The Librarian Looks at the Obscenity Law Revisions

Statement before the N.C. State Library Commission
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Editor's Note: *Ordinarily,* ***North Carolina Libraries*** *does not publish speeches and/or addresses except in the biennial conference issue. Due to the currency and interest in this new legislation, however, we have made an exception and publish Dr. Lanier's address in its entirety.*

I appreciate your invitation to appear before you today and voice some of the concerns librarians in North Carolina have expressed to me about the revisions in the obscenity statutes passed during the last session of the General Assembly. Although we have been told numerous times by legislators, representatives of the Attorney-General's Office, and local police officials that we should be unconcerned, there are several items in the new legislation which give us pause. This is mainly due to the experiences we have had the past few years in dealing with would-be censors whose major aim is to rid our libraries and classrooms of materials which they consider to be obscene and inappropriate for use.

Since 1980, I have served as chairman of the Intellectual Freedom Committee of the N.C. Library Association and during that period we have responded to over 200 requests from librarians around the state who were in the midst of a censorship attempt or who were anticipating an attack. We are strong believers in the First Amendment to the U.S. Constitution which says Congress shall make no law abridging the freedom of speech, or of the press. I am a fool for these words. I am a fool for the concept. To me, the words of the First Amendment are absolute. "Congress shall make NO law ..." it says. It does not say that there will be freedom of expression provided said expressions do not run contrary to popular thought. It does not say there will be freedom of expression provided said expressions have no tendency to subvert standing institutions.

From the outset, let me say I am not comfortable with many of the excesses that take place in the name of the First Amendment. I honestly feel that this was the major thrust of this new legislation. But, how can I tell what you may judge to be an excess? And isn't that just the point of the First Amendment? Even when it comes to expressing or publishing the most unpopular idea or the most admittedly offensive material—unless, perhaps, the material is designed and likely to produce imminent lawless action—excesses must be tolerated. The First Amendment recognizes that what may be trash or trivia or indecency or obscenity to me may be quite another matter to you. One man's vulgarity is another man's lyric.

Fortunately, librarians operate under what is known as *The Library Bill of Rights.* It indicates that libraries are forums for information and ideas and should provide materials presenting all points of view on current and historical issues. Materials should not be excluded because of the origin, background, or views of those contributing to their creation. Every person should have access to these materials regardless of their origin, age, background, or views. Professional librarians, in selecting materials, follow written, approved selection policies which include the library's goals and objectives, criteria for selection, and procedures for handling complaints. Therefore, most unsavory titles never reach the shelves in the first place. Our problems have come from the individual interpretations of what is obscene and what are objectionable ideas, philosophies, and language.

Keeping watch over what our library users read—as well as what they write, view, and think—has, for many, become a national pastime. These individuals and groups have been especially active when it came to materials for children and young people.

These attempts to restrict materials have been initiated by a variety of sources: parents, teachers, school officials, school board members, librarians, civic groups, publishers, local clergy and church groups. The reasons they gave for this censorship activity have included and I quote:

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profanity, unsuitability, obscene, demeaning, racist, inappropriate Biblical references, uneducational, historically inaccurate, meritless, too realistic, and the old standbys—*filthy, rotten,* and *too sexually explicit.*

Whatever the euphemism used to initiate censorship, the effects are the same: Censorship—whatever its label—limits the diversity of ideas, opinions, and points of view to which young people should be exposed ... and which public schools and libraries in a free society have an obligation not only to provide, but to encourage. Censorship activity is not confined to any geographic area, nor is it limited to either end of the political spectrum. The urge to censor—today, as in the past—affects every race, age, color, creed, and nationality.

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So what does all of this have to do with the new obscenity statutes? There are too many individuals as well as organized groups in our state, such as the Moral Majority, the Eagle Forum, and the John Birch Society, who have made it their priority to attack public education and many of the teaching materials and methods used in our public institutions, including libraries. Their efforts have been in the form of letter-writing campaigns, press releases, hearings, public forums, and attacks on specific sections of the curriculum, individual books and teaching materials, and individual teachers. Librarians on many occasions have been victims of these attacks.

Just as video dealers and some bookstore owners in the state are currently having difficulty determining what might be considered objectionable or obscene, many librarians feel they will be placed in the same position. Obscenity is in the eye of the beholder and it makes it very difficult to determine what falls into this category under the current statutes. Some individuals and groups have already threatened that once they finish with the bookstores and video shops, they are going to move into our libraries and schools and clean them up as well.

This, of course, brings up the section dealing with "local community standards". Who will determine these? Will we go to the person who lives on the corner of each block to decide the standard for each of our communities? You can already imagine the inconsistencies that will probably occur as we move from urban to rural and from one geographical part of the state to another. Every library and every educational institution is different just as every community is different. Without some definite criteria to follow, librarians feel they will be at a loss in making decisions concerning items dealing with sex education, drug and alcohol abuse, evolution, etc.

The term *obscene* was used on the complaint forms which were filed in libraries in Wilmington and Durham involving the "R" volume of *World Book Encyclopedia* due to its section on reproduction and *Little Red Riding Hood.* These are just two extreme examples of what some of our citizens consider obscene.

This is one of the basic reasons librarians were upset when the section dealing with a prior adversary hearing was repealed. Librarians felt more secure when there was a judicial determination of obscenity prior to prosecution. Now, this decision will be made, we understand, by a prosecutor which we assume means the local district attorney. This is somewhat better than the original bill which made the local police official the determinant. Nothing against local police officials, but we feel better having someone completely versed with the law making the obscenity determination. This is due to the fact that it has been our experience that many of the complainants are very emotional and use intimidation to get their point across. In the past, they have threatened warrants or criminal process in order to get books and other materials removed from the library shelves.

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Another concern was the removal of the phrase "of educational value" from the definition.

In the goals and objectives of every type of library is the educational responsibility. This, to some librarians, makes some of their materials more vulnerable to attack.

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We realize also that the section of the law dealing with defenses says, "It is an affirmative defense to a prosecution under this section that: (2) The defendant was a school, church, museum, public library, governmental agency, medical clinic, or hospital carrying out its legitimate function; or an employee or agent of such an organization acting in that capacity and carrying out a legitimate duty of his employment." We assume a public library means any library open to the public which would include libraries in schools, community colleges, and other academic settings as well. The question is just what is "an affirmative defense"? Several legislators have informed us that this is meaningless when it comes to some of the tactics used by the complainants.

The library profession, just like many of our citizens and police officials, are very concerned about child pornography and other problems facing our state. But we also have great concern that in the attempt to rid North Carolina of some of these unacceptable things in our society, we overlook some of the basic freedoms we have held dear and almost sacred in a free society. Although the padlocking of a library or the prosecution of a librarian may seem unlikely, after many of the experiences we have had with people in the past few years who would like to do just that, it sends cold chills up our spines when we read the revised statutes word-by-word.

As distributors of information in a public place, librarians feel threatened by the changes in the law and hope we can be prepared before the censors come. We subscribe to both intellectual freedom and due process as a profession but have reservations about the interpretations of the revised law. We live in a country and a state where citizens take their rights for granted. Dealing with this apathy among some of our library supporters and with the emotional appeals of individuals and groups who would strip our library shelves of their holdings has caused us to become concerned about what the future holds.

Thank you for your kind attention.