflict. The American Library Association Code of Ethics states the values to which we are committed, and embodies the ethical responsibilities of the profession in this changing information environment.

We significantly influence or control the selection, organization, preservation, and dissemination of information. In a political system grounded in an informed citizenry, we are members of a profession explicitly committed to intellectual freedom and the freedom of access to information. We have a special obligation to ensure the free flow of information and ideas to present and future generations.

The principles of this Code are expressed in broad statements to guide ethical decision-making. These statements provide a framework; they can-

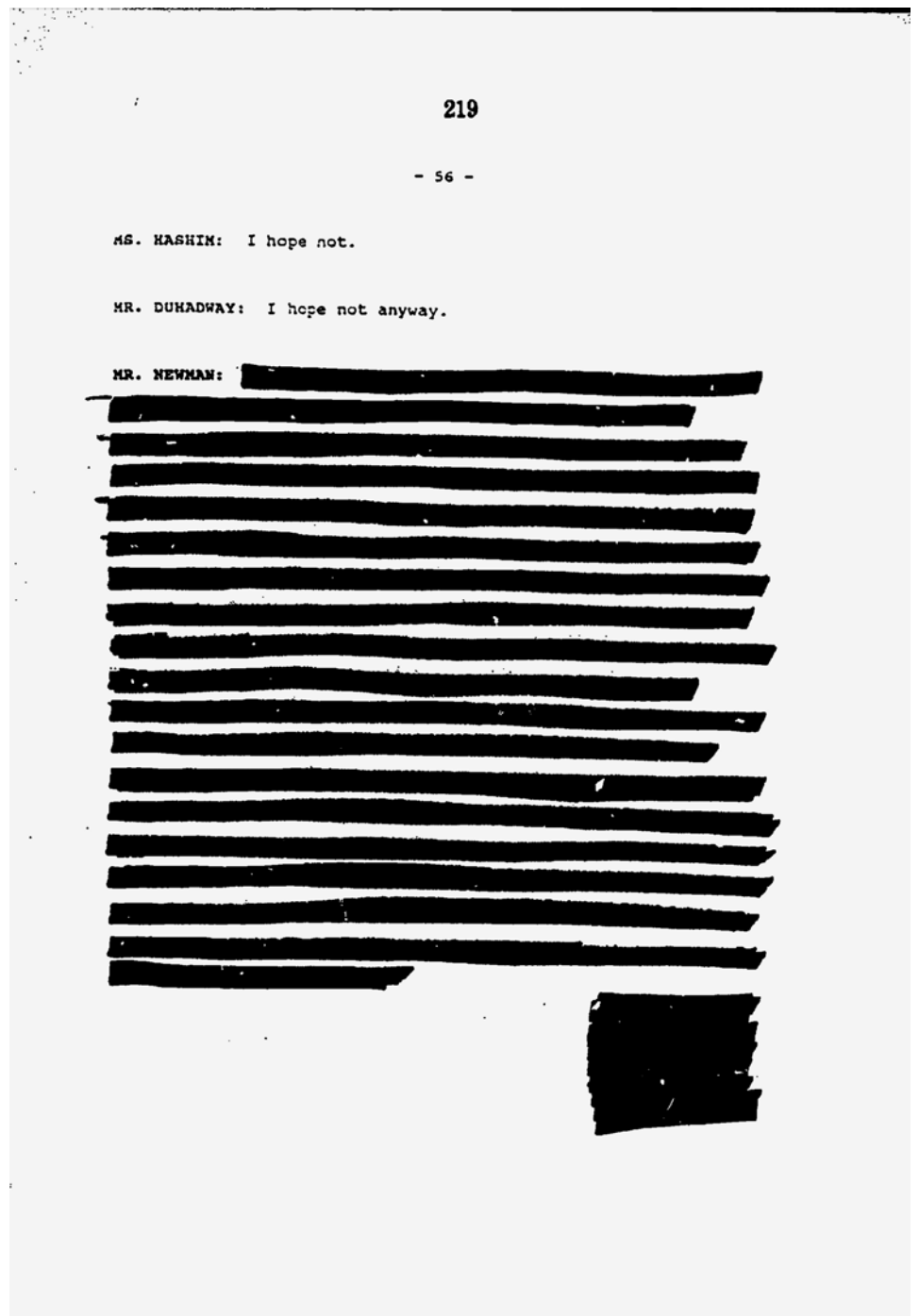
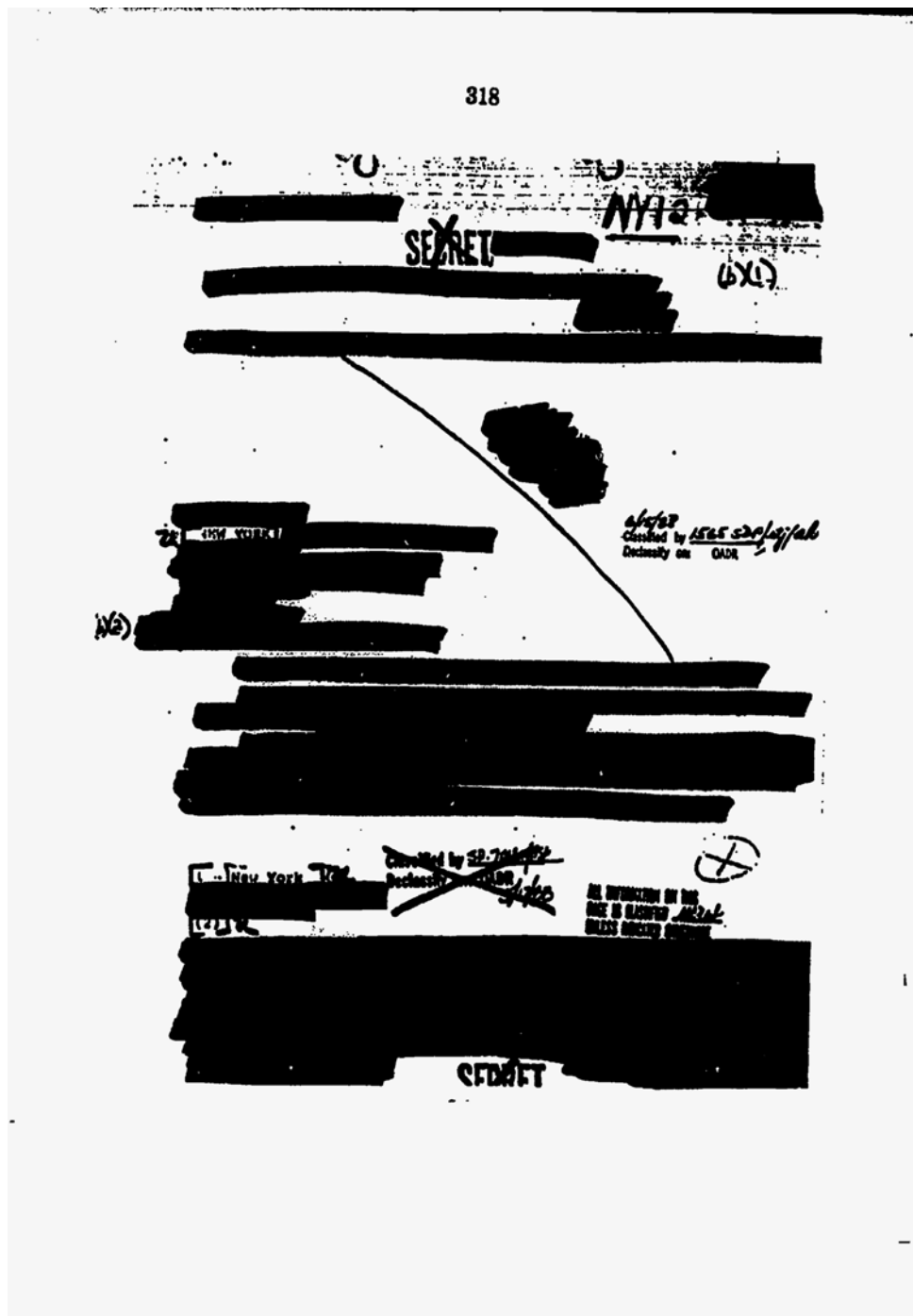
not and do not dictate conduct to cover particular situations."

1995 *Case v. Unified School District No. 233 (D. Kansas)*—When the Olathe, Kansas, School Board voted to remove the book *Annie on My Mind*, a novel depicting a lesbian relationship between two teenagers, from the district's junior and senior high school libraries, the Kansas federal district court found the school board violated the students' rights under the First Amendment to the U.S. Constitution and the corresponding provisions of the Kansas State Constitution. Despite the fact that the school board testified that they had removed the book because of "educational unsuitability," which was within their rights under the *Pico* decision, it became obvious from their testimony that the book was removed because they disapproved of the book's ideology. In addition, it was found that the school board violated their own materials selection and reconsideration policies, which weighed heavily in the judge's decision.

Campbell v. St. Tammany Parish School Board (5th Circuit)—The St. Tammany Parish Public school district, in Louisiana, removed the book *Voodoo and Hoodoo*, a discussion of the origins, history, and practices of the voodoo and hoodoo religions that included an outline of some specific practices, from all district library shelves. Parents of several students sued and the district court granted a summary judgment in their favor. The Court of Appeals reversed the decision, finding that there was not enough evidence to determine that board mem-

bers had an unconstitutional motivation, such as denying students access to ideas with which board members disagreed. The court remanded the case for a full trial at which all board members could be questioned about their reasons for removing the book. The court observed that "in light of the special role of the school library as a place where students may freely and voluntarily explore diverse topics, the school board's non-curricular decision to remove a book well after it had been placed in the public school libraries evokes the question whether that action might not be an attempt to 'strangle the free mind at its source.'" The court focused on some evidence that school board members had removed the book without having read it or having read only excerpts provided by the Christian Coalition. The parties settled the case before trial by returning the book to the libraries on specially designated reserve shelves.

2000 *Sund v. City of Wichita Falls, Texas (N.D. Texas)*—City residents who were members of a church sought removal of two books, *Heather Has Two Mommies* and *Daddy's Roommate*, because they disapproved of the books' depiction of homosexuality. The City of Wichita Falls City Council voted to restrict access to the books if '300 persons were to sign a petition asking for the restriction.' A separate group of citizens filed suit after the books were removed from the children's section and placed on a locked shelf in the adult area of the public library. Following a trial on the merits, the District Court permanently enjoined the city from enforcing the resolution permitting the removal of



the two books. The court held that the city's resolution constituted impermissible content-based and viewpoint based discrimination; provided no standards or review process; and improperly delegated governmental authority over the selection and removal of the library's books to any 300 private citizens who wished to remove a book from the children's area of the library.

2000 The ALA *Freedom to Read Statement* was amended to include a more detailed description of methods of suppression beyond 'the book' and the pressures of conformity brought to bear: "These efforts at suppression are related to a larger pattern of pressures being brought against education, the press, art and images, films, broadcast media, and the Internet. The problem is not only one of actual censorship. The shadow of fear cast by these pressures leads, we suspect, to an even larger voluntary curtailment of expression by those who seek to avoid controversy. Such pressure toward conformity is perhaps natural to a time accelerated change. And yet suppression is never more dangerous than in such a time of social tension."

September 11, 2001 The 9/11 terrorist attacks launched the United States into a new era of defensive preparedness. The U.S. federal government's first legislative action early the following month was the passage of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA Patriot Act)*. The USA Patriot Act introduced a greatly heightened level of government intrusion into many aspects of ordinary life, including library use.

September 20, 2001 In the wake of the 9/11 attacks, a coalition of organizations across the country formed in an effort to call attention to the need to move cautiously on proposals that could affect our civil liberties.

The *In Defense of Freedom* statement, signed by members of this coalition, including the American Library Association and the Freedom to Read foundation, called on political leaders and the country to "ensure that actions by our government uphold the principles of a democratic society, accountable government and international law, and that all decisions are taken in a manner consistent with the Constitution." The statement further detailed, "We should resist efforts to target people because of their race, religion, ethnic background or appearance, including immigrants in general, Arab Americans and Muslims;" and that "We affirm the right of peaceful dissent, protected by the First Amendment, now, when it is most at risk."

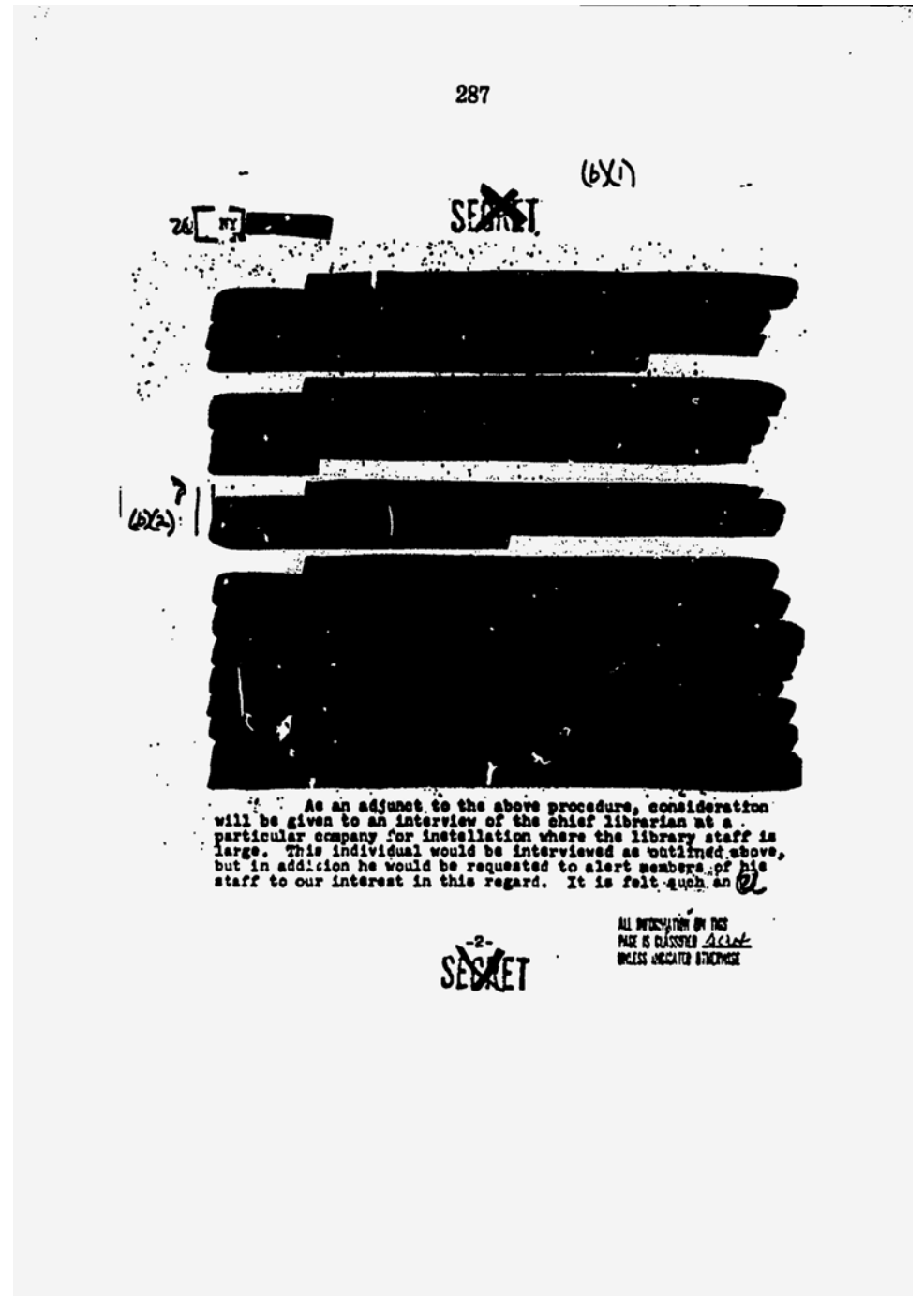
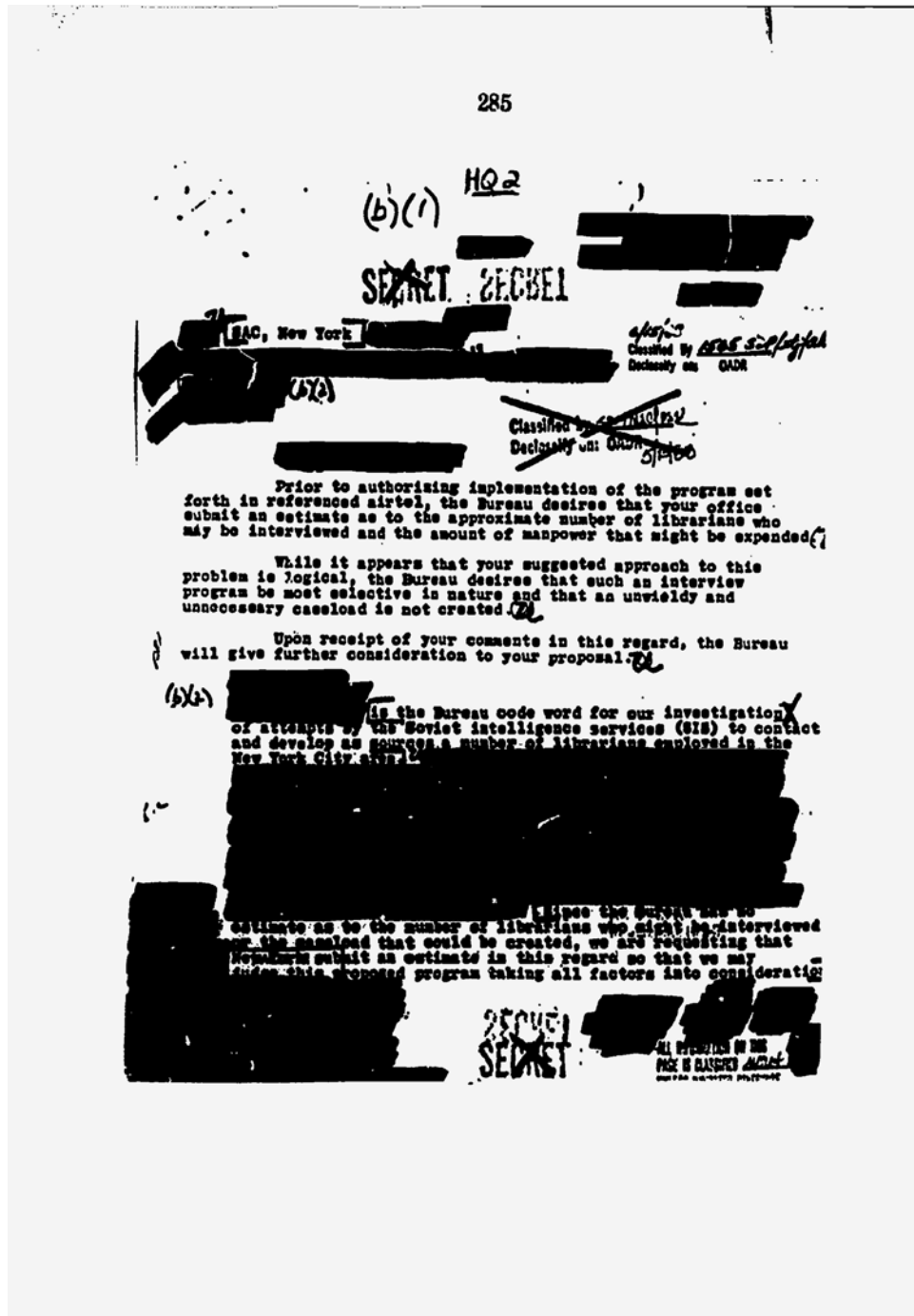
More than 150 organizations, 300 law professors, and 40 computer scientists expressed support for the statement.

June 2002 At the annual conference, on recommendation by the Intellectual Freedom Committee (IFC), the ALA Council adopted the policy on *Privacy: An Interpretation of the Library Bill of Rights* asserting that "in a library (physical or virtual), the right to privacy is the right to open inquiry without having the subject of one's interest examined or scrutinized by others. Confidentiality exists when a library is in possession of personally identifiable in-

formation about users and keeps that information private on their behalf. Protecting user privacy and confidentiality is necessary for intellectual freedom and fundamental to the ethics and practice of librarianship." The resolution further clarified that "users have the right to be informed what policies and procedures govern the amount and retention of personally identifiable information, why that information is necessary for the library, and what the user can do to maintain his or her privacy. Library users expect and in many places have a legal right to have their information protected and kept private and confidential by anyone with direct or indirect access to that information."

January 2003 The ALA codified a three-fold response to the USA Patriot Act in its *Resolution on the USA Patriot Act and Related Measures That Infringe on the Rights of Library Users*. First, the resolution urged education about how to comply with the act but also about the inherent dangers to intellectual freedom. It further advised that libraries "adopt and implement patron privacy and record retention policies" to collect only information that was necessary for the library's work. Second, the resolution bound the ALA to work with other like-minded organizations "to protect the rights of inquiry and free expression." Third, it committed the ALA "to obtain and publicize information about the surveillance of libraries and library users by law enforcement agencies."

In an effort to publicize the surveillance that had occurred, the ALA submitted a FOIA request for the number and content of subpoenas issued under



the Patriot Act's 'Section 215.' When the Justice Department failed to respond, the ALA participated in a joint lawsuit with the American Booksellers Foundation for Free Expression, the American Civil Liberties Union, and the Electronic Privacy Information Center.

May 2003 The House Judiciary Committee obtained information from the Justice Department that "FBI agents have contacted about 50 libraries as part of investigations."

ALA President Carla Hayden publicly challenged the Justice Department to make available the records sought in the FOIA request. Attorney General John Ashcroft mocked the request, adding offensive remarks deriding the significance of the ALA's concerns. Hayden's reply was swift and clear, "We are deeply concerned that the Attorney General should be openly contemptuous of those who seek to defend our Constitution."

"In April 2003, the Anglo-American army stood by while the National Archives, the Archaeological Museum and the National Library of Baghdad were ransacked and looted. In a few hours, much of the earliest recorded history of humankind was lost to oblivion. The first surviving examples of writing, dating from six thousand years ago; medieval chronicles that had escaped the pillage of Saddam Hussein's henchmen; numerous volumes of the exquisite collection of Korans kept at the Ministry of Religious Endowment—all disappeared, probably forever. Lost are the manuscripts lovingly penned

by the illustrious Arab calligraphers, for whom the beauty of the script had to mirror the beauty of the contents. Vanished are collections of tales like those of the Arabian Nights, which the tenth-century Iraqi book dealer Ibn al-Nadim called evening stories because one was not supposed to waste the hours of the day reading trivial entertainment. The official documents that chronicled Baghdad's Ottoman rulers have joined the ashes of their masters. Gone, finally, are the books that survived the Mongol conquest of 1258, when the invading army threw the contents of the libraries into the Tigris to build a bridge of paper that turned the waters black with ink."

"Trust in the survival of the word, like the urge to forget what words attempt to record, is as old as the first clay tablets stolen from the Baghdad Museum. To hold and transmit memory, to learn through the experience of others, to share knowledge of the world and of ourselves, are some of the powers (and dangers) that books confer upon us, and the reasons why we both treasure and fear them."

Manguel, Alberto

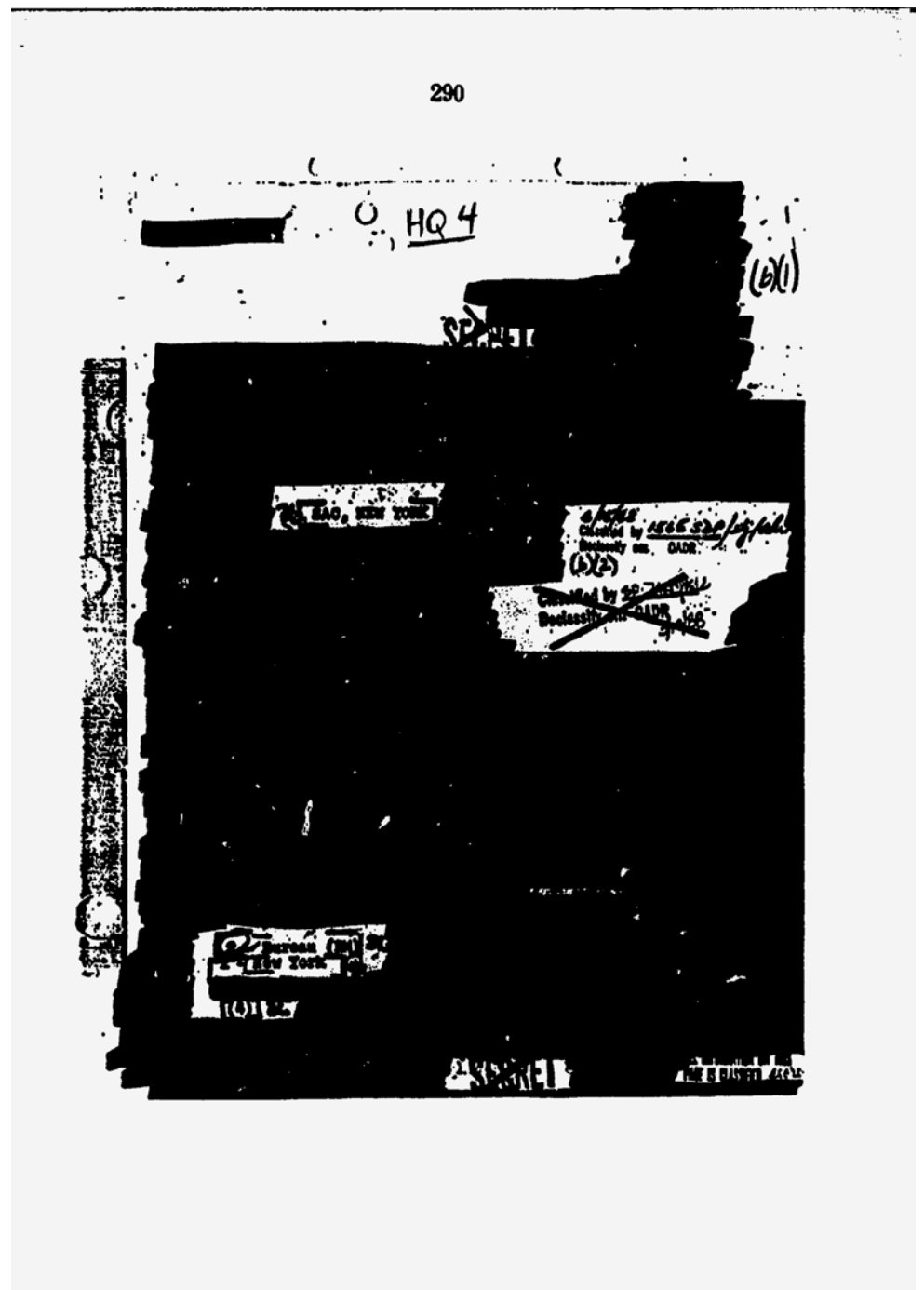
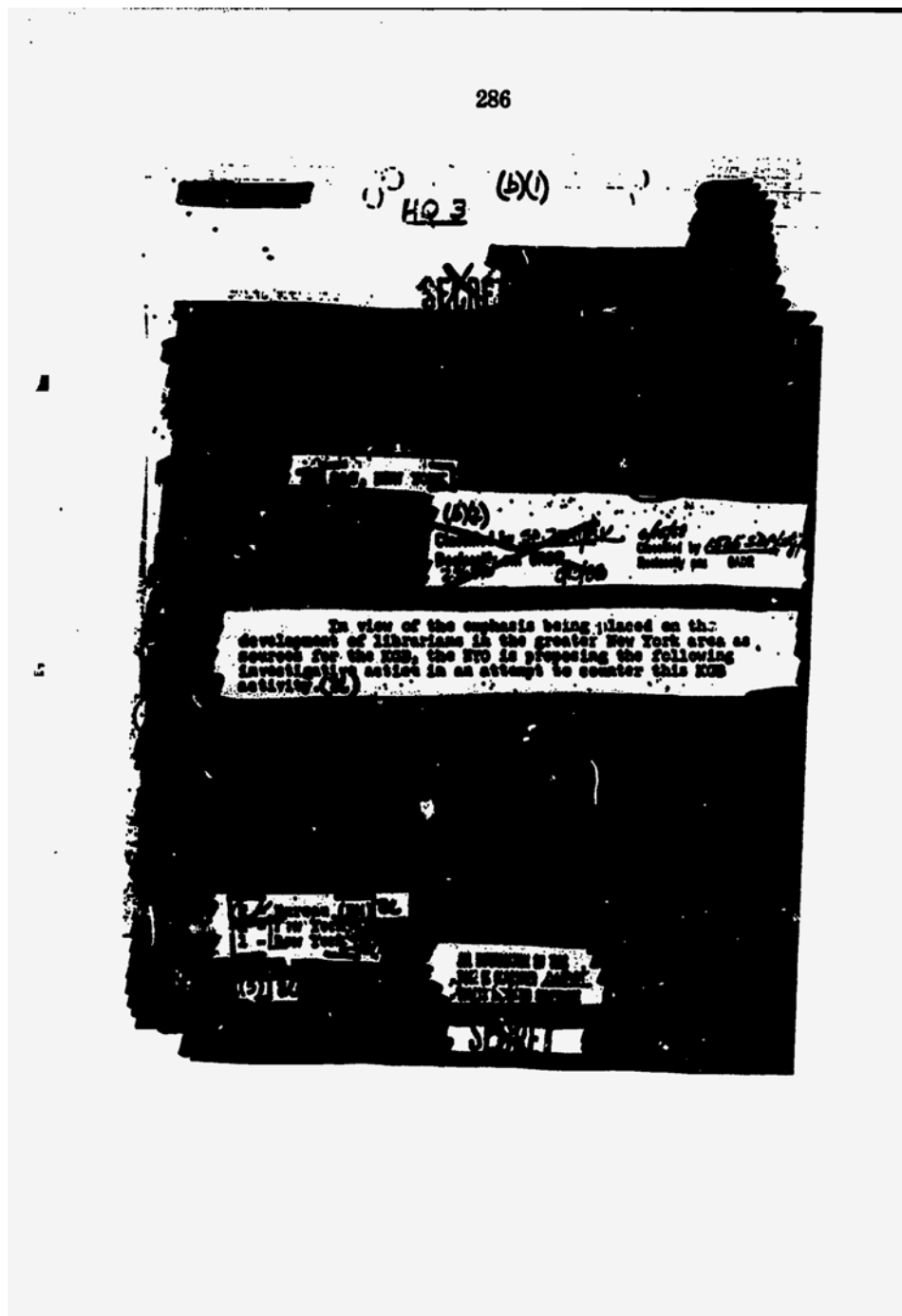
"The Library as Oblivion," *The Library at Night*

2004 The ALA Freedom to Read Statement was amended to caution that the freedom to read, essential to a democracy, continued to be challenged in the guise of "counter[ing] threats to safety or national security," that it is the responsibility of publishers and librarians to contest encroachment upon that freedom by not only individuals and groups but also "by the government when-

ever it seeks to reduce or deny public access to public information." The statement recognized the larger pattern of suppression of expression by those who wish to avoid controversy included the fear of "unwelcome scrutiny by government," and further counseled "democratic societies are more safe, free, and creative when the free flow of public information is not restricted by governmental prerogative or self-censorship."

June 29, 2005 At the Annual Conference ALA Council adopted the *Resolution on the USA Patriot Act and Libraries*. The resolution addressed persistent concerns that "the Senate Select Committee on Intelligence recent legislation (S. 1266) [vastly expands] the government's authority under the USA Patriot Act allowing the FBI to issue subpoenas, with no prior judicial oversight, to get any records from any entity." The resolution detailed that "'Section 215' of the USA Patriot Act allowed the government to secretly request and obtain library records for large numbers of individuals without any reason to believe they are involved in illegal activity; and 'Section 505' permitted the FBI to obtain electronic records from libraries with a *National Security Letter* without prior judicial oversight; and such open-ended searches exposed all library users to the search and seizure of their records and to the invasion of their privacy."

The resolution "urge[d] Congress to pass legislation that restores the privacy rights of library users;" and "opposes any further initiatives on the part of the United States government to constrain the free expression of ideas or to inhibit the use of libraries as



FBI documents disclose surveillance of libraries, the Library Awareness Program; FOIA request submitted by National Security Archive; released November, 1989.

The FBI has not been here

[watch very closely for the removal of this sign]

We're Sorry!

Due to National Security Concerns, we are
unable to tell you if your internet surfing habits,
passwords and email content are being monitored
by federal agents; please act appropriately.

we have been visited by the FBI
they requested your reading lists
now do you feel more secure?

represented in the *USA Patriot Act* expansion bill marked-up in secret by the Senate Select Intelligence Committee." It concluded with a directive urging "librarians and other library workers, trustees and advocates throughout the country to continue their efforts to educate their users on the impact of 'Sections 215 and 505' of the Act on libraries."

2006 A resident of Marshall, Missouri attempted to have Alison Bechdel's *Fun Home* and Craig Thompson's *Blankets*, both graphic novels, removed from the city's public library. Supporters of the books' removal characterized them as "pornography" and expressed concern that they would be read by children. Marshall Public Library Director Amy Crump defended the books as having been well reviewed in "reputable, professional book review journals," and characterized the removal attempt as a step towards "the slippery slope of censorship." On October 11, the library's board appointed a committee to create a materials selection policy, and removed *Fun Home* and *Blankets* from circulation until the new policy was approved. The committee "decide[d] not to assign a prejudicial label or segregate [the books] by a prejudicial system," and presented a materials selection policy to the board. On March 14, 2007, the Marshall Public Library Board of Trustees voted to return both *Fun Home* and *Blankets* to the library's shelves.

April 11, 2007 In response to growing alarm and concerns regarding the Justice Department and the FBI's use of secret *National Security Letters* (NSL) and the imposition of the gag rule on recipients of the letters, the House Judiciary Committee on the Constitution convened hearings, *Judiciary Subcommittee on the Constitution, Hearing Responding to The Inspector General's Findings of Improper Use of National Security Letters by the FBI*.

This allowed testimony of ACLU client and NSL letter recipient George Christian, Executive Director Library Connection, Inc. to be submitted.

"My name is George Christian, and I, along with three of my colleagues, are the only recipients of an NSL who can legally talk about the experience. We won the right to do so in Federal District Court and have now become known as the "Connecticut John Doe's" or the "Connecticut Four." Ours is a story that we hope will provoke serious thought. Though our gag order was lifted, several hundred thousand other recipients of national security letters must carry the secret of their experiences to their graves."

...

"Because of the NSL gag orders, librarians receiving these letters are not able to inform patrons about specific or broad inquiries. Nor can we report the use of NSLs to local or Congressional officials as part of your oversight responsibilities to insure that abuses are not taking place, and assess the best uses of these legal tools. [. . .] If our gag order had not been lifted, we would not be able to share our story with you and the world.

Sometime after the passage of the *USA Patriot Act*, and before our own experiences in Connecticut, some observers dropped their concerns about investigative abuses when Attorney General Ashcroft declared that librarians were "hysterical" with their concerns and that the *USA Patriot Act* had not been used in libraries. You can imagine we were therefore quite shocked to be served with a national security letter! We were disappointed that Attorney General John Ashcroft's assurances,

echoed by his successor Alberto Gonzales, were inaccurate at a time when Congress was preparing to debate the renewal of the *Patriot Act*. But, because of the gag order, there was no way we could respond or tell our story at the time.

The "Connecticut Four" continue to feel strongly that libraries were and should remain pillars of democracy, institutions where citizens could come to explore their concerns, confident that they could find information on all sides of controversial issues and confident that their explorations would remain personal and private."

...

"We urge Congress to re-consider the *Patriot Act*. Restore basic civil liberties. Restore constitutional checks and balances by requiring judicial reviews of NSL requests for information, especially in libraries and bookstores where a higher standard of review should be considered. National security letters are very powerful investigative tools that can be used to obtain very sensitive records. The FBI should not be allowed to issue them willy-nilly. It shouldn't be allowed to issue NSLs unless a court has approved it and found that the records it seeks are really about a suspected terrorist. We believe that terrorists win when fear of them induces us to destroy the rights that make our country free."

June 29, 2010 At the ALA Annual Conference the Intellectual Freedom Committee (IFC) presented the *Prisoners' Right to Read: An Interpretation to the Library Bill of Rights* to the ALA Council for adoption. The new interpretation was adopted and the *ALA Policy Manual* was amended to include: "The American Library Association asserts a compelling public interest in the preservation of intellectual freedom for individuals of any age held in jails, prisons, detention facilities, juvenile facilities, immigration facilities, prison work camps and segregated units within any facility. Those who cherish their full freedom and rights should work to guarantee that the right to intellectual freedom is extended to all incarcerated individuals."

October 6, 2010 *Prison Legal News and Human Rights Defense Center vs. Berkeley County Sheriff, et al.* (U.S. District Court, South Carolina Charleston Division)—The South Carolina chapter of the ACLU filed a First Amendment lawsuit against the county jail on behalf of the monthly magazine *Prison Legal News*. The lawsuit contended that Berkeley County prison officials were denying inmates any reading material except for the *Christian Bible*. "This is nothing less than unjustified censorship," stated David Shapiro, staff attorney with the ACLU National Prison Project. "There is no legitimate justification for denying detainees access to periodicals and, in the process, shutting them off from the outside world in draconian ways."

The editors of *Prison Legal News* contended that every issue of the magazine requested by Berkeley County Detention Center prisoners had been intercepted by corrections officials and in some cases, mailed back to the magazine. In July First Sgt. K. Habersham had emailed *Prison Legal News*, "Our inmates are only allowed to receive soft back bibles in the mail directly from the publisher."

Prison Legal News challenged the censorship policies of the Berkeley County Detention Center, "Such policies prevent every newspaper, magazine, and book—except the *Bible*—from entering the Detention Center. Without any notice to senders, the Detention Center routinely refuses to

deliver these expressive works to detainees."

The plaintiff *Prison Legal News* is the publisher of a monthly journal on prison law distributed across the nation to prisoners, attorneys, judges, law libraries, and other subscribers. *Prison Legal News* is also a book distributor, specializing in books and materials regarding prisoners' rights and issues related to the criminal justice and corrections systems.

The Detention Center has routinely violated the rights of *Prison Legal News* under the Speech, Establishment, and Due Process Clauses of the First and Fourteenth Amendments by censoring and failing to deliver multiple copies of journals and books sent to detainees by *Prison Legal News*. Defendants have also unlawfully refused to deliver letters sent by *Prison Legal News* to detainees."

2011 The Texas Civil Rights Project published *Banned Books in the Texas Prison System: How the Texas Department of Criminal Justice Censors Books Sent to Prisoners, 2011 Human Rights Report*:

"In 2008, TDCJ [The Texas Department of Criminal Justice] did not allow prisoners to receive 11,544 books that were sent to them. Prisoners attempted to appeal 2,472 times, but the MSCP/DRC actually reviewed only 1,210. (Approximately 1,200 books were already permanently banned, preventing the prisoners from appealing.) Only three TDCJ employees review appeals, requiring them to consider between two and three books each day.

The complete banned books list has 11,851 titles. Of these books, 8,002 books are permanently banned—no further appeal is possible. The remaining titles have not been appealed yet to the DRC/MSCP [Directors Review Committee/Mail System Coordinators Panel]."

January 2012 *Prison Legal News*, et al and the Berkeley County Sheriffs Office entered into a consent injunction with the purpose of ensuring that Berkeley County Detention Center (BCDC) detainees receive all the publications and religious materials sent to them, as required by the First Amendment:

"BCDC detainees shall be permitted to receive and retain any and all publications which do not threaten BCDC safety or security. Permissible publications include *Prison Legal News*, soft cover books, news magazines, sports and entertainment magazines, other general interest publications, and newspapers of general circulation."

July 26, 2017 In 'The Mass Book Banning in Texas Prisons,' published in the *Intellectual Freedom Blog*, Office for Intellectual Freedom of the ALA, contributor Sarah Hicks wrote:

"According to the Texas Department of Criminal Justice, books in state prisons can be banned "if they: 1) Contain contraband 2) Contain information about manufacturing explosives, drugs or weapons 3) Are written "solely for the purpose of" "achieving the breakdown of prisons" through strikes, riots or gang activity 4) The prison makes "a specific determination [. . .] that the publication is detrimental to offenders' rehabilitation because it would encourage deviant criminal sexual behavior" 5) Have instructions on how to set up "criminal schemes" or 6) contain "sexually explicit images." This seems like a fairly straightforward list, but a lack of clear guidelines means that the decision to ban a book is usually up to one single prison employee.

Most of these books end up banned when someone attempts to send one to a prisoner and someone in the mailroom decides to not give it to the intended recipient."

...

"When someone sends a book to a prisoner in a Texas state prison, that book is checked against a list of 'acceptable' materials. If the book is not on the list, then it's up to mailroom workers to decide, based on the above guidelines, if the book is allowable or not. These workers aren't really trained for this, and so the results are often pretty arbitrary. Books on the Civil Rights movement or books by groundbreaking African-American authors are banned for including the "n-word," while books by neo-Nazis and white supremacists are totally allowed. A book with a classic nude painting on the cover might be banned solely due to nude painting and not the content, but *Lolita* is fine. And, again, the appeal process is difficult and rarely amounts to anything."

...

"If we are truly standing for intellectual freedom, which includes the freedom to read, we must also extend our efforts to people in prison. While outrage on behalf of censorship in schools or public libraries is easier in many ways, if we ignore this issue in Texas prisons, we are absolutely neglecting the more than 2 million Americans imprisoned nationwide."

November 27, 2017 The *Dallas Morning News* published an article titled 'Why do Texas Prisons Ban 'Freakonomics' but not Adolf Hitler's 'Mein Kampf'?' by staff writer Stephanie Lamm:

"Alice Walker's *The Color Purple*, which won the Pulitzer Prize and National Book Award for fiction, is not allowed. Neither is *Freakonomics*, the 2005 bestseller that explained concepts such as cheating at school and parenting techniques using economic theory.

But Adolf Hitler's *Mein Kampf*, as well as his *On National Socialism and World Relations*, are both on the Texas Department of Criminal Justice's list of approved books. Also allowed are two books by former Ku Klux Klan Grand Wizard David Duke as well as James Battersby's *The Holy Book of Adolf Hitler*, described on Amazon.com as "the Bible of neo-Nazism and of esoteric Hitlerism."

Where's Waldo? Santa Spectacular is banned. So is *Homer Simpson's Little Book of Laziness* and *Monty Python's Big Red Book*. A collection of Shakespearean sonnets is banned.

On the approved list? *Satan's Sorcery Volume I* by Rev. Caesar 999 and *100 Great Poems of Love and Lust*."

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Citizen's Group of Warsaw, Indiana burning copies of textbook banned by the Warsaw school board. December 15, 1977. Photo: Michael Myers, Warsaw Times-Union.

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