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Intellectual Freedom and the Oregon Legislature

Looking back and looking ahead.

*By Nan Heim
OLA lobbyist*

Once upon a time, not so long ago, it was a rare occasion when the Oregon Legislature even considered a bill which might seriously threaten intellectual freedom. Occasionally during the '80s, a censorship bill would get scheduled for a hearing. OLA would oppose the bill, and it would invariably die in committee.

Today, those seem like the good old days! In the 1995 session of the Oregon Legislature, dozens of bills threatening intellectual freedom were introduced and seriously considered.

Legislature passes "Son of 19"

Senate Joint Resolution 41, dubbed the "Son of 19," passed the Legislature in the closing days of the 1995 session. SJR 41 proposes a constitutional amendment nearly identical to Ballot Measure 19 opposed by OLA and defeated by Oregon voters in the November 1994 general election. The "Son of 19" will be on the statewide ballot in November 1996. If it passes, it will allow state and local governments to censor "obscenity" as long as they do not violate the U.S. Constitution.

In testimony, letters and other contacts, OLA opposed SJR 41 and its companion bill, SB 1120, the ballot title for the measure.

"The Oregon Library Association opposes SJR 41 and SB 1120. OLA stands in opposition to any measure that weakens the free speech provisions of the Oregon Constitution. ... SJR 41 and SB 1120 would open the door to more restrictive local definitions of obscenity and would increase materials being challenged. More materials, including classic literature and books on health, would be removed from our libraries. Freedom to read is a basic individual right. We must not deny the citizens of Oregon this fundamental right by allowing the few to decide what the rest can or cannot read."

*From OLA's memo to legislators on
SJR 41 and SB 1120, June 1, 1996*

OLA supported Minority Report

There was a battle in the House over SJR 41. Reps. Lee Beyer, D-Springfield, and Tony Corcoran, D-Cottage Grove, introduced a Minority Report to limit the effect of the bill to child pornography. OLA supported the Beyer-

Corcoran Minority Report, as did the ACLU.

If there was a definitive vote on freedom of expression in the 1995 Legislature, it was probably the House vote on the Beyer-Corcoran Minority Report to SJR 41. If a legislator had any interest in protecting intellectual freedom, he or she could vote for the Minority Report and still be against child pornography. The Minority Report was a "moderate" proposal and should have been a relatively easy vote. But in the 1995 Legislature, there were few easy votes on intellectual freedom. The House defeated the Beyer-Corcoran Minority Report by a close vote of 28 'yes' to 32 'no' and then went on to pass the original SJR 41. The measure had already passed the Senate.

SJR 41's companion bill, SB 1120, also passed the Legislature. But Gov. John Kitzhaber vetoed it. He had no opportunity to veto SJR 41 because measures that refer constitutional amendments to voters do not go to the governor for signing. OLA supported the governor's veto of SB 1120. Had it become law, it would have prescribed the language for the ballot title of "Son of 19." With the veto, it is now up to the attorney general's office to write the ballot title and there is hope for more neutral language than what was prescribed in SB 1120.

Other obscenity legislation in the '95 session

OLA played a role in the Legislature's consideration of other bills related to obscenity in 1995.

One was House Bill 2310, introduced by Rep. Kevin Mannix, D-Salem, to make it a crime to furnish obscene material to minors by electronic means. In February, this bill had a hearing before a subcommittee of the House Judiciary Committee. After consulting with OLA's leadership, I presented testimony recommending an exemption for librarians. Actually, we had concerns about the bill itself.

About the Author

Nan Heim (left) is OLA's lobbyist. Her associates, John Donovan and Jody Fischer also lobby for OLA. Nan has managed an independent government relations firm for the last 15 years, representing such groups as the Oregon Academy of Ophthalmology, Oregon Psychological Association and Tri-Met, as well as OLA. Nan is president of the Oregon Capitol Club, the lobbyists' professional association. Jody, an attorney, has lobbied with Nan for the last eight years. John joined them during the 1991 session.



But we wanted to make sure that, if it did pass, librarians would be exempted. The subcommittee agreed to the amendment. During the hearing, however, a number of other problems with the bill surfaced and HB 2310 eventually died.

Rep. Del Parks, R-Klamath Falls, introduced HB 2692, a bill to make it a crime to encourage child sexual abuse. The definition included "knowingly possessing or controlling

any photograph ... or video tape of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person."

Rep. Parks' bill was considered the moderate alternative to the Constitutional amendment proposed by SJR 41. Our main concern with HB 2692 was making sure that the

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House vote on the Beyer-Corcoran Minority Report to SJR 41

The House defeated the Beyer-Corcoran Minority Report, which would have limited the effect of SJR 41 to child pornography, on June 8, 1995, by a vote of 28 'yes' to 32 'no.' The Senate did not vote on the Beyer-Corcoran Minority Report to SJR 41.

The following representatives voted 'yes,' in support of OLA's position:

| | | | |
|---------------------------------|-------------------------------|-------------------------------|----------------------------|
| Lee Beyer (D-Springfield) | Tony Federici (D-St. Helens)* | Lisa Naito (D-Portland) | Gail Shibley (D-Portland) |
| Kate Brown (D-Portland) | Avel Gordly (D-Portland) | Del Parks (R-Klamath Falls) | Frank Shields (D-Portland) |
| Chuck Carpenter (R-Beaverton) | Eldon Johnson (R-Medford) | Kitty Piercy (D-Eugene) | Larry Sowa (D-Oregon City) |
| Margaret Carter (D-Portland) | Bryan Johnston (D-Salem) | Floyd Prozanski (D-Eugene) | Veral Tarno (R-Coquille) |
| Tony Corcoran (D-Cottage Grove) | Denny Jones (R-Ontario) | Anitra Rasmussen (D-Portland) | Terry Thompson (D-Newport) |
| George Eighmey (D-Portland) | Tim Josi (D-Tillamook) | Lonnie Roberts (D-Portland) | Judy Uherbelau (D-Ashland) |
| Mike Fahey (D-Portland) | Mike Lehman (D-Coos Bay) | Barbara Ross (D-Corvallis) | Cynthia Wooten (D-Eugene) |

The following representatives voted 'no':

| | | | |
|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| Ron Adams (R-West Linn) | Leslie Lewis (R-Newberg) | Bob Montgomery (R-Hood River) | Ken Strobeck (R-Beaverton) |
| Ray Baum (R-LaGrande) | Jane Lokan (R-Milwaukie) | Chuck Norris (R-Hermiston) | Bob Tiernan (R-Lake Oswego) |
| Tom Brian (R-Tigard) | Dennis Luke (R-Bend) | Carolyn Oakley (R-Albany) | Liz VanLeeuwen (R-Sweet Home) |
| Bev Clarno (R-Bend) | Lynn Lundquist (R-Baker City) | Eileen Qutub (R-Beaverton) | John Watt (R-Medford) |
| Peter Courtney (D-Salem) | Kevin Mannix (D-Salem) | Bob Repine (R-Grants Pass) | Larry Wells (R-Jefferson) |
| Bill Fisher (R-Roseburg) | Bill Markham (R-Riddle) | John Schoon (R-Rickreall) | John Meek (R-Hillsboro) |
| Jerry Grisham (R-Beavercreek) | Patti Milne (R-Woodburn) | Lynn Snodgrass (R-Boring) | Jim Welsh (R-elmira) |
| Cedric Hayden (R-Lyons) | John Minnis (R-Troutdale) | Charles Starr (R-Hillsboro) | Sharon Wylie (R-Gresham) |

* now deceased

House and Senate Votes on SJR 41

In the House, SJR 41 passed by a vote of 49 'yes' to 11 'no.' The following 11 House members voted 'no,' in support of OLA's position:

| | | | |
|-----------------------------|-----------------------------|-------------------------------|----------------------------|
| Kate Brown (D-Portland) | Tim Josi (D-Tillamook) | Floyd Prozanski (D-Eugene) | Gail Shibley (D-Portland) |
| George Eighmey (D-Portland) | Del Parks (R-Klamath Falls) | Anitra Rasmussen (D-Portland) | Judy Uherbelau (D-Ashland) |
| Bryan Johnston (D-Salem) | Kitty Piercy (D-Eugene) | Barbara Ross (D-Corvallis) | |

The Senate passed passed SJR 41 by a vote of 19 'yes' to 11 'no.' The following 11 Senators voted 'no,' in support of OLA's position:

| | | | |
|----------------------------|---------------------------|----------------------------|-------------------------------|
| Brenda Brecke (D-Coos Bay) | Bill McCoy (D-Portland) | Bill Dwyer (D-Springfield) | Cliff Trow (D-Corvallis) |
| Randy Leonard (D-Portland) | Ron Cease (D-Portland) | Dick Springer (D-Portland) | Jeannette Hamby (R-Hillsboro) |
| Stan Bunn (R-Newberg) | Peter Sorenson (D-Eugene) | Shirley Gold (D-Portland) | |

The following senators voted 'yes':

| | | | |
|------------------------------|----------------------------|---------------------------|-----------------------------|
| Brady Adams (R-Grants Pass) | Paul Phillips (R-Tigard) | Lenn Hannon (R-Ashland) | Greg Walden (R-Hood River) |
| John Lim (R-Gresham) | Gene Derfler (R-Salem) | Shirley Stull (R-Keizer) | Bill Kennemer (R-Milwaukie) |
| Ken Baker (R-Clackamas) | Marylin Shannon (R-Brooks) | Tom Hartung (R-Beaverton) | Mae Yih (D-Albany) |
| Randy Miller (R-Lake Oswego) | Joan Dukes (D-Astoria) | Gene Timms (R-Burns) | Bob Kintigh (R-Springfield) |
| Neil Bryant (R-Bend) | Gordon Smith (R-Pendleton) | Rod Johnson (R-Roseburg) | |

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librarians' existing statutory exemption on distribution of such materials applied to this bill as well. Rep. Parks made sure that it did. HB 2692 passed both chambers, but it did not stop the Legislature from passing SJR 41.

The changing political climate.

"All in all, the 1995 Legislature was the most perilous session for civil liberties since the late 60s."

*Dave Fidanque
ACLU lobbyist*

Why was the 1995 Oregon Legislature so different from those in the recent past? The key difference is the political climate and the candidates who are winning elections. In district after district throughout our state, voters are electing candidates who have promised to be "tough" on crime. Few candidates today even address the question of protecting individual liberties.

What can you do about all this?

You can get involved. Get to know your legislators. Attend their town hall meetings. Call OLA's lobbyists at (503) 224-0007 and ask us about their records. For starters, we are including the House vote on the Beyer-Corcoran Minority Report and the House and Senate votes on the final passage of SJR 41.

Thank those legislators who have done a good job for intellectual freedom and support them. This year OLA's Intellectual Freedom Committee is giving Champions of Intellectual Freedom awards to legislators who have fought for individual rights. This exciting project will not only give recognition to legislators who deserve it, it will also help inform OLA members who in the Legislature is most concerned about intellectual freedom.

What if your legislator has not done a good job on intellectual freedom or is retiring? Get to know the candidates in your area. Anyone intending to run for the Oregon Legislature for 1997 must file by March 12, 1996. Find out who they are and what they stand for. Organize your colleagues and volunteer for a campaign.

Getting involved politically is not rocket science. It's easy. And it is not off-limits to public employees. In fact, volunteering for a campaign on your own time is your legal right, not to mention your responsibility.

Can you make a difference? Absolutely! With just three more votes in the Oregon House, we could have passed the Beyer-Corcoran Minority Report and effectively taken the life out of SJR 41. That's just three more legislators who would give some priority to freedom of expression.

Maybe we can't bring back the "good old days" when the Legislature barely considered bills threatening intellectual freedom. But we must all stay vigilant in trying to defeat the challenges which have become so common these days.

If we give up, these challenges will surely succeed.

As OLA's lobbyists, we urge you to remember John Kennedy's words on how to have an impact in politics: "Things don't just happen. They are made to happen."

If we want to defeat the challenges to intellectual freedom in our state, we must help make it happen.