



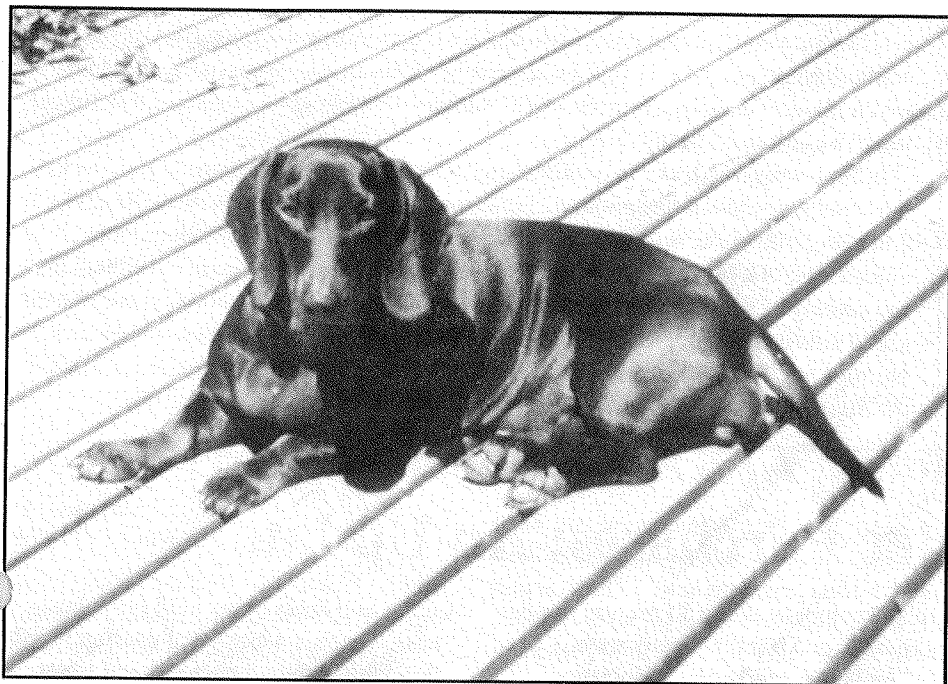
The ABAA NEWSLETTER



VOLUME FIVE, NUMBER 3

ANTIQUARIAN BOOKSELLERS' ASSOCIATION OF AMERICA

SPRING, 1994



Hot Dog! Fifty years. See page 5.

Piracies: The Debate Bogs Down

This is the third ABAA Newsletter to contain extended debate on the issue of piracies. A number of references are made in the letters that follow to the ABAA Ethics Committee's proposed statement on piracies. The text of this statement, in its current revised form, is reprinted on page 9 together with two alternatives, proposed as possible additions to the Code of Ethics.

From: Larry McMurtry

Yet once more into the breach, I guess.

Booked Up is no longer in the ABAA, so I have not seen the much-discussed piracy statement, now tabled, I believe. I suspect it is very virtuous. I also suspect that it is lacking in what we might call fang, though Mr. Ken Lopez clearly thinks it has altogether too much fang.

Copyright laws are, after all, laws. Why Mr. Lopez doesn't feel that booksellers have a responsibility to see that laws are observed is a matter for his conscience; though, should he ever be fool enough to put my pirated stories on the market publicly, it will also be a matter for his attorney. A bookseller in Austin, Texas, Mr. Kevin McDonnell, recently did put two copies of the well-known Halladay and Schuster piracy, *The Uncollected Fictional Works of Larry McMurtry* (1979) on the market. I bought them for the not inconsiderable sum of \$1,700, a quixotic act, of course, since at

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Some Hints on Appraisals

by Richard M. Weatherford

Sooner or later, most booksellers are called upon to appraise printed, manuscript, and photographic materials for donation or insurance purposes. Since the mid-1980s, when the IRS began to question more appraisals and to issue more specific rules governing them, fewer and fewer antiquarian booksellers have wanted to do appraisals. Many feel they are just not worth the trouble. Others fear incurring the wrath of the IRS if the appraisal is questioned. And still others prefer to discourage donors from sending collections into the black hole of institutional collections where they may be lost to the marketplace and, possibly, to view and study forever.

Of course, appraisals are not necessary in all cases. For example, I will not appraise materials that are less than the appraisal fee. And I advise clients that they can use a formula to derive the value of inexpensive materials they are donating when the cumulative value of those materials is less than the \$5,000 minimum the IRS requires for a written appraisal. Still, there may be cases when a donor or institution will request a written appraisal for inexpensive materials. In these cases, I do the work, but I charge for it.

Most appraisals that booksellers perform are of property donated to qualified non-profit organizations. These organizations include universities, museums, schools, libraries, religious organizations,

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Letters

to the Editor

*From: Jean and Jerome Parmer,
San Diego*

Congratulations on the very excellent ABAA Newsletter. It is delightful to see the ABAA publishing its own magazine that will address important issues concerning its members and associates, and that will also serve as a vehicle for increasing ABAA membership through your non-member subscriptions.

If the Newsletter would now take advertising, as the new book organization—the American Booksellers Association—does, you would have an even stronger financial base by which the ABAA could promote the antiquarian book trade to the benefit of its members.

Could you consider publishing member display and classified advertising? ■

Editorial

Not too much, but enough said, we opine, on piracies. The substance of the debate, it seems, is on the table, and now it is time for the ABAA Board of Governors to decide on a course of action. Further delay will tend only to dilute the compelling arguments on both sides, and lead one to speculate on the weak-mindedness of Board members.

We here at the Newsletter applaud our members' willingness to enter the fray, to duke it out with such eloquence, passion, and erudition. We lament only whatever strained relationships this sometimes contentious issue may have caused, and sincerely hope that each and every little hatchet is adequately interred. We were disappointed, however, and remain a little scornful of the several responses we received which we were asked not to print—their authors being fearful of repercussions about which we can only speculate.

The open-air discussion of this or any matter of concern or interest, not just to our association, but to the profession at large, is admirable, and, in the wake of the Texas forgeries debacle a few administrations ago, notable. Had the Newsletter existed then, ABAA might have been spared months of agonizing palm-wringing, to say nothing of the embarrassment. Readers of this Newsletter cannot help but absorb useful information with which to formulate their own opinions, and hone their own business practices, which will make us all, in the end, better professionals. Whatever the Board ultimately decides to do in the present matter is secondary to this.

Taxes on Mail-Order Purchases: An Update

By Allen Ahearn, Quill and Brush, Rockville, MD, and George Ritzlin, Highland Park, IL

As we all, know the individual states (and areas within) have the power to levy a sales tax on purchases by residents, including purchases made outside the state. However, under current law, they do not have the power to make businesses outside the state collect the tax. Only businesses which have a presence in a state, such as an office or a warehouse, are required to collect sales tax for that state.

The states have tried to force out-of-state firms to collect such taxes, but they have consistently lost in court, most recently at the Supreme Court level (Quill vs. North Dakota). Now the states want Congress to authorize such collections. Senator Dale Bumpers (D-Arkansas) has introduced S 1825: "Tax Fairness for Main Street Business Act of 1994," a title implying that local businesses face unfair competition because mail order firms do not have to pay sales tax. The bill would require catalogue businesses to collect and remit taxes according to the varying rates of forty-six states and over 6,500 local jurisdictions. The bill would apply

to any company doing \$3 million in sales annually, or \$100,000 in any state.

The Direct Marketing Association (DMA) held a meeting on March 10, 1994 to solicit support for efforts to head off further support for the bill. Allen Ahearn (Quill and Brush, Rockville, MD) attended this meeting as a representative of the ABAA. The DMA does not believe the bill has much chance of coming up this year, but they feel strongly that if efforts are not put forth this year to stop it, the bill will have a good chance next year. It is known that Senate Majority Leader George Mitchell (D-Maine) does not favor such legislation; but, of course, he has announced his retirement.

The DMA position does not question the rights of the states or areas to collect the tax, but that Senator Bumpers's bill is not the way to do it, as it places an undue burden on business, particularly small business. It is far too complex a solution.

The \$3 million would seem high enough to be of little concern to most ABAA members; but if a business does \$3 million and \$50,000 mail order, it would have to collect sales tax in all

states and areas on its mail order business. There is a history of passing legislation with certain thresholds and never revising the thresholds; and this would mean that inflation could carry many firms up over the threshold in years to come. There is also a concern that the provision to collect taxes in states where a firm does \$100,000 a year could open the door for audits of any firm to determine if the firm is doing \$100,000 in any state.

There is a Small Business Committee Hearing on this bill scheduled for April 13, 1994. The ABAA will provide testimony, either directly or for the record for this hearing.

The DMA has requested that any individual firms concerned about this issue write to their Senators, especially if their Senator is already a co-sponsor of the bill. The current co-sponsors are: Cochran (R-Massachusetts), Conrad (D-North Dakota), Dorgan (D-North Dakota), Heflin (D-Alabama), Boren (D-Oklahoma), Graham (D-Florida), Matthews (D-Tennessee), and Kempthorne (R-Indiana) ■

Two Scholarships to ILAB Congress/Fair Available

The Nederlandsche Vereeniging van Antiquaren and the ABAA are pooling resources so that two ABAA members can participate in the 32nd ILAB Congress and exhibit in the 15th International Book Fair in Amsterdam, September 25-October 1, 1994.

The Dutch organization outlined their goals in a recent letter to the ABAA:

"In 1992 the Verband Deutscher Antiquare initiated the so-called 'Friendship Program' when it organized the 31st ILAB/LILA Congress and the 14th International Antiquarian Bookfair.

"The aim of the program was to support young colleagues by subsidizing them financially or otherwise so that they could take part in these biennial congresses and fairs, as the costs of participation in the ILAB Congress and the ensuing fair and the resulting travel and hotel expenses proved too high for many.

"The importance of these congresses and fairs and of the improvement, renewal, or deepening of relationships with colleagues from all over the world, will probably not be denied or underestimated by anyone.

"The Nederlandsche Vereeniging van Antiquaren supports the initiative taken by the Verband Deutscher Antiquare and hopes that it will develop into a tradition that will be maintained by the future hosts of ILAB/LILA congresses.

"The Nederlandsche Vereeniging van Antiquaren hopes, that in this way it might support the development of this important initiative. It also hopes that it shows that even small member countries can help younger colleagues to participate in these congresses and fairs."

The Dutch association will pay one-half of the costs of participation in the 32nd Congress, and Dfl. 750 of the cost

of a full or half-booth at the International Book Fair; the ABAA will pay the remaining costs of Congress participation and of a fair booth, using funds provided by the Elisabeth Woodburn Memorial Fund. The two scholarship recipients will be responsible for all other costs, including transportation, room, and board.

The scholarship is open to candidates who have been full ABAA members for five years or less, and who have not previously participated in an ILAB congress or bookfair. To apply, please submit a letter of application and a brief statement of your objectives for attending the ILAB Congress and Fair. Send materials to Peter Howard, Trustee, Elisabeth Woodburn Memorial Fund, 1201 University Avenue, Berkeley, CA 94702. The application deadline is May 15, 1994. ■

Tips on Travel Discounts for ABAA Members

By Ronald Lieberman,
The Family Album, Glen Rock, PA

Some booksellers travel incessantly. They know every worthwhile hotel and restaurant in the book capitals of the world. They also have accommodating friends in cities, farms, and resorts throughout the civilized universe, and beyond.

Most of the rest of us handle the challenges of reservations and tickets as a necessary evil. The task of making travel arrangements develops none of the same "relish for the hunt" that we bring to book-buying expeditions.

One of the newer benefits of ABAA membership is a discount travel book, *See America*, that was sent to all members a year ago. This thin little book promises half-price lodging at 1400 hotels and motels in the United States. In actual practice, it takes a lot of experience and persistence (or luck) to squeeze substantial savings from these listings, or similar offerings. There is no shortcut to expertise in discount travel, but some of the following tips might be helpful when arranging your next journey.

Far in advance of your travel dates, identify a few hotels that are well-located and otherwise suitable. The American Automobile Association *Tour Books* are fine for this purpose, though they are very

weak on alternative accommodations such as bed and breakfasts. AAA ranks hotels, locates them on maps, and usually supplies price information. Sometimes there are AAA "Special Value Rates" listed that are useful in establishing the maximum that the discount traveler should expect to pay. These tour books also have national toll-free (and direct) telephone numbers for the properties that you are considering. When pricing, it is best to pick out at least three hotels to compare.

Always call the toll-free numbers first. Tell the reservationist that you are seeking price and availability information for the following: the city; the particular hotel; your date of arrival and departure; and the number of persons in your party. Ask for their lowest discount rate. Don't be shy. Many hotels have "Commercial Rates," "Weekend Rates," "Inn Credible Club Rates," and maybe even a "We Don't Charge for Meat on Thursdays Because We're Vegetarians Rate." After exploring these possibilities ask about their *See America/Steppin' Out* rates. You'll probably be asked to call the hotel directly—but try to do your best with the various national reservation center operators. They can often be quite helpful.

Now call the hotel reservation desk directly. Give them the same information

and ask for the rates. If they seem high, ask if the rate quoted is fifty percent off the regular rate. (Until you are quite experienced, you should try to avoid discussing the "rack rate"—a quite higher rate established just to be negotiated lower.) Even if rooms are not available at the *See America/Steppin' Out* discount, continue to discuss possible discounts with the reservationist. Other specials may be available. Sometimes it might even be worthwhile to tell a clerk at a \$99 Sheraton you'd really like to stay with them, but the Hilton up the street offers a rate of \$70. Be friendly, but insistent.

In addition to the *See America/Steppin' Out* book, you might want to check out the *Entertainment Book* that is sold as a fund-raiser in many communities. Certainly, you should join all the frequent traveler clubs promoted by the chains. Keep alert to bargain specials offered in newspapers and credit card mailings. Compare notes with colleagues.

The hunt for an agreeable and inexpensive place to stay is not as much fun as the search for bookish treasures in back street shops, but bagging the uncommon bargain hotel may be one of the sweetest "sleepers" of all. Good luck! ■

Belanger's Rare Book School to Expand in 1994

A new course taught by Peter Howard, Serendipity Books, Berkeley, CA, will be featured this summer in the University of Virginia's (UVa) annual institute, Books at Virginia/Rare Book School (RBS). RBS Director Terry Belanger announced recently. Howard's course, an introduction to the antiquarian book trade for rare book librarians, is intended to improve rare book librarians' ability to deal effectively with the trade.

Another new RBS course that Belanger says he hopes will be of interest to the antiquarian book trade is a practical introduction to the electronic Internet, where it will be assumed that the applicants will have had no previous experience with electronic communications.

Other new RBS offerings include a course in research library development, to be taught by Lynda Corey Claassen (Director of Library Development and Head of Special Collections at the University of California, San Diego) and Myrna Jackson (Director of Library Development at Duke University). A second new development course, "Special Collections Friends and Relations," will be taught by William P. Barlow, Jr., the noted Oakland, CA, tax accountant and book collector.

RBS course offerings with an electronic emphasis will triple from last year, with courses to be presented at introductory, intermediate, and advanced levels to be taught by John Price-Wilkin (Systems Librarian for Information Services at UVa) and David Seaman (Coordinator of the Electronic Text Center at UVa's Alderman Library). Also new in RBS 1994 will be: printing design and publication, taught by D.W. Krummel (Professor of Library Science and Music, University of Illinois at Urbana); and an introductory paleography course, taught by Albert Derolez (Curator of Manuscripts and Rare Books at the Library of the State University of Ghent, Belgium).

In order to accommodate these new courses, RBS will expand in 1994 from its usual four to five weeks, running from Monday, July 11, through Friday, August 12. A total of 28 five-day course will be offered, including a number of course repeated from previous years.

Last year, the institute successfully re-established itself at UVa after nine years at Columbia University in New York City. More than 300 students and faculty members participated in RBS 1993 at Charlottesville, a venue widely hailed by participants as a dramatic improvement over the former site in New York City. The recently published RBS 1993 *Yearbook* contains many favorable comments by students and faculty about the appropriateness of the new facilities at Virginia, in particular the strong support given to RBS by Special Collections and by other divisions of UVa's Alderman Library. "UVa made it strongly apparent (at least to me) that they really want the RBS program," says D.W. Krummel, who has taught in RBS since 1991; "intellectually, RBS remains the most stimulating week you're likely to find anywhere." Speaking for UVa (where she is Curator of Rare Books), Kathryn Morgan says, "It was great fun having RBS here for the first time, though it was a lot of work for our staff—our statistics more than doubled during the month of July!"

Old-timers among the RBS faculty expressed considerable enthusiasm for the new location. "RBS 1993 was the best year ever!" says Suzy Taraba (Special Collections, University of Chicago), who has taught rare book cataloguing at RBS during its last six sessions. About teaching his long-established RBS course in rare book librarianship in Charlottesville for the first time, Daniel Traister (Curator of Research Services in the Van Pelt Library at the University of Pennsylvania) says, "There was more informal interaction than ever before between instructors and students during lunches, lectures, and dinners. For a course lasting a scant five days, a setting that encourages intensive faculty-student interaction on an individual basis is exceptionally valuable."

In RBS 1994, students will again have the option of staying in rooms on the Lawn, the historic Central Grounds of the University designed by Thomas Jefferson. "Living on the Lawn is magical," reports Michael Winship (Associate Professor, English Literature, University of Texas at Austin), who has taught in every RBS since the first one in 1983.

"Charlottesville and UVa have a long tradition of supporting bibliography and the serious study of books." About a third of the students who used University housing stayed on the Lawn; the remainder opted for architecturally less interesting—but air-conditioned—rooms in a nearby dormitory complex.

Among the returning courses in RBS 1994 are offerings on the history of lithography (Michael Twyman); 19th-century publishers' bookbindings (Sue Allen); the history of the book (Alice Schreyer and Peter Van Wingen); European decorative bookbinding (Mirjam Foot); special collections management (Nicolas Barker); book illustration techniques (Terry Belanger); rare book librarianship (Daniel Traister); collecting travel literature (John Parker); special collections administration (Samuel A. Streit and Merrily E. Taylor); codicology (Albert Derolez); medieval and early Renaissance bookbinding structures (Christopher Clarkson); European binding: 1500-1800 (Nicholas Pickwoad); the book in the Industrial Era: 1820-1914 (Michael Winship); rare book cataloguing (Suzy Taraba); typography: 1450-1830 (James Mosley); publishing history: 1775-1850 (Michael Turner); and introduction to descriptive bibliography (Terry Belanger and David Ferris).

Further information about RBS 1994 is available by mail from:

Books at Virginia/Rare Book School
114 Alderman Library
University of Virginia,
Charlottesville, VA 22903

phone: 804-924-8851

fax 804-924-8824

e-mail books@virginia.edu.

There is no application deadline, but as classes fill up fast, RBS advises acting quickly.

Rostenberg and Stern: A Quest and a Golden Anniversary

By Robert Rulon-Miller, Jr.,
Rulon-Miller Books, Saint Paul, MN

This April, Leona Rostenberg and Madeleine Stern of New York City celebrate their fiftieth anniversary in the trade. What began as a short article on this wonderful and noteworthy milestone turned into something rather different, for which Leona and Madeleine, who can appreciate the anxiety of deadlines, will please excuse its author—Ed.

Back in August, 1992, I received a letter from Leona Rostenberg and Madeleine Stern thanking me for a batch of complimentary *Newsletters* I had sent them, on the front page of which we had run their article on the beginnings of the Middle Atlantic Chapter of ABAA, and the early New York book fairs (*Newsletter* III, 4; Summer, 1992). "You did a wonderful job with this and we are proud of our appearance in the pages, but not," they added in bold, finger-pointing capitals, "of our pictorial appearance! What a picture! Where did you ever get it? We had never seen it before, apparently because whoever took it mercifully hid it from us!"

The picture was taken, I believe, by Muir Dawson, and had been secreted away in Los Angeles, a continent away from their New York apartment. It showed a smug Madeleine and a complaisant Leona arm in arm at the 1977 New York Plaza Book Fair, toasting the photographer: Madeleine with a bottle, and Leona with a glass of an unidentified beverage, looking for all the world like they'd just hit it very big at the Plaza.

The letter continued: "As for giving us a ready forum, we'd much appreciate that next spring when our new collaboration is to be published by Modoc Press of Santa Monica. Title: *Quest Book—Guest Book: A Biblio-Folly*. It's about a search for an extraordinary copy of the 1511 edition of Erasmus' *Praise of Folly* ... We think it's an exciting fun book, and shall be happy

to send you a review copy. Perhaps you will see fit to run an excerpt from it."

We filed the letter away and waited - not impatiently - for the book's arrival. Towards the end of 1992, or perhaps early 1993 a copy of *Quest-Book—Guest-Book* arrived, as promised, in time for us to review it in the spring issue.

The winter of 1992-93 had taken its toll on the ABAA membership, and the spring issue was to contain, sadly, a plethora of obituaries. Furthermore that spring, we ran the first in a series of long articles and letters about the ethics and legality of selling screenplays. The long and the short of it was that the 1993 spring issue was the first for which we needed no filler, and we were not going to jump from eight to twelve pages for a short review. Our notice of *Quest-Book—Guest-Book* was delayed until summer.

The screenplay debate heated up like Minnesota in July, and *Quest-Book Guest-Book*, hot off the press, got pushed back again, and was filed away for a cooler, autumn issue. I wouldn't say we tried to forget about the review we'd promised to do; we just kind of hoped. Taking the time to read one more book in a schedule already filled with *Newsletters*, catalogues, book fairs and the worries of cash flow, seemed just too much to contemplate. I passed the infernal *Q.B.G.B.* along to our assistant editor, Tracy Smith, with the suggestion that she read it in her spare time and do a review. The burden was off my shoulders at last.

Then Tracy did something I did not: she forgot about it. Another issue of the *Newsletter* came and went. So did the winter blizzards. One snowy morning I received a quote in the mail from Rostenberg & Stern - a superlative copy of Fournier's *Manual Typographique*, 1764-66. No letter accompanied it, no explanation why I might be interested in this book for something like eight grand. It's a dunning, I thought. And a clever one, too. Where was that blasted book? Tracy and I tore through the files.

By now it was 1994 and a shameful smog-like guilt hung over our office.

Quest-Book—Guest Book became a quest of our own. After spending the better part of one Saturday morning turning the office inside out, we discovered it finally in a file folder we had for the newly acquired QuarkXPress program. Eureka! I called out. Quark-Quest!

Leona called about that time - early February I'd say - not to remind me about *Q.B.G.B.*, for by then she and Madeleine must certainly have given up all hope of seeing it reviewed in the *Newsletter*; instead, so nonplussed, so Leona-like, casting the wretched spell of the q-bee g-bees upon us, she called to mention that they would be celebrating their fiftieth anniversary in the book trade at the time of the New York fair, and would we like to mention this in the *Newsletter*.

This was my last undoing: their faith in us was so sustaining and humbling that I confessed all my failures, even offered penance. I blurted out that yes, of course we would like to mention this, and won't this be nice, we'll run the review of *Quest-Book—Guest-Book* at the same time, and by the way, how about if I come for a visit?

Obsequiously, I made my way to New York, *Q.B.G.B.* - a chained book by now - safe in my satchel. I read it on the way, cover to cover, delighting in our authors' hunt for a unique copy of an early edition of Erasmus' *Praise of Folly* which had purportedly been illustrated by hand by Albrecht Durer. Such a trail! It covers four centuries, two continents, a half-dozen prominent and a few less prominent owners, punctuated, of course, by members of the trade, some who will be recognizable to our bookselling audience.

But what can one say of a book, as virtuous and delightful as it may have seemed, that has caused one such angst. Could mine be trusted as a reliable review? Perhaps it is a very bad book after all, and my relationship with it has colored my opinion to the ends of the rainbow. In such a case perhaps even the authors themselves are better judges. As

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Rostenberg and Stern

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they said to me in that incipient letter of 1992, "it's an exciting, fun book" (see side bar). My suggestion is to read it for yourselves - it will take even the slowest reader but a couple of hours. It is available from the authors at this year's New York Fair, thereafter through the publishers and the firm of Rostenberg & Stern, for as long as it remains in print.

Madeleine and Leona live on East 88th Street, sixth floor. I was met at the door by Bettina, who was all over me just two steps into the entry, tearing at my pants, licking, panting. Bettina is their beloved dachshund, and she was overly curious about the smells of my own dog, Rusty the husky, all ninety-two pounds of whom would have ... Well, *our* lunch, which they'd promised me, awaited my arrival, and consisted of tuna salad, a baguette and coffee. We talked about the early days in ABAA, the ups and down of past administrations, and their continuing disappointment at the closing of the Antiquarian Booksellers' Center, a cooperative ABAA bookstore, which opened in New York in 1963, and quickly became headquarters for the Association. Headquarters and the concept of a cooperative bookstore survive. The Center was closed in 1987 for financial reasons.

Leona, I discovered, does most of the talking. Madeleine chimes in on cue when Leona can't remember a name, or the conversation is lagging. Where Madeleine is tactful, even taciturn, Leona is a loose cannon. "Yes, that so and so, she's such a nice woman - so talented." Or, "Ooh! Him. Don't get me started!" You've got to love them both.

After lunch we sat in the green room on sofas which belonged to Bettina. I moved to the chair, not because I didn't like the hound, but I sensed I was violating her territory. I wanted to know Leona's and Madeleine's ages, so I could calculate how old they were when they first went into business, and when they began work on the founding of ABAA. They wouldn't tell, of course, so I counted rings. Madeleine is 39 and Leona about 36. Bettina was more forthcoming. She's seven and will be eight in October.

Madeleine is a biblio-wonk. She showed me two and a half shelves worth of books she's written and edited (from

1935 to the present, many biographies), and when I asked, she produced a rather prodigious bibliography of her work compiled by Sondra Miley Cooney of Kent State University, which appears in the *Dictionary of Literary Biography*. It lists 30 books either written or edited by her, including several with Leona, and another 20-odd "selected periodical publications." No doubt there are more that could be added now, *Q.B.G.B.* among them. Hands down, Madeleine Stern is the most prolific ABAA member ever. McMurtry's not even close.

Quest Book—Guest Book: A Biblio-Folly.

**By Leona Rostenberg and
Madeleine B. Stern.**

Santa Monica: Modoc Press, 1993.

8vo, xix & 118pp, with numerous illustrations; in pictorial wrappers. Available for \$16.50, postpaid, from Modoc Press, Inc., Suite 318, 506 Santa Monica Boulevard, Santa Monica, CA 90401.

We had noticed among the guests a tall, elegant gentleman whose habit, like ours, was to take his evening coffee before the great fireplace. One evening he introduced himself, saying, "I understand you are rare book dealers. I am a collector, and my specialty is, I think, in your field—the great Erasmus."

"You must be Klaus Felix Schnepeler van Wattenheim of Munich," we exclaimed, refraining to add that in the trade he was affectionately known as Schnapps.

He nodded delightedly, and proceeded to spend the next two hours discussing his collection, especially his copies of the *Praise of Folly*, the original social satire originally published in 1511 and never out of print.

"It will never be out of print," Schnapps observed, "for it will always be applicable. Just look at the guests in this hotel, and then compare them with Erasmus' fools. Here, reincarnated in the twentieth century, are the scholars

Leona sells books with the very best. Her convincing, authoritative voice was tinged with just enough sales pitch to make me think that I might deserve the book if I would only plunge and buy it. Under her spell I bought eight titles I'm now worthy enough to own.

"What are you going to write about?" they asked. I could tell that both were concerned that I wasn't taking notes for my article. "Who knows?" I said, "we'll see what comes out."

*Happy 50th, ladies. Our collective hats
are off to all three of you!*

and theologians, the writers and scientists that Erasmus so brilliantly subjected to Folly. And is not the host of the Schweizerhof the biggest fool of all to put up with the foibles of his foolish guests?

At the end of the evening Schnapps turned to us and said, "There is only one copy of the *Praise of Folly* not yet in my collection: the Strasbourg edition of 1511, a copy hand-illustrated by Albrecht Durer. It was owned by a least half a dozen great collectors, all of whom inscribed their names in the copy. I know this from the grandson of someone who once actually saw the book—now unfortunately deceased—and as a matter of fact, I am researching their names. I have even engaged a couple of assistants to find out connections—connections that may lead to the present whereabouts of the book. Naturally I would give anything for that copy. In fact, rumor has it that it may be in your country. I know that there is an American scholar in eastern Long Island scouting for it. Why don't you to smart ladies find it for me?"

"When I studied in Strasbourg," Leona broke in excitedly, "there was much discussion about an elusive copy of the *Praise of Folly*." She mentioned that she had researched her doctoral dissertation on early printing in the Alsatian city that Erasmus had visited, and had heard something about a mysterious copy of the *Praise of Folly*. "Of course," she exclaimed, "we would be thrilled to find it for you!"

Piracies

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least one other copy, the "printer's copy" (does it belong to a Xerox machine?) is known to survive; while it exists, this being in Walter Benjamin's prescient phrase, the age of mechanical reproduction, ten thousand copies might as well exist, and would, were it not that ten thousand would dilute the market.

I am a living author and hold many legal copyrights. These copyrights are my assets; the words I write are my living. I am also, while I live, the sole judge of when and in what format my writing should appear before the public. My juvenilia, my nail-parings, my hedge-clippings, are properly housed in an institutional library, under appropriate restraint; if history turns out to want a look, history will be allowed one.

But, at this juncture, some restraint is certainly reasonable. I have thousands of pages of unpublished manuscript. I have even published six stories that Halladay and Schuster missed, when they were about their pirating. Someday, if I need the money badly enough, I'll collect them; someday, if Mr. Salinger should fall on hard times ("too many fall from great and good for you to doubt the likelihood," says Mr. Frost), he will probably do the same.

Piracy, in some few cases, may be an ill-considered act of homage; but it is, nonetheless, a stain that always spreads. Pirates, remember, were not honest seamen; they were thieves. Pirated works not only befoul the pirate, they befoul the sellers of the piracies, and finally, their purchasers (witness *Texfakes*).

Recently a piracy of my first book of essays, *In a Narrow Grave* has appeared, not in Taiwan but in (you guessed it) Austin, vermin-pit of American book-selling. I suspect, but am not sure, that a piracy now exists of *A Walk in Pasadena with Di-Annie and Mary Alice*, an essay issued as a memorial tribute to Diane Keaton's grandmother, Mary Alice Hall, at the time of her death in 1985.

I have been an antiquarian bookseller, either in Houston or Washington, D.C., for thirty years now. Do I expect my professional colleagues, the antiquarian booksellers of America, to protect my interests (legal and moral) as a copyright holder? You bet I do! Why in the name of

Dibdin shouldn't they help? Does Mr. Lopez want me to post a security guard or attorney in every bookshop in the land?

Mr. Lopez's argument, that booksellers have a right and even a responsibility to sell absolutely anything they can get their hands on, because everything written is, after all, part of the literary/cultural record (remember the Peace Eye Bookshop, folks, and Allen Ginsberg's cold cream jar?) is, in my view, a disgraceful sophistry. After all, virtually everything in the universe is part of the record, including stolen property; the fact that a book or manuscript is stolen becomes part of its history, and of the literary record. The everything-should-be-preserved-for-the-record argument takes one to the borders of Stephen Blumberg-land. Wasn't that why he stole those fifty thousand doorknobs?

Peter Howard is every bit as sophistical and hypocritical as Mr. Lopez. He is the bookseller's Aquinas, devoted to his own intricate theories of bookselling and quick to spot heresy in the theories of others. I have heard Peter, many times, rail against the ethical lapses of his fellow booksellers; indeed, there are a mere handful of living booksellers (Norman Kane, maybe; Bill Hoffer, maybe) whose ethics I haven't heard Peter Howard deplore. If anyone else sells a suspect book or document Peter is a very Calvin, his judgments swift and severe; if Serendipity happens to own the suspect book or document a rather more flexible ethic is apt to operate. (This is human nature; but not human nature at its most attractive.)

A prime example of this flexibility is the Ellen Cotton copy of *Walden*, inscribed to her great-grandfather, R. Waldo Emerson, by Thoreau. The book was stolen from Mrs. Cotton's home near Decker, Montana, and eventually sold to the Library of Congress by Peter Howard and Warren Howell. By chance, due to extensive screenwork in Montana, I knew Mrs. Cotton at the time, had been in her home near Decker, and had seen her Emerson library. Though I so informed Howell and Howard, even telling them what I knew about the book's disappearance, they pressed on with their sale. Mrs. Cotton had no difficulty wresting her book back from the Library of Congress, and it now, I believe, resides

once again in Concord, in the Emerson home.

Now, Serendipity is a great bookshop, a compliment I don't pay often, but its owner is a muddled man, every bit as determined as Ken Lopez to sell whatever he can get his hands on. When I first became aware of the *Cantrell* film-script piracy I remonstrated with Peter and a number of other booksellers about the danger they were putting themselves in. These warning fell, and still fall, on deaf ears. The *Cantrell* script is more than active; it is with a young director who might have the power to assemble the \$30 million it will take to make it; it is a work-in-progress which no longer exists in the draft form in which it was pirated, and there are clear and serious reasons why having it in the trade is pernicious to my interest, to Martin Starger's, and to Warner Brothers's. Brian Kirby can think what he pleases: he does not have title to any copy of that script. (Incidentally, Mr. Kirby's claim in these pages that the scripts he sells often come from reputable bookshops and therefore aren't stolen is, to say the least, peculiar. Most of what Mr. Kirby said in these pages falls into the category of the self-proving statement: none of those scripts were stolen because I say they weren't. Much of the pro-sell arguments about the filmscripts fall into this capacious category. The booksellers' position is that they don't want the sale of film-scripts to be illegal because they want to sell them. *Caveat emptor*. All or almost all unproduced scripts are works in progress; *The Unforgiven* was in the drawer seventeen years. I will say once again that the bookseller who trades in unproduced scripts is interfering in a complex and expensive process; one day such a sale will cause the sky to fall, and the result, for the bookseller it falls on, will make the recent Los Angeles earthquake seem like a burp.)

It is sad to see Peter Howard reminding us that Jennifer Larson's interpretation of copyright law is not that of a lawyer. Why should it be? Are only lawyers now fit to judge what is right for booksellers to sell? Two summers ago Peter and I had a heated argument, by phone, about the script-selling, after which a considerable correspondence followed, one I treasure;

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Piracies

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it was three-way, Jennifer Larson being the pivot. Peter Howard is a distinguished bookseller but this correspondence does him no credit, and that's putting it kindly. I did finally cease answering; moreover, I asked Martin Starger, the producer of the *Cantrell* script, not to answer him, or the ABAA. In Peter's letters I felt that a good bookselling mind was close to *extremis*, twisting itself into pretzels in order to justify the patently unjustifiable.

In his statement in the Winter 1994 issue of this *Newsletter*, PBH is still twisting. To quote: "I bought from a collector a box of early and obscure McMurtry documents and mimeographed material which I subsequently sold; McMurtry has complained about other's description of that material." The "collector," I suspect, was Franklin Gilliam; the mimeographed material mostly pertained to the English class I was teaching at Rice University, where I mimeographed it on the English department's machine; the "other's" descriptions to which I objected were Gary Lepper's, in the bibliography *Serendipity* subsequently published.

Peter B. Howard owns and runs one of the great bookshops of the world. Since he has exposed his own or at least *Serendipity's* finances to us in public print, we know that he is not running it at a loss; he himself has made clear that his bookshop is not facing financial extinction, nor is it anywhere close. Why does he need to flirt with the illegal?

I complained to Joseph the Provider because they knowingly misdescribed a scrap of mine; they were finally brought to admit that they knowingly misdescribed it.

As the leading theorist of bookselling (unless John Gach is) Peter Howard might consider this question: Why is it that the booksellers I've known best, traded with the most, been the friendliest with over many years—indeed, over decades—edge the closest to plain sleaziness in their handling of works written by me? Booksellers to whom I'm just a name on the spines of eighteen books, booksellers I've never met, sell me quite honorable; I have no complaints. But the booksellers I *know* frequently slip toward the edge of the acceptable, and sometimes drop off it, in handling my works.

Why? Financial need doesn't explain it. I don't think they are evil men; I don't fault them for needing to make a living. But I do fault them for embarrassingly frequent failures in the areas of tact, decorum, courtesy, fairness, and respect.

The piracies are a crystalline example. If Peter Howard, or Ralph Sipper, or Ken Lopez wrote something that was pirated I would like to hope I would have character enough not to sell the piracy. I'd let the literary/historical/anthropological/socio-economic/geopolitical record look out for itself. If they wrote it, they should control it, and they should derive the revenues from it; the pirates should be dismissed.

There's room for debate and disagreement about the film-scripts. But what's debatable about a piracy of a living author when the work is under copyright? Why would Peter Howard, or the ABAA, or anyone need a lawyer's opinion to instruct them before they can decide whether it's right or wrong to sell such an item? What happened to honesty, and common sense? Is bookselling such an ambiguous discipline that only lawyers can inform us what is right to sell?

If that's the case then I'm glad to be among the disbanded.

Basta!

Larry McMurtry, novelist, screenwriter, and bookseller, owns and operates Booked Up, in Washington D.C., and Tucson, AZ.

From: Stuart Bennett, Mill Valley, CA

In response to some of the letters in the Winter 1994 *Newsletter*, it is certainly true that distribution by booksellers of works published in violation of copyright—by copyright I mean the 1976 Copyright Act, 17 U.S.C.[sec.symbol]101 et seq.—is itself a violation of copyright. The exclusive rights granted a copyright holder by the Act include distribution of "copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership" (17 U.S.C.[sec. symbol] 106[3]).

What does this mean? It means that the copyright holder can sue, and can get an injunction prohibiting further sales and money damages. If the copyright is registered at the Copyright Office, and the copyright infringement is "willful," which usually means knowingly rather than unwittingly (ABAA members will be hard put to argue they were unwitting

after all this *Newsletter* correspondence), then damages can be substantial.

Peter Howard's letter states that Larry McMurtry "declared that the content of screenplays was intellectual property, protected by unspecified 'laws.'" So it is, and specifically by 17 U.S.C. [sec. symbol] 102(a), which provides copyright protection to "original works of authorship fixed in any tangible medium of expression." In other words, a book doesn't have to be published to be protected by copyright.

Under the Copyright Act, works created after January 1, 1978 are protected for the life of the creator plus fifty years. The old rule was that the longest the copyright of a published work could last was fifty-six years after publication. The old rule no longer holds, even for works published before January 1, 1978; if works were still in copyright on that date, they received an extension. The long and the short of it is, if you sell piracies produced after 1921, there is a chance you are violating copyright laws.

Are booksellers likely to be prosecuted by copyright owners? It depends upon the copyright owner. J.D. Salinger is zealous in protecting his rights; so, probably, would Charles Dickens have been, had America not been a haven for copyright violators during Dickens's lifetime. But the copyright owner, not the government, has to sue.

In my opinion there is a legitimate ethical conflict between the independent right of literature to be disseminated and the right of the creator or copyright owner to be compensated for that dissemination. I am not one to try to sell J.D. Salinger piracies (they're out of my field), but if the Association adopts a policy condemning the sale of piracies "even after the expiration of the statute of limitations," (to use Wayne Somers's words), the Association would, in effect, be condemning the sale of Shakespeare quartos published in violation of copyright secured by Stationers' registry entries, of Curll's editions of Alexander Pope's letters, and of many American editions of Charles Dickens.

Practically speaking, I think the Association would do better to take the view that its members should not participate in distributing piracies of works *currently* in copyright, that is, where the distribution directly damages a copyright

owner and subjects the distributor as well as the publisher to legal action under the Copyright Act. This approach would limit our responsibility to situations

involving material currently in copyright, where there is an actual possibility of suit by a copyright owner—surely a more sensible approach than making assumptions about authors long-dead and about material with established values in the market.

Piracies are not the only way booksellers can run foul of copyright. We can do it by reproducing copyright works in our catalogues and advertising. On the whole, I would guess that brief extracts from published works would not be actionable, and in the context of a bookseller's catalogue might even fall under the "fair use" exception even though our catalogues are obviously produced for commercial reasons. But reproducing a post-1921 painting or illustration on a catalogue cover, or long extracts from an unpublished letter, especially one by Salinger (he owns the copyright even though you might have bought the physical letter from its recipient and so have perfectly good title to it as an object), could well bring the process-server to your door.

Copyright law is a complex, even sticky subject, and this letter does no more than scratch its sticky surface. For my part I am glad that most of my books are pre-1900, safely out of copyright, even if not beyond the reach of "ethical guidelines."

From: Ralph Sipper, Joseph the Provider/Books, Santa Barbara, CA

When the ABAA invited me to respond to Larry McMurtry's open letter because he had singled out—among others—our firm as wanting in professional ethics, I declined. Instead I wrote privately to Larry, registering my disappointment concerning his remarks. Public swapping of acrimony via the poison pen has always seemed to me not only an exercise in tedium but counterproductive to any possible resolution of differences. Since, however, the letter has not been acknowledged, I succumb to the very kind of exchange discredited in the previous sentence because it is the only forum available to us.

The current source of Larry's dudgeon is an entry in our long-since-issued

Catalogue Forty-Eight of a mimeographed outline for a book he planned to write. At that time Larry telephoned on receiving his catalogue and heatedly objected. Contrary to our description it was *not* a first edition. The proposal was intended not for formal publication but for the use of his publishers. Since Larry had written this previously unpublished text and himself mimeographed it in an unknown number of copies, I found his

bibliographical conclusions somewhat dubious. But what is one to do when the midwife screams over the birth she has helped to bring about?

So I apologized for the disputed wording and received by return mail a letter (dated October 11, 1992). "I'm sorry if I was brusque," so the opening sentence read. Now, more than a year later, what in

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Piracy Language

[The following texts are presently under consideration by the ABAA Ethics Committee. The first is offered here in order to elucidate the many references to it in the letters contained in this issue. The other two are proposed as possible alternatives—Ed.]

Proposed Statement on Piracies, amended
"Mere ownership of a book or manuscript protected by copyright does not, in itself, afford to the possessor any legal interest or title in that copyright. The Copyright Act grants certain exclusive rights to a copyright owner which include the right to reproduce and to distribute copies of the copyrighted work by sale or other transfer of ownership, by rental, lease, or lending, as well as the right to prepare derivative works based on the copyrighted work, and to perform or display it publicly. A copyright owner's exclusive right to distribute copies to the public is limited in section 109 of the Copyright Act by the "first sale" doctrine, which provides that the owner of a particular copy *lawfully* made under the Act may, without the authority of the copyright owner, sell or otherwise dispose of possession of the copy. The "first sale" doctrine does not apply to copies of a copyrighted work which are made without the consent of the copyright owner. Such unauthorized copies, made while the work is protected by copyright, are not lawfully made, and subsequent sale, distribution or replication of the same constitutes an infringement of the protected work.

"The Board of Governors of the Antiquarian Booksellers' Association of

America believes that an essential aspect of bibliographical research before cataloguing or offering an item for sale is an inquiry into the current copyright status of the item, and confirmation that its sale, distribution, or replication will not constitute a violation of the Copyright Act.

"Literary piracies are a violation of the Copyright Act. Members of the Antiquarian Booksellers' Association of America are expected to abide by the stated goals of our organization and its Code of Ethics, and therefore must not sell, trade, distribute, or create unlawfully made copies of works while such works are under the protection of the Copyright Act."

Proposed addendum to paragraph no. 3 in the Code of Ethics:

"An Association member shall be responsible for knowledge of the provisions of the Copyright Act, and the copyright status of materials offered for sale or distribution. An Association member shall not knowingly violate the Copyright Act by selling, trading, distributing, or creating unlawfully made copies of works, while such works are under the protection of the Copyright Act, without the express written permission of the copyright holder."

Proposed addition to the Code of Ethics suggested by Stuart Bennett:

"The ABAA endorses the principles embodied in national and international copyright laws. Association members who knowingly violate copyright laws by selling, trading, distributing, or creating unlawfully produced copies of works protected by copyright shall be subject to discipline by or expulsion from the Association."

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the worst light should have been regarded as imprecision of language has been metastasized into deliberate malfeasance, an evil that warrants public censure of Joseph the Provider / Books.

Yet, I bear Larry McMurtry no more animosity than I would a petulant two-year-old. He has, after all, flipflopped before.

We have known each other for a quarter of a century. We started our respective book businesses at the same time. We have broken bread, as they say, in each other's homes. But the implication that our relationship has been a twenty-five year day at the beach should be qualified. I go into this ancient history only because I think that my experience with Larry is not unlike that of other booksellers, some of whom have also been taken to task by this moral taskmaster nonpareil.

In the early seventies we offered for sale at a book fair some letters written by Larry. Their presence in our display case offended him, we were discreetly informed by his elegant partner, Marcia Carter. Taking the path of least resistance, we gave the letters to Larry, surreptitiously placing them in the bag that contained a book he had purchased from us at the fair. A week later the letters came back with a note. The first sentence of *this* act of contrition was "Well, sly," and concluded "By all means sell them." Larry then kindly suggested that we offer the letters to an obscure west Texas school intent on collecting his manuscripts. That is where they wound up.

When, a few years later, some of Larry's juvenilia were printed in a small, *sub rosa* edition and several copies found their inevitable way into the rare-book market, I found myself defending one of the two men accused by a livid Larry of misusing him. I knew little of the publishing details, but I did know Terry Halladay, then and now a fine and trustworthy bookseller, so I returned to its author the copy Terry had given me. This offensive volume, however, Larry did not send back (he recently purchased another copy from a bookseller for \$1,700).

There have been strained exchanges between us through the years over our offering of McMurtry's screenplays for sale. Yet upon my request for informa-

tion, Larry has always replied with the disputational logic of a rabbi, letting us know which scripts he considered tainted and which kosher. Clearly this is a man who likes to call all the shots.

A modest proposal: If we booksellers are all hopelessly out of step, perhaps Larry McMurtry should step to the beat of a drummer outside the booksellers' association he has chosen to abjure. And leave the rest of us poor sinners to our venal and nefarious proclivities.

From: Tom Congalton, *Between the Covers*, Haddonfield, NJ

I would like to address the tempest-in-a-teapot surrounding the Ethics Committee statement on piracies. It is clear that a lot of bookselling talent has been, and is being, squandered on the complexities of what should be a non-issue. I submit that the statement is short-sighted, ill-thought out, and inappropriate to an organization such as ours. It also seems unlikely to achieve any sort of consensus among the membership.

That Jennifer Larson is passionate about the issue of forgeries, piracies, and questioned imprints is obvious, and this presumably has resulted in, and will continue to result in, some benefit accruing to booksellers. That she has the time, enthusiasm, and energy to ride this particular hobby-horse is abundantly clear and clearly her right. I submit though: do we have to go along for the ride?

Larry McMurtry is a fine novelist and his correspondence on this matter reveals all of the craftsmanship that is so evident in his novels. Some things usually found in his novels are absent, however: a sense of humor and a lack of self-importance. Mr. McMurtry's interest in a dialogue is belied by his actions in resigning from the ABAA before the dialogue was fairly begun. He is grumpy, irascible, and litigious...oh, and did I mention grumpy? We submit to his hectoring only because of the profile he casts in the world outside of bookselling, the world of literature where he has our respect and admiration. Ms. Larson has spent little or no time dealing in twentieth-century literature and she seems to underestimate the problems this resolution would engender for a large portion of the ABAA membership. As for Mr. McMurtry, he can quit the ABAA...but he can't quit his day job.

From: Peter Howard, *Serendipity Books*, Berkeley, CA

Herewith a brief response to Larry McMurtry's remarks, insofar as they concern my long letter in the previous issue of the *Newsletter*, insofar as they concern my ideas, my ethics, and the truth.

1) I do not favor the sale of current piracies. But the matter is complex. Twice I have sold piracies (Salinger and McMurtry) in error and been properly and severely rebuked. In the first instance Salinger's lawyer agreed with me that booksellers (or I, anyway) could sell the book as an antiquarian item. Now Larry has apparently endorsed Kevin MacDonnell's sale of the McMurtry piracy by paying him \$1,700 for two versions of it, instead of suing, though he threatens to sue Lopez should Lopez ever offer some other version of the same item. My point was that alleged piracies may not be self-proclaiming; that it is often beyond the legal means of any bookseller to identify a piracy. I tried to demonstrate from personal experience. The whole point of my remarks on this issue was to attempt to effect a change in the wording of the ABAA Ethics Committee resolution. In this effort I appear to have succeeded, and I would vote for the proposed new resolution [see side bar, page9].

2) I am hopelessly at odds with McMurtry in the matter of commissioned, unproduced screenplays. I consider them used books; he believes they are stolen property if they are in the hands of people of whom he disapproves. I do not countenance photocopying a screenplay for the purposes of sale. In the matter of *Cantrell* I did what both Larry and our ABAA attorney suggested—I wrote both Larry and the producer, giving all the details of my acquisition of copies. Larry promised in these pages a response to this invited act. I have had no response from either.

3) In the matter of my acquisition and sale of the first edition of Thoreau's *Walden* inscribed to Emerson, Larry McMurtry renders a vicious distortion of the truth and reconstructs the time sequence in a gratuitous attempt to impugn my ethics. The facts are these: the day before a Boston book fair I bought the book from John Gach in the hotel lounge. John had bought it from a Montana book scout. My employee of the time, Thomas Goldwasser, suggested we

call the media services, and a TV crew filmed the book at the fair. On the last day of the fair, I called William Matheson (then Chief, Rare Book Division, Library of Congress), offering the book. (Warren Howell never owned any portion of the book; he would have owned half, had I returned to San Francisco with the book unsold.) Matheson accepted my offer, conditional upon the authenticity of the inscription. On Monday I flew to Washington, D.C. and delivered the book, which proved satisfactory. I returned home later that week. On the Monday following (one week exactly after my sale), at 6 a.m. I was wakened by a call from John Emerson, son of Ellen Cotton. Emerson said he saw the book on TV, and recognized it as his mother's, given to her, he said, on her wedding day. It had disappeared from her ranch when she was hospitalized—kicked in the head by a horse. I immediately advised my attorney, Gary Lepper, to investigate. He retained a Montana detective who tracked down the scout, who proved to be a roustabout on a rodeo set-up company that had taken R & R on Ellen Cotton's ranch. We obtained a confession from the thief. The book was then returned to its rightful owner; Mr. Emerson graciously recompensed Serendipity for legal fees of \$4,500 incurred in catching the culprit.

McMurtry did indeed write me of his visit to Ellen Cotton's ranch—rather later than the events described—because he knew I would be interested, because I was then a friend. He described Ellen Cotton with great gusto and for the sole purpose of entertaining me: her aloneness and independence, the antics of an Indian who caused her grief, the state of the house (papers and saddles everywhere). Larry had stumbled upon the ranch in the course of researching a screenplay.

4) Equally gratuitous are Larry's vague references to Serendipity finances, an allusion to an article published in these pages about the economical life of a bookseller. This article was a byproduct of two courses I volunteered to teach at the Denver seminar; I hand out a digest of it to prospective booksellers in order to demonstrate that however remunerative bookselling may someday prove to be, the apprenticeship may be intolerably long. Naturally I had some misgivings about splashing wide my finances in such a public vehicle, especially since after

twenty-five years I had become reasonably successful, at least financially. Nonetheless, it was the sort of information rarely shared among booksellers, and I opted to publish, especially because I was ABAA vice-president and soon to be president, a position not always associated with full disclosure. Two booksellers thanked me for my article, in particular David and Mary O'Neal. Apparently Larry McMurtry read and remembered my piece, too. A modest compliment, I guess.

From: Bo Wreden, William P. Wreden, Palo Alto, CA

This letter questions the adoption of the proposed statement on literary policies before the ABAA Board of Governors.

Before the Board takes any action on this matter it would be instructive to know what positions, if any, the American Booksellers Association and the American Library Association have taken on the subject.

I believe it is extremely important that the Ethics Committee has investigated the subject of literary piracy and has made it clear to our membership that they risk legal action for infringing copyright law by offering piracies for sale. Those who willfully produce piracies and sell them in quantity for profit should certainly be subject to full legal recourse by copyright owners. Is it our responsibility as antiquarian booksellers to pursue such matters, or is it more properly, perhaps, the responsibility of the copyright owners themselves?

If one of our members is illegally publishing piracies or stocking them new in large quantities the Board would seem to have every reason to suspend or expel that member for illegal and unethical behavior inimical to our best interests without need of the proposed statement.

Once produced and first sold, piracies, whatever their status under the law, become part of the historical and literary record sought, collected, and described by bibliographers, collectors, and librarians. Are we to eschew totally any trade in them or are we to serve our clientele always mindful of the legality and risk involved?

For years we had on our shelves a rather tattered copy of a pirated edition of D.H. Lawrence's *Lady Chatterley's Lover*. No legal representative of the

copyright holder ever challenged our right to sell it.

Recently in an ABAA colleague's catalogue I remarked some Joan Didion Taiwan piracies described and offered for sale as such. Should or did the cataloguer alert Ms. Didion before offering these piracies for sale? If Ms. Didion or her legal representatives challenge the sale of such piracies is it not a matter to be settled between the bookseller and Ms. Didion?

Our Ethics Committee is to be commended for the tremendous amount of work they have done on often difficult issues of importance to us all. If the proposed statement is adopted, however, are we not opening an ethical quagmire for ourselves to protect the rights of authors and publishers when copyright law itself is already in place to do the job?

From: Ken Lopez, Hadley, MA

"ABAA members shouldn't break the law." That's a truism and we don't need an ABAA policy to declare it. It would be better, and more socially responsible, to have an ABAA policy against drunk driving, which is more likely to actually hurt somebody, than to have one prohibiting the *secondary reselling of used copies of an already pirated work*.

Monetarily, piracies and other works of questionable copyright status are a tiny part of a modern literature dealer's business but they occupy a central, core position. They appeal almost exclusively to the most serious of our customers—the bibliographic researchers, the scholars, the special collections librarians, and those individual bibliophiles whose collections will eventually come to enhance the holdings of the major institutional libraries, either through donation or sale.

Examples abound. Recently, a bibliography was published of the pirated editions of Jack Kerouac's works, of which there are many. The bibliographer took great pains to research the copyright status of all titles listed, but even so some could not be determined with certainty, he says. Nonetheless, the work constitutes a significant addition to both Kerouac scholarship and bibliographic scholarship in general. Similarly, the librarian who most thoroughly researched the Thomas Pynchon piracies has made a

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contribution to bibliographic history, as has Pynchon's bibliographer, a special collections librarian. All agree that in some cases, the books are not what they seem: some that look like piracies aren't, while others that contain copyright notices and appear legitimate *are* piracies. And all are customers of mine, as are the publishers of both bibliographies.

Serious institutional libraries that attempt to collect an author's publications exhaustively almost always want examples of pirated works in their collections. The names of the institutions that have purchased single, used copies of piracies (or seeming piracies) for their special collections would comprise a list of most of the finest universities in the country.

Individual book collectors don't usually pursue their collecting avidly enough to care about piracies and other obscure and peripheral items such as broadsides and screenplays. Those who do, tend to be serious bibliophiles and their collections end up as important repositories of literary culture. Gary Lepper's collection became the basis for *A Bibliographical Introduction to Seventy-Five Modern American Authors*, published in 1976 by Serendipity Books. At the time, it was the best bibliography available for such important contemporary writers as Richard Brautigan, John Gardner, Larry McMurtry, and Joyce Carol Oates, among many others. It still is the best bibliography for a number of them. Lepper was an assiduous collector, and many obscure items—including ones of ambiguous copyright—are recorded in his book that might otherwise have been lost to future generations of scholars and bibliographers. He did as well as he did partly because he had assiduous booksellers looking out for his interests.

Two years ago, together with another dealer in modern literature, I did the bibliography of Robert Stone. As Stone's bibliographer, I want to see all of his writing preserved for future generations. If there had been piracies of Stone's writing, I would want to know about them because I think that the readers, librarians, and scholars of the future should have access to them. Also, the very existence of piracies conveys information about the contemporary market for an

author's work, which sheds light on the literary culture of the time.

To me, all this is obvious. If we were talking about Cervantes' work, or even Hawthorne's, I'm sure everyone would agree. But with a contemporary author, whom many people may not yet have read or heard of, what may be obvious to the bibliographer may not be to others. As dealers in modern literature, our job is to accommodate those scholars and other individuals who are assembling what will come to be the historical record. Finding an author's mainstream works isn't the problem and never will be. But the obscure, peripheral, and ephemeral items are, and piracies fall into this category, along with a whole range of other types of publications—some of which also are of ambiguous copyright. Again, determining which are legitimate is no easy matter, and there should not be a blanket ABAA policy that implies that it is. Even the ubiquitous Taiwan piracies sometimes become retroactively legitimate when publishers' pressures force the pirates into a nominal accommodation with copyright and payment—a fact which is nowhere indicated within the book itself. To exclude these items is to cut away at the heart of the business of a modern literature dealer by severing us at a critical point from the needs of the most serious of our customers. These are the people that we as booksellers are supposed to serve. It is *their* needs that give us our *raison d'être*. All this should be so obvious that it should not need to be stated.

Apparently, however, it does. Jennifer Larson takes the position that this issue is simply about not breaking the law. "Period." She clearly doesn't understand the very real objections that have been raised to the sweeping but simplistic nature of this policy. Someone who shows so little understanding of these issues should not be making policies about them. Period.

In this discussion, even the question of author's rights has been muddled to the point of being a distraction. Larry McMurtry is a popular and critically acclaimed author but on this issue his moral viewpoint suffers from a severe case of double vision. On the one hand he has asserted that as a living author he is "the sole judge of when and in what format my writing should appear before the public." On the other hand, he himself

has argued extensively and persuasively that in many cases that is *not* true: regarding the screenplays he writes, he has stated that he doesn't even own the words. On the issue of piracies, he has again taken conflicting positions: on the one hand, he has threatened me personally with legal action should I ever offer his pirated story collection for sale; on the other hand, he *bought* the last copies that appeared on the market, and for a considerable sum (which probably made the bookseller's day). There is no coherent ethical stance displayed here. And while Larry McMurtry admits that he has no legal ownership of the screenplays he writes, he threatens booksellers who deal in those screenplays with catastrophic legal action (which, he claims, would originate with the studios). My guess is that our selling those screenplays upsets him more than it would a studio executive busy raising money for production. Mr. McMurtry's advice and warnings seem to me to be veiled attempts to bully his fellow booksellers into acting on his wishes even when he personally has no legal or moral grounds for doing so.

We deal in books, but more importantly we deal in *words*. Words are intangible but have the power to change the way we think and to alter the world itself. The human capacity for language is a subtle, complex, and marvelous phenomenon. Its expression in literature exalts us as a species—while many of our other activities lead one to think the world would be a better place without us to inflict our particular kinds of madness and horror upon it. Words have the power to redeem us, or at least to kindle the hope of our possible redemption. There is no more honorable a calling that I can think of than to put oneself in the service of words, whether it be as a writer, a publisher, or a bookseller. We carry a deep and profound responsibility because words can also corrupt and debase, and incite hatred and viciousness. In light of that responsibility, we owe ourselves, our customers, and the writers whose works we help preserve our best efforts. *That* is the true bottom line here.

The problem with the proposed ABAA piracy policy is that to remedy a small ill—the relatively inconsequential economic damage inflicted on authors by the secondary reselling of their once-pirated work—it creates a *huge* hindrance to

booksellers doing our jobs. It cuts us off from our best customers and creates a massive new gray area of works with questionable copyright status, which are probably not worth the effort and expense it would take to determine their legality: broadsides, posters, pamphlets, handbills, scripts, screenplays, proofs, galleys, typescripts, and more. Many of these that don't contain copyright notices *are* legal; some which *do* contain them are not; and some cannot be determined with certainty even after *enormous* amounts of research, as is shown by the Kerouac and Pynchon piracies. Until now, it has been the burden of an injured party to determine when the injury is great enough to invoke a means of seeking remedy. That is as it should be. If ABAA adopts a policy that shifts that burden onto the booksellers, the net effect will be that all ambiguous items will be removed from the market, for practical reasons. That is a detriment to booksellers, book collectors, institutional libraries, and even the authors themselves, many of whose legitimate works will now be untouchable. It will be a detriment to scholarly research and the historical record; those writings by any author that do not contain clear enough indications of copyright to be judged "safe" will be consigned to the scrap heap of history. That is a *true* loss, for the authors themselves and for all of us. We do not *need* to do that, and we shouldn't do it. A simplistic, poorly thought-out policy adopted by a group of high-minded but shallow-thinking booksellers should not be allowed to cause that to happen.

Let's not break the law, but let's leave the law to deal with lawbreakers. Having ABAA try to remedy this problem with this policy is like trying to do brain surgery with a butter knife, or trying to kill a fly with a howitzer. Something's going to happen, and somebody's going to get hurt, but the result is not likely to be what was intended.

From: Steven C. Bernard, Darnestown, MD
In the continuing debate regarding the sale of piracies, I am in agreement with the general sentiment and position stated by Ken Lopez in the Winter 1994 issue of the *ABAA Newsletter*.

The ABAA Ethics Committee seemingly wishes to be "on the side of angels" on this issue, and while that lofty goal

may be desirable to some, I would like to share a personal anecdote that at least some ABAA members might find both amusing and ironic.

I have in my possession a Taiwan pirated edition of Hunter S. Thompson's first book, *Hell's Angels*. Stamped on the half-title page is: "Surplus Library of Congress Duplicate" (above which is the Library of Congress logo. Thus, we have a situation where no less an entity than the United States government in the form of the august Library of Congress both *purchased* and later *sold* pirated material. Isn't it interesting that the federal government's major repository of books traffics in pirated material—copyright laws notwithstanding—and yet mere booksellers would be held to a higher standard?

From: Jennifer Larson, Yerba Buena Books, Rochester, NY

The previous issue of the *ABAA Newsletter* featured a number of arguments proposing that ABAA members disregard the Copyright Act, the most commendable of which relate to the role of the antiquarian bookseller in the preservation of the literary record. Since the literary record includes works published in violation of copyright, it is argued, antiquarian booksellers have a duty to buy and sell such items, overriding the interests of the copyright owners of those works as it is expressed in the law.

This argument is unconvincing for the simple reason that the literary record can be preserved without violating the law. It is not unlawful (though some might consider it unethical) to possess piracies of currently-protected works; it is unlawful to sell or distribute them without the permission of the copyright owner. Therefore, an antiquarian bookseller whose sole concern is the preservation of the literary record can *hold* any currently-protected piracies which come into his or her possession until the expiration of the copyright, at which time those piracies can legally be sold. The literary record is thereby preserved and no law is broken. Terms of copyright protection are such that in some contemporary instances they extend wellbeyond the expected lifetimes of current ABAA members. It appears that it is this hindrance to commerce, rather than the noble aim of literary

preservation, which is at the heart of the objections to the proposed ABAA policy on piracies.

Other objections have arisen over misunderstandings. Some booksellers have erroneously concluded that the Copyright Act, when strictly adhered to, renders the entire used book business illegal. This is incorrect; section 109, the "first sale" doctrine, states that the owner of a copy lawfully made under the Act may sell or dispose of that particular copy without the authority of the copyright owner. Although one may perhaps become the lawful owner of an unlawfully-made copy of a currently-protected work, the "first sale" doctrine would not allow the resale of that particular copy while it is protected by copyright because the making of the copy was unauthorized, according to Dorothy Schrader, an attorney in the Copyright Office.

Wayne Somers is correct that the statement that "literary piracies are a violation of the Copyright Act" is not accurate. His proposed alternative policy on piracies, while attractively terse, would restrict the sale of illegally published works forever, which exceeds the limitation stated in the Copyright Act. It is not perpetually illegal to sell or distribute a work published in violation of the Act without the copyright owner's permission: it is only illegal for a specified period of time. Much confusion was caused by the statement in the proposed policy that "this standard applies even in situations where an infringement relating to a work currently protected by the Act may not be actionable due to expiration of the applicable statute of limitations." Some booksellers, ignoring the key words "currently protected by the Act," are outraged that the Ethics Committee proposes to bar the sale of Shakespeare quartos, Mark Twain piracies, and the like. That, of course, is not the case.

In lieu of the proposed policy on piracies, the Ethics Committee will consider the following addition to the ABAA Code of Ethics, rule 3: "An Association member shall be responsible for knowledge of the provisions of the Copyright Act and the copyright status of materials offered for sale or distribution. An Association member shall not knowingly violate the Copyright Act by selling, trading, distrib-

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uting, or creating unlawfully made copies of works while such works are under protection of the Copyright Act, without the express permission of the copyright owner."

Dick Rykken's point that this places a burden on the bookseller is well taken, but that burden did not begin, nor will it end, with this particular issue. ABAA members are the self-proclaimed upholders of the highest standards in the anti-quarian book trade. Our Code of Ethics states that we make every reasonable effort to determine the authenticity and ownership of the materials we offer for sale: is it unreasonable to require that we also make reasonable efforts to ascertain that our merchandise is not illegal to sell, display, or give away? A copyright search is not expensive to do (it's free if you can get to the Library of Congress and do it yourself). Peter Howard was incorrect when he presumed that the cost of a copyright search is \$800 to \$1,000 per title; he was misled by the estimated cost to search *all* of the twenty-two stories pirated in *The Complete Uncollected Short Stories of J.D. Salinger*, for both initial and subsequent renewals of copyright. The actual fee is \$20 an hour or fraction of an hour consumed. Interested booksellers may obtain Copyright Office Circular 22, "How to Investigate the Copyright Status of a Work," and Circular 1, "Copyright Basics," upon request from the Copyright Office, Library of Congress, Washington, D.C. 20559, for further information on this and other points.

Some suggest that because a bookseller is not in a position to determine copyright status in certain complex problems, the ABAA should not have a policy. While there may well be complex issues beyond the agreement even of experts, there are also well-known piracies of currently-protected works openly offered for sale at every ABAA book fair—their chief selling point is that they *are* piracies. Shall we, because some examples are difficult or insoluble, ignore those that are unquestioned?

"Imagine," Peter Howard wrote, "trying to impose an ethical sanction on a member whose behavior has been legally impeachable." It is an odd argument com-

ing from someone who opposes an ABAA requirement that its members observe that portion of the law known as the Copyright Act, and who suggests that the only proper solution to copyright violation is for the victim to take legal action. How many ABAA members, faced with a lawsuit over copyright infringement, as Peter Howard has been, would even be in a position to afford counsel? How considerate is it to suggest to them, by example, that it is okay to sell piracies of currently-protected works?

If it is decided that ABAA members may knowingly break the copyright law, or that ABAA members are unfailingly incompetent to determine whether or not they are breaking the copyright law, then it follows that the ABAA cannot, without the utmost hypocrisy, deny the application of any candidate or expel a member merely on the grounds of a violation of our Code of Ethics. In fact, it would be hypocritical to have a Code of Ethics at all—our motto ought to be *caveat emptor*; and our universal advice to the dissatisfied, file a complaint. Thus the most profoundly disturbing of all the arguments opposing a piracy policy: that it is not the proper role of the ABAA to recognize any rights or interests other than those of booksellers, and the rest of

the world must sue or be damned (viz., Lopez, "ABAA should be writing policies to protect us, not to protect others from us;" and Howard, "it is not the legal, ethical, or moral responsibility of ABAA members to monitor, anticipate, or protect the rights of authors"). It is hard to imagine a more myopic view of the matter, or *any* matter. Isn't it in our own self-interest as booksellers that authors and publishers be protected? Where does anybody think we booksellers would be without them?

Some of those opposed to an ABAA stance favoring respect for copyright have raised the specter of wholesale expulsions from ABAA of unwitting violators. These fears are absurd: anyone familiar with the workings of the ABAA's Ethics Committee knows that it is a far cry from a star chamber. Complained-against members are advised of ABAA policy. Information on all sides is carefully considered. If a violation of the Code of Ethics is found to exist and the complained-against member makes a reasonable effort to rectify the situation, no action is taken. The problem some people have with the proposed ABAA policy on piracies is not with the Ethics Committee—it is with the law. They just don't want to obey it. Period. ■

Appraisals

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federal, state, and local governments, non-profit hospitals, war veterans' groups, public parks, and groups such as the Salvation Army, Red Cross, United Way, among others. This article focuses on appraisals for donation to non-profit groups, but provides useful guidelines for doing work for insurance companies, as well.

The purpose of an appraisal is to determine the **Fair Market Value** of the donated materials so that the donor may claim a deduction against income taxes. The IRS defines Fair Market Value as the price property would sell for on the open market. It assumes a willing buyer and a willing seller, neither being under any constraint or pressure to buy, and both being fully aware of all relevant facts relating to the material being exchanged. Fair Market Value is determined solely by the marketplace. Intrinsic or sentimental value, on the other hand, is the value

an item has to the owner. Because sentimental value does not usually translate into commercial or market value, it is not taken into account when determining Fair Market Value.

Fair Market Value is difficult to define with absolute certainty. Everyone knows that out-of-print books, manuscripts, and photographs do not really have any "value" until they exchange hands. Prices of newly manufactured books are set by formulas relating to production and advertising costs. As soon as a book passes into the used book market, its value is determined by other, more subtle, supply and demand factors. Examples abound of how these factors change. Prices commanded by works of Kipling, Ford Madox Ford, and Thomas Hardy, for example, have fluctuated considerably over time as they have gone in and out of fashion.

The Winter 1994 issue of the *Newsletter* reported that "President Clinton's budget, passed this summer, restores donors' rights to deduct the cur-

rent full market value for gifts of fine arts—including books and manuscripts—to non-profit cultural institutions.” The importance of this change is that it will undoubtedly mean that more donations will be coming to qualified institutions. It also means that more appraisals will be needed, and that the IRS will probably be looking carefully at how Fair Market Value is determined and at the evidence presented to support the value claimed.

Booksellers are frequently confronted by people asking for an appraisal of their books. Often, what they actually want to know is how much something is worth, in preparation for selling it. When you buy books from a private individual, library, or bookseller and make an offer on them, you are not appraising them. You are determining a wholesale price for them.

An appraisal, on the other hand, places you in a different relationship to the books and to the person owning them. When you buy, you do so at wholesale. When you appraise, you do so at Fair Market Value. IRS regulations stipulate that you may not appraise books and then purchase them. Nor can you sell property to someone and then appraise it. Thus, a bookseller who develops all or part of a collection for a client may not then appraise that collection for estate or donation purposes. This may seem illogical, since the dealer who develops a collection is likely to know more about the collection than anyone else, but the IRS is a stickler for arm’s-length appraisals, those done by a disinterested third party who has not been involved in the purchase or sale of the items being appraised.

This also means that the library, museum, school, or other qualified institution receiving the gift cannot be involved in appraising property donated to it. Nor can any librarian in an institution receiving a gift participate in the appraisal, except to assist in cataloguing the materials. The appraiser still must view the material personally, since the appraiser is responsible for the accuracy of the catalogue.

If you are unsure of your legal right to perform an appraisal or about the validity of the appraisal you submit, you must settle it yourself or get assistance from a colleague—or consult an attorney. The IRS will answer questions about appraisal procedures in general, but it will not pass judgments on appraisals before they are actually submitted with

tax return. Obviously, the IRS does not want to be constrained by the opinion of a field agent or telephone help person, and it does not want to give an opinion about a preliminary appraisal only to have it changed when it is officially submitted.

For these reasons, appraisers should know the **ground rules**, particularly in terms of what is required of the appraiser and the document itself.

1) The owner of the property may not be involved in determining the value of the property. I have been called to do appraisals by people who said they had a collection of books that they would like appraised for a particular amount of money. If I said I would appraise them for their fair market value, not for the value the owner placed on them, they said they would continue to shop around to get their price.

Even if you are hired by a client to do an appraisal, your primary responsibility is to render an independent, carefully documented judgment regardless of the client’s wishes. To give a value to something simply because the client wants it that way is, in the eyes of the IRS, to knowingly participate in fraud. You are, after all, the expert, and you may have to defend your opinions in court.

2) Fair Market Value is just that. The same market value appraisal should apply to all situations: tax, estate, or insurance. Appraisers who artificially inflate or deflate the value of items depending upon the circumstances of the valuation run the risk of censure by the IRS and insurance companies.

3) All tax deductible gifts valued at more than \$5,000 must be accompanied by a detailed written appraisal. The appraisal document, including inventory, must be submitted *no earlier* than sixty days before transfer of the gift to the qualified institution or group and *no later* than the due date, including extensions, of the tax return on which the charitable contribution deduction is first claimed for the donated property.

4) The donor must give up all rights to the property donated; the gifts must be free and unencumbered. If stipulations as to the use of the property are included, these must be taken into account when the appraised value is set. For example, if a donor wants to give a set of Cook’s *Voyages* to a library but wants to keep the *Atlas* volume for a while, the set must be

valued for what it would sell for without the *Atlas*. It is also the case that most institutions are reluctant to accept gifts to which are attached rules about how long the institution must keep the property, who can and cannot use it, and where it must be housed, among others.

5) Membership in a professional association, including appraisal associations and the ABAA, may be taken into account in reviewing the appraisal itself, but IRS does not automatically accept or give extra weight to appraisals submitted by members of any group. The criteria for acceptance of the appraisal are accuracy and the amount of research supporting the valuation. As IRS Bulletin 561 puts it: “The appraiser’s opinion is never more valid than the facts on which it is based; without these facts, it is simply a guess.”

6) Appraisers who are not attorneys or accountants should avoid giving tax or legal advice. Stick to your business; whatever you tell a client may be subject to review in a courtroom.

7) You may not base all or part of your fee for an appraisal upon a percentage of the appraised value of the property. For obvious reasons, basing the fee on the value of the property tends to inflate the appraised value. What the IRS is looking for is an independent judgment derived from, and supported by, market research.

8) If two or more appraisers have been contracted to evaluate the property of a client, they must reach their conclusions independently. Some clients will want to hedge their bets by getting two opinions, or the IRS or an insurance company may want a second opinion on something. These opinions must be reached independently.

The first rule of a good appraisal is that the more detail and market data support given to your findings, the better your case will be. Therefore, the **appraisal must contain** the following:

1) A *complete, detailed description of the property, including a standard bibliographical and physical description of each item, including condition*. This allows the IRS to determine if the property being donated is in fact the property which appears in the description. A donor is thus prevented from getting an appraisal (and deduction) for items in fine condition, and then actually donating

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similar items in poor condition or in cheap book club editions.

Some donors may provide an inventory to lessen they will have to pay for the appraisal. You may use this so long as you check it, item by item, for accuracy and include your own notes regarding condition, edition, and collation. If you are called upon to appraise, say, 5,000 books worth \$2 to \$5 each, you may describe them in lots or groups. A word of caution: describing books in lots does not mean saying, "a large group of attractive green and brown books." There must still be some descriptive grouping, including *subject matter and condition*.

2) *The date or expected date of contribution.* As mentioned earlier, the appraisal itself may not be made earlier than 60 days prior to the date of contribution nor later than the due date, including extensions, of the return on which the contribution is first claimed. For example, if the donation is officially made on December 15th, the appraisal could be done as early as October 16th or as late as April 15th, if the tax return is submitted on that date (and assuming you could complete and document the appraisal on the same day), or even later if there were extensions. The point is that the appraisal should reflect the market value of the material at the time it is donated.

3) *The terms of any agreement or restrictions on behalf of the donor relating to the use, sale, or other disposition of the property contributed.* A deduction may not be claimed for property that is merely loaned or stored. It must be donated. Some restrictions on its use may be stated, so long as they do not effectively negate the transfer of ownership and control to the institution.

4) *The name, address, and social security number of the appraiser.* The IRS may want to ask questions or have you give a deposition later regarding the appraisal, although in my experience having to answer follow-up questions about appraisals is rare.

5) *A detailed description of the appraiser's background and qualifications.* You should include advanced academic degrees, if any, work experience germane to the appraisal project, membership in professional associations, other clients, and any other information that

will support your qualification to do the appraisal. Let's face it—the appraisal is an educated guess. Your job is to make the best guess, support it, and then show why you are qualified to make the guess in the first place.

6) *A statement of the purpose of the appraisal—donation for income tax deduction, valuation of property for sale, insurance or estate purposes, etc.*

7) *The appraised fair market value of the property, along with a copy of IRS Form 8283, "Noncash Charitable Contributions Appraisal Summary," with appropriate parts completed by the appraiser.*

8) *The method used to determine Fair Market Value of the property appraised.* This section should include references to auction sales and price guides, comparable sales, etc. A word of caution here: auction sales are no longer considered the authority for fair market prices. Unless you can show that the items auctioned are similar in most respects to the ones being appraised, and that there were not unusual circumstances in existence during or before the auction which artificially inflated or deflated the prices, it is wise not to rely upon auctions as your sole authority. You should also use dealer catalogues, actual public and private sales, and of course, any written authority to support your evidence.

9) *A description of the fee arrangement between the appraiser and the donor.* In appraisals of books, manuscripts, and related materials, fees may not be based upon the value of the items being appraised. Some appraisers charge a flat fee, others, an hourly rate plus expenses such as travel, secretarial assistance, and photocopying. Most appraisers charge a special daily rate if court appearances and depositions are required.

The IRS will supply you with one copy of each **publication and form** you will need to do appraisals. Be sure, however, that you always get the most current forms and publications, since there are likely to be some changes year to year. Call 1-800-TAX-FORM (829-3676) and ask for the following (all have been revised for 1993 returns): Publication 561, "Determining the Value of Donated Property;" Form 8283, "Noncash Charitable Contributions;" and Form 8282, "Donee Information Return." Also of interest are Publication 526 "Charitable Contributions" and

Publication 544, "Sales and Other Dispositions of Assets."

The relationship between the client and the appraiser is a complex one. If you do an appraisal, you will, of course, be employed by a client. You are the client's agent, but your primary responsibility is to render an independent, carefully documented judgement regardless of the client's wishes.

Regardless of what the client wants, remember that you have a responsibility to defend your opinions, possibly in court. If your opinions are backed up by facts, if you have prepared your appraisal as if you were going to have to defend it to disinterested, unknowing judges, if you are honest and use your common sense in preparing your report, and if you have the courage of your convictions and those convictions are well supported by research, then you will have done the best you can.

Even while you are remembering your independence, you should also remember that the appraisal you do for a client belongs to that client. It is your responsibility to keep confidential all aspects of the appraisal, including the nature of the material being evaluated and the name of the client. If, for example, a client seeks an appraisal of materials being donated to a library and that library wants a copy of the appraisal for its files, you should leave it to your client to decide if he or she wants the library to have that information. Also, if you are working on an estate collection that would be of interest to colleagues in the book trade, you should remember that information about the collection is not yours to share. That right belongs to the client.

Some appraisers draft a contract covering objectives of the appraisal, the work to be done, the time the report is to be delivered, and fees. A contract may not always be required by the client, but it is a good idea to have one available. Some clients will request one, and for your own protection you should make it very clear, in writing, what you will do for the client, what your fees are, and when and in what form the appraisal will be delivered.

Finally, since the IRS has grown more interested in appraisals and, as a result, in the taxes lost to deductions, many booksellers and other authorities have become worried about exposing themselves via their appraisals to the scrutiny of the IRS. This is unfortunate. Whenever I have

ABAA 50th Anniversary

Project Now Underway

By David Margolis,
Margolis and Moss, Santa Fe, NM

1999 will be the fiftieth anniversary of ABAA. In anticipation of this date, we are starting a new project. To honor our past and present members, we plan to publish a directory of all ABAA members, their dates when active, and, hopefully, for each, a brief biography.

This ambitious project is presently underway with the compiling of a master list of all members. This list will be circulated to some of our older members (or anyone interested) asking for brief anecdotes, or biographical information on some of our more obscure past members.

Oak Knoll Books has donated a complete run of *AB Bookmen's Weekly* to the Archives, and this will be inspected for biographical information. A team of editors will be asked to take what information is gleaned and write brief biographies. The exact shape and scope of this project is still in flux, but with a five-year head start, we should be able to create a volume of lasting interest and value.

Now for my pitch. The ABAA Archives has no pictorial information on our members or their firms. There are no pictures of Schatzki's shop or Duschenes'

office. What about Zeitlin's barn or David Magee's book store? With the beginning of our anniversary directory, we would like to ask anyone who has photographs of members or of their premises, to think of donating them to our archives. We have some funds, so if you want your original returned, we will make a copy and return the original.

Hopefully many of our present members will send us photographs of their shops or residences. It's amazing how we lament the poor records preserved by publishers, yet rarely think of ourselves as being part of the history of the book.

Please send photographs. Include where and when the photos were taken. Our archives needs your help.

*Please send your materials to:
David Margolis, ABAA Archives,
P.O. Box 2042, Santa Fe, NM 87504. ■*

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been called in by the IRS to review an appraisal of printed materials, the appraisal in question has invariably been submitted by someone who is unfamiliar with the book, manuscript, and/or photographic marketplace. The research on questioned appraisals has been practically non-existent, and the description of the materials has been, to put it charitably, inadequate.

Experienced booksellers are unlikely to make these mistakes. They know how to do research, how to describe a book, how to tell which edition they are examining, and how to catalogue their results. This is all that is required to do a good appraisal.

Booksellers should not fear embarking upon them, and they should seek the advice of more experienced colleagues if they have questions and concerns.

Richard Weatherford, a long-time bookseller formerly of Bowie and Weatherford, Inc., Seattle, is now President of Interloc, The Electronic Marketplace for Books, Southworth, WA. ■

Pforzheimer Lectures on Printing and the Book Arts

Organized by ABAA member Fred Schreiber, and made possible by a grant from the Carl and Lily Pforzheimer Foundation, the series, "Printing, Bookselling, Book Collecting: The Dark Side," examines thieves, forgers, and "other assorted bibliophilic and bibliographic scoundrels."

Three lectures have already been delivered: ABAA member Stephen Weissman spoke March 15 on "Insider Trading: The Ethics and Morals of the Rare Book Trade." Book-collector and sleight-of-hand artist *extraordinaire*, Ricky Jay, spoke March 29 on "Prose and Cons: The Early Literature of Cheating." And "I Tricked You Again: The Unknown Forgeries of Mark Hoffmann" was the title of Jennifer Larson's talk, delivered March 30. Ms. Larson, an editor of this *Newsletter*, is also a member of the ABAA Board of Governors.

Other lectures are still to come. Ken Rendell, also an ABAA member and a past member of its Board of Governors, will speak on "Mussolini, Hitler, the Mormons, and Now Jack the Ripper: How Human Nature Propels Bad Forgeries into Major Literary Hoaxes." Rendell's lecture will take place Tuesday, April 19 at 6:00 p.m.

On Wednesday, May 4 at 6:00 p.m. the Texas bookseller, publisher and book designer, W. Thomas Taylor will present " 'All Hat and No Cattle': Rustling the Texas Bibliophiles, 1960-90." And finally, on May 10, also at 6:00 p.m. Nicholas A. Basbanes will speak on "The Blumberg Collection: A Book Thief for the Twentieth Century."

All lectures are at the New York Public Library. Admission is \$6.00. For information please call (212) 930-0571.

Bibliographical Society Awards Grants

The Bibliographical Society is pleased to announce that, as a result of the first competition for the research grants set up with funds received from its centenary appeal, out of a large and strong field the following awards have been made:

£2,000 to the Council for the Care of Churches for a survey by Michael Perkin into the state of surviving historic parochial libraries in preparation for a new edition of *The Parochial Libraries of the Church of England*.

£500 to Dr. Robert Ball for a study of Thomas Gascoigne's use of libraries in the fifteenth century.

£500 to Dr. Christian Coppins for work on a census of printers' and book-sellers' catalogues prior to 1600.

£500 to Dr. Graham Rees for work on John Haviland and the printing and proof-reading of Francis Bacon's *Historia Ventorum* and *Historia Vitae* as a contribution to the new Oxford University Press edition of Bacon's works.

£500 to Dr. Alexander Lindsay for a survey of the literary manuscripts of Isaac Watts and Edward Young as a contribution to the final eighteenth-century volume of the *Index of English Literary Manuscripts*.

£400 to Mr. Keith Maslen for his comprehensive revision and extension of W.M. Sale's work on Samuel Richardson.

£400 to Dr. Alexis Weedon for completion of a survey of nineteenth-century printing and publishing record and research on the work of T. and A. Constable.

£300 to Dr. Charles Johanningsmeier (SUNY—Cortland) for work on Tillotson's Newspaper Fiction Bureau.

£300 to Mr. Barry McKay for research on the Cumbrian book-trade.

The grant to Dr. Coppins is especially associated with the Antiquarian Booksellers' Association in recognition of its donation to the Society's appeal.

For further information apply to Dr. E. S. Leedham-Green, University Archives, University Library, West Road, Cambridge.

Marcus McCorison Joins Christie's Auction House

ABAA members are sure to welcome the news that retirement will not quell the contributions of Marcus Allen McCorison to the world of books. Christie's New York has announced that McCorison has joined their organization as a consultant in the area of rare books and manuscripts.

Mr. McCorison, well-known to book-sellers nationwide, has been extremely active among collectors and institutions throughout his long career. He has been a powerful force in the American Antiquarian Society for over thirty years, joining the Society as a Librarian in 1960 and continuing his service as Director (1967-1989), President (1989-1992), and President emeritus (1992-present). Previously, he served as Head of Special Collections at the University of Iowa, Chief of the Rare Book Department at Dartmouth College, and Librarian at the Kellogg-Hubbard Library in Montpelier,

Vermont. Over the years, he has acted as consultant to various libraries including the George Peabody Library at Johns Hopkins, the Harvey S. Firestone Memorial Library at Princeton University, the Folger Shakespeare Library and the Newberry Library. Mr. McCorison was a founder and first Chairman of the Independent Research Libraries Association. He has written numerous articles, books and book reviews, and has edited several publications.

Mr. McCorison is currently a member of numerous book-related organizations, including the American Antiquarian Society, the Massachusetts Historical Society, the Association of College and Research Libraries, the Grolier Club (of which he has been a counsellor), the Club of Odd Volumes, the St. Botolph Club, and the Century Association.

Queries

From: Marvin Mondlin, 889 Broadway, 3C, New York, NY 1003

I am in need of all sorts of material concerning a pictorial and anecdotal centennial history I am working on of the now almost entirely defunct New York City Fourth Avenue/Broadway booksellers who flourished from around 1890 to 1990.

In particular, I am looking for catalogs, pictures, and lesser ephemera (invoices, business cards, announcements of openings, closings, movings) *from before the turn of the century up through the heyday decades, 1930s-50s* of this onetime robust manifestation of New York City merchant antiquarian bookishness.

Since, with few exceptions, the majority of these sometime noble bibliopoles were not—as were their generally more learned uptown brethren—issuers of handsome, distinguished catalogues,

what remains of them is largely such stuff as bookmarks, business cards, hearsay, and gossip.

Do you have *anything* (I repeat: ANYTHING) that you think might be of assistance? If nothing tangible, possibly a story, an incident, a vivid memory?

I am going a-begging to all of you, for whatever crumbs I can gather from that great bibliogastronomic feast of yesteryear (pardon the lachrymose, hat-in-hand way of putting this).

With sincere good wishes, and in hopes of hearing from those of you with something to report, I am—such as some of you know me to be—the indefatigable, would-be part-time historian of that now nearly vanished scene, Marvin Mondlin.

I don't yet have a deadline for material, but the sooner the better. All quotes of what you have, all anecdotes, etc., will be gratefully received and acknowledged.

Recent Books by ABAA Members

New Jersey Books, 1698-1800: The Joseph J. Felcone Collection.

By Joseph J. Felcone. Princeton, 1992.

Reviewed by John J. Hanrahan, J & J.
Hanrahan, Short Hills, NJ

Ken Karmiole's notice of Captain Sinkankas' *Gemology: An Annotated Bibliography* in the last issue of the *Newsletter* prompted me to write to our readers about a book by another of our colleagues, Joe Felcone. His recently published study of New Jersey books, modestly styled as the Felcone Collection, is more realistically assessed as an annotated bibliography of all procurable (and some not so procurable) eighteenth-century New Jersey imprints and New Jersey-related books—some three hundred of them. His scope includes books written by New Jersey writers, books about New Jersey or influencing New Jersey, and books having a New Jersey provenance. This is a substantial scholarly book of more than three hundred pages, with complete bibliographical apparatus, finely printed on quality paper, and housed in a suitably substantial yet handsome binding.

Listed alphabetically, from Acrelius and Aiken and Antwoord, to Woolman and Yale and Young, the entries include almanacs, Bibles, children's books, school books, law, literature, history, and travel. Felcone has listed every book he has been able to buy in the last twenty-plus years that fits his criterion of inclusion: printed in New Jersey or having a New Jersey influence. In addition to title, date, and pagination, a typical entry gives collation by signatures, listing of contents, binding, provenance, and references, and is followed by, more often than not, a scholarly note. And this book includes all of the laws, all of the Bibles, most of the children's books, and much, much more material printed in New Jersey, including detailed information on all of the printers. Felcone's notes often correct errors in Sabin or Evans. For example, in entry 243, Smith's *History of the Colony of Nova-Caesara, or New Jersey*, Philadelphia, 1765, his well-constructed argument finds "no priority...assigned to any title page or to any particular copy... Nor is one title-

page noticeably less common than the other" (p. 230), a point often overlooked by bibliographers and booksellers.

What a boon to the bookseller who finds a book he or she has just bought listed in Felcone. All the work is done; he or she has only to sell the book, citing the appropriate Felcone number. And sooner or later such a mass of New Jersey information as is found in this book will be useful to any general bookseller or student of American history.

What a boon, too, to the bookseller who finds a New Jersey book not in Felcone! Then the bookseller has no work to do other than taking whatever advantage he or she will of poor Joe, who will undoubtedly have to buy the book. Though, in truth, most of us who have found anything not in Felcone have usually been more generous than avaricious.

But then again, few of us have found much that is not already in this impressive collection.

This is a book that every scholarly bookseller and every library will want to own. Bibliographically professional and well-written, it is a book that will find a welcome spot on any state shelf near McCorison's *Vermont* and Coleman's *Kentucky*.

I said when I first saw this book, lucky is the state that has Joe Felcone for its bibliographer, and lucky are the booksellers who come after him who will be able to profit so much from his impressive work. What joy it would be to have such a book from each of our states.

Copies of the book are available from Joseph J. Felcone Inc., Post Office box 366, Princeton, NJ 08542, for \$40.00 plus \$4.00 shipping. ■

A typical entry from *New Jersey Books 1698-1800*:

222 RAMSEY, ANDREW MICHAEL, 1686-1743.

The Travels of Cyrus. To which is annexed, a discourse upon the theology and mythology of the pagans. By the Chevalier Ramsay. The tenth edition.—First American. Burlington, Printed by Isaac Neale, Oct. 1, MDCC,XCIII.

xx, 352p. 12°: [a]⁴ b⁶ A-U⁶ W⁶.X-2E⁶ 2F²

Contents: [i] title; [ii] blank; [iii] dedication to George Granville, Lord Lansdowne; [iv] blank; [v] vi-xx preface; [1] 2-269 [text]; [270] blank; [271] 272-341 'A discourse upon the theology and mythology of the pagans'; [342] 343-352 'A letter from M. [i.e. Nicolas] Freret...'

Binding: Sheep, blind roll on edges, spine with gilt lines and red label.

Reference: Evans 26052

Notes: Ramsay's work, written in imitation of *Télémaque*, was first published in Paris in 1727 as *Les voyages de Cyrus*. An English translation was printed in London later the same year. This is the first American printing.

Travel Opportunity to Russia

The Citizen Ambassador Program—a for-profit goodwill organization attached to the United States State Department (until 1961, when it went private)—has asked the ABAA, at the request of Russian organizations, to lead bibliophiles to Russia for two weeks in October 1994. The trip would include visits to major institutions in St. Petersburg and Moscow, and meetings with Russian members of the antiquarian trade. A minimum of ten travelers is required; prices and agenda yet to be determined. Who among you are seriously interested? The ABAA will lead if its members and friends wish to go. Contact Peter Howard, Serendipity Books, 1201 University Ave., Berkeley, CA 94702; phone: 510-841-7455; FAX: 510-841-1920.

Membership Updates

Acanthus Books has a new address and fax number: 54 West 21st Street, Room 908, New York, NY 10010; fax: 212-463-0752.

Robert Gavora, Bookseller has a new address and phone: 4514 East Burnside Street, Portland, OR 97215; phone and fax: 503-231-7338.

Barry R. Levin has a new address: 2265 Westwood Boulevard, No. 669, Los Angeles, CA 90064.

CORRECTION: The last issue of the *Newsletter* incorrectly published the fax number for **The Associates**, Falls Church, VA. The correct fax number is 703-536-3170. ■

ABAA Welcomes New Members

The *Newsletter* warmly welcomes the following new members to ABAA, accepted at the Officers' and Governors' Meeting at the Los Angeles Book Fair.

FULL MEMBERS:

Robert Burton Dagg, Robert Dagg Rare Books, P.O. Box 4758, Santa Barbara, CA 93140; phone: 805-966-4318.

Louise Oberschmidt, Else Fine Books, P.O. Box 43, Dearborn, MI 48121; phone: 313-834-3255.

John Schulman, Caliban Book Shop, 416 South Craig Street, Pittsburgh, PA 15213; phone: 412-681-9111.

ASSOCIATE MEMBERS:

Jesse D. Mann, The Chatham Bookseller, 8 Green Village Road, Madison, NJ 07940.

Greg Mason, The Santa Fe Bookseller, 203 West San Francisco, Santa Fe, NM 87501. ■

Book Fair Committee Notice

The ABAA Book Fair Committee has printed a handsome four-color promotional brochure (which all members received with the Annual Report) listing the book fairs sponsored by ABAA, with locations and dates, for the coming year.

These brochures are available to all ABAA members, for distribution in your shops, or for inclusion in your catalogues. The brochures are already being mailed by various auction houses with their catalogues. If you would like a supply of them, or if you have other ideas for distribution, please contact your local book fair committee chair.

The Chapter Book Fair Committees consist of the following volunteers:

North East Chapter: Ken Gloss, chair;

Doug Harding, Jim Hinck, Priscilla Juvelis, Helen Kelly, and Peter Stern.

Middle Atlantic Chapter: Denise Carlson and Tom Congalton, co-chairs; John Hellebrand, Jeff Marks, Linda Tucker, and Helen Younger. **South-East Chapter:** Allan Stypeck, chair; Allan Ahearn, Nanci Langley, and Jo Ann Reisler.

Mid-West Chapter: Rob Rulon-Miller, chair; Beth Garon, Brad Jonas, and Florence Shay. **Northern California Chapter:** George Kane, chair; Michael Hackenberg, Jeffrey Thomas, and another to be named at a later date.

Southern California Chapter: Michael Dawson, chair; Muir Dawson, Ellen Enzler-Herring, and Len Unger. ■

Deadline for submissions to the next issue of the Newsletter is

July 1, 1994

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