

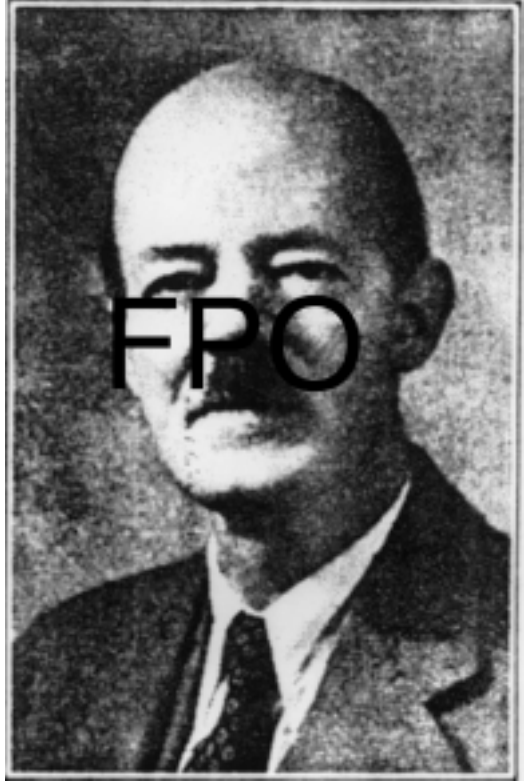
Trouble in Big Sky's Ivory Tower: The Montana Tenure Dispute of 1937-1939

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One of the most publicized tenure disputes in the history of American higher education began with a censorship controversy. In September 1935, Montana's Board of Education ordered the removal of "offensive literature" from libraries of the state's public universities and thereby touched off a storm of criticism. Philip Keeney, the librarian at Montana State University in Missoula (now called the University of Montana), soon became the most outspoken and visible critic of the board's decision. He further antagonized the board by opposing its choice for Montana State University's president and by attempting to form a chapter of the American Federation of Teachers. After he was fired without due process in 1937, his two-year battle to be reinstated became a national cause célèbre and helped to define the legal limits of academic freedom and tenure.

When Philip Keeney celebrated his fortieth birthday in February 1931, he had little reason to be optimistic about the future. He was an aging doctoral student with no professional reputation and had few chances of finding a good academic job as universities throughout the United States cut positions in response to a sagging economy.¹ With hard times getting harder, he could count himself lucky to be securely employed as an assistant librarian at the University of Michigan. Keeney could not have dreamed as he observed his life's symbolic midpoint that in a few months he would hold a full professorship as the director of an academic library in Montana. This unlikely scenario included a 60 percent increase in his salary at a time when America's unemployment rate was climbing. Even more remote was the idea that within five years he and his future employer would be embroiled in a dispute which would test the limits of academic freedom and tenure.

The events that took Keeney westward began that spring with the death of the librarian at Montana State University in Missoula.² After twenty-eight years in the position, Gertrude Buckhous had become a fixture, and the administration was at a loss to replace her. President Charles Clapp sought guidance in locating suitable candidates by appealing to Sidney Mitchell, head of the library school at the University of California in Berkeley. Clapp closed his inquiry by asking if it would



Librarian P.O. Keeney.

be better to hire a man or a woman, a question Mitchell addressed head-on: “On the whole a university seems better off with a man librarian and the college with a woman. The faculty undoubtedly prefer dealing with a man and it is also true that personal relations are generally easier and personnel troubles less frequent where a man heads the organization.”³

Unfortunately for Clapp, Mitchell could recommend any number of capable women, but cautioned that male librarians were a rare and sought-after species who could choose the best jobs. Not many of them, Mitchell believed, would move to remote Montana to head a library whose collection was at best “medium-sized.” He could offer only one reasonably qualified male who might be willing to take the job, his former student Philip Keeney.

As it turned out, Keeney was more than willing; he was avid. Once alerted to the opening, he wasted no time pursuing his opportunity. By

September he arrived in Missoula for an interview, and within days he was the new head librarian at Montana State University.

Keeney's move to Montana marked the second time he had gone west. At the age of twenty-two, following an accident and a bout with typhoid, the Connecticut native had dropped out of MIT and moved to California to recuperate. Between 1913 and 1923, he owned an olive grove near Chico, a curious choice of occupation since his upbringing as a shopkeeper's son hardly qualified him for farming. He managed to survive if not prosper on the land, but after ten hardscrabble years he sought new options, enrolled at the University of California in Berkeley, and completed a bachelor's degree in history in 1925. Ambivalent about going into teaching because of a slight speech impediment, Keeney then broadened his career prospects by completing a certificate in librarianship at Berkeley in 1927.

After graduation, he moved on to his first library job as the supervisor of a reading room at the University of Michigan, and was soon promoted to assistant order librarian. In his free time he took courses at the university, enabling him to earn a master's degree in library science in 1930 and to work toward a doctorate in history. It was a life with few diversions, but one that would change radically after Keeney met and married Mary Jane Daniels in 1929. In contrast to the retiring Keeney, she was strong willed and energetic.

Although she disrupted his uncomplicated existence, many who knew Keeney agreed that his wife was his greatest asset. Mary Jane made a positive first impression on Keeney's colleagues as a brilliant young woman who, because she was a skilled bibliographer, could ably assist her husband.⁴ She never completed college but had taken several courses at the University of Chicago where she was admitted on an honor scholarship in 1915. Like her husband, she had left school after a battle with illness and, according to her memoirs, spent the years between 1920 and 1927 as an invalid.⁵

A scarlet fever epidemic had swept the dormitory where Mary Jane lived, and there is no reason to doubt that she fell victim to the illness. However, her actual whereabouts during the early 1920s are hazy. When she applied for a passport in 1945, she admitted to having been married during the time she supposedly was recuperating in her mother's home. According to information she provided in the application, she divorced her first husband, Legare George, in 1928,⁶ but there is no record of this divorce at the clerk of court's office in Los Angeles where she claimed the marriage was dissolved.⁷ In her memoirs, Mary Jane never alluded to having been married before she met Philip, and she concealed this fact from even her closest friends.⁸



Mary Jane Keeney, courtesy of NYT Pictures.

During these “lost” years, she taught herself foreign languages and became immersed in history and philosophy. She also furthered an interest, first awakened while she was a student, in the Soviet experiment in government. Intrigued by the events that lead to the Russian monarchy’s demise, Mary Jane became fascinated with social and political movements. After the First World War, she thought of herself as a progressive of the LaFollette stripe, but her transition to radicalism was fueled by the failure of the British Labor government in 1924 and by the execution of Sacco and Vanzetti in 1927. As Mary Jane told it, when she emerged from the sickroom at age thirty she was a confirmed leftist. Like many of her generation, she would ride through the 1930s openly espousing liberal and radical causes, only to be caught up in the anti-Communist backlash that followed the Second World War.

By the spring of 1928, Mary Jane had arrived in Michigan where she organized the library of entrepreneur and politician Albert May Todd, known as the “peppermint king of Kalamazoo” because of his cultivation of aromatic herbs. During the fifteen months that she worked for him, she claimed to have cataloged his entire collection of 25,000 rare books, many of them in languages she had not taught herself.⁹ After accomplishing this possibly exaggerated feat, she moved on to Ann Arbor, where she got a job at the University of Michigan and soon made the acquaintance of Philip Keeney.

Beyond a mutual interest in books and libraries the pair had much in common, not least of which was a solid middle-class upbringing. The daughter of a pharmacist, Mary Jane sniffed at Philip’s “petit bourgeois background much like my own,” and decided that he needed some rehabilitating when she first met him. A vivid memory of her future husband was that he was “a humanist of the Irving Babbitt school, a thinker rather than a man of action.” A large part of their courtship was taken up in her efforts to guide him to a more radical line of thought, and in time he came to share most of her views. Given that they were librarians, it is not surprising that books played a major role in this process: “We began with Gibbon,” said Mary Jane, “and progressed to Marx.”¹⁰

Perhaps the side of their natures that favorably disposed them to Marx also attracted them to librarianship. Sociologist Nathan Glazer speculates that Depression Era members of “certain intellectual occupations (teaching, social work, librarianship)” were likely to drift toward communism “because these occupations combine professional status without the income or prestige that might make the members of these occupations supporters of the status quo.”¹¹ To buttress his theory, Glazer points to Alice Bryan’s report on the public librarian which indicates that in the spring of 1948, even as conservatism was on the rise nationwide, 17 percent of librarians preferred socialist, communist, or progressive candidates for president, “suggesting a rather leftist group.”¹²

Mary Jane may have raised her husband’s political consciousness, but she did little to further his career in Missoula. She had open contempt for the town, regarding it as a hopeless backwater, even though it served as the cultural and commercial hub of the surrounding region. It was not the cowboys, miners, and farmers who put her off nearly so much as the local gentry. These people, having little sympathy with her politics, she dismissed as xenophobes jealous of her intellect and sophisticated lifestyle.¹³ She especially believed they were unduly suspicious of her motives in serving exotic foods: “I had been giving my guests borscht for several years before I learned that I was actually offending people by so doing. . . . They read into this act on my part, an act which had the

innocent basis that I happened to have Spode dishes of a matching color, an over-fondness for Russia.”¹⁴

Repelled though they were by Missoula’s bourgeoisie, the Keeneys apparently never sought the alternative company of the town’s proletariat. Instead, they drifted into activities befitting a faculty couple, such as planning literary programs for the Missoula Women’s Club, editing a poetry column for *The Montana Woman*, and attending garden parties of people they supposedly disdained. Perhaps the only pastimes that truly appealed to them were the “salons” they hosted or attended at the homes of their few friends, where the evening’s entertainment consisted of intellectual discussions and literary readings.

While they managed to find a social niche, the Keeneys still gained reputations as people of poor judgment among Missoula’s town and gown. On one occasion tongues wagged when Philip appeared to be intoxicated at a local cafe. In another incident that became known as “the failed cocktail party,” the Keeneys lent their apartment to a visiting professor who needed a place to host an entertainment for a writers’ conference. Matters got out of hand, and what began as a simple reception ended with some of the guests going downtown and having a public brawl.

Even when the Keeneys engaged in more cultured events they had a way of offending people. At a book reading in another faculty member’s home, Mary Jane appalled many of those present by reciting profane passages from Robert Cantwell’s *Land of Plenty*. Her behavior also reflected negatively on Philip, causing some people to doubt whether he should be entrusted with choosing books read by impressionable young students.

These doubts were aired during “the troubles” that arose at Montana State University after President Clapp died in May 1935. It seemed he had possessed a knack for holding dissent at bay, a skill that became abundantly clear following his death. Campus factions, simmering for years, quickly manifested themselves. Young professors voiced resentment against their older colleagues, resentment that was reciprocated; poorly paid teachers vented frustrations over perceived salary inequities; and, most importantly for Philip Keeney, the socially and politically conservative majority lined up against the liberal minority.

Keeney fell into the latter camp, but despite the perception that he was a wild-eyed radical he took a conventional approach to his job. He spent most of his small budget on textbooks for specific courses. Indeed, the only vaguely radical acts he committed during his early years as librarian were subscribing to *New Masses* and instituting a program called

the "Open Shelf," a prominently displayed bookcase in the library containing literature and nonfiction that Keeney bought with his few discretionary funds. Avant-garde novels and books about socialism were well-represented, but they rested alongside standard histories, biographies, and science books. Despite reservations about Keeney's judgment, the Open Shelf excited little comment until it became unexpectedly interwoven with the search for Montana State University's new president.

Already fraught with tension, the search became even more heated when Missoula's most powerful businessmen, informally known as the Downtown Group, decided they wanted to take part in selecting Clapp's successor. The faculty, painfully aware of previous corporate interference in the state's higher education system, was outraged. Many of them recalled the years after the First World War when the newly established American Association of University Professors (AAUP) investigated three separate cases in which free speech on the campus appeared to have been suppressed by big business. In all three instances, the AAUP concluded that freedom of expression indeed had been violated.¹⁵ This was particularly significant since most cases investigated by the AAUP during this period fell into the category of economic, not free speech, disputes.¹⁶ The last of these investigations occurred in 1921, just after Charles Clapp assumed office, and it proved to be the last major crisis of his comparatively peaceful administration.

While many people wanted a hand in choosing the president, the power to do so was wielded solely by the State Board of Education, which oversaw Montana's public colleges and universities. It consisted of the governor as chairman, eight of his appointees, the state attorney general, and the superintendent of public instruction. Conscious of the tensions at the campus, the board suggested that it would be best to fill the job with an out-of-state candidate. Since the university's internal differences were clearly irresolvable, a majority of the faculty agreed with this idea. The Downtown Group also expressed support for the plan.

At least one person found the compromise unacceptable, however, since the presidency was a big plum to be exported out of job-starved Montana. John Morris, a former history instructor who had struggled to make a living on a farm near Missoula after losing his job at the university, believed that he could snap up the appointment to head the school. He insinuated his way into the board's September 1935 meeting by convincing the governor that he had something important to say and when given the floor, he launched into a tirade about the low moral character of campus life at Montana State University. To make his point, he began reading passages from Vardis Fisher's *Passions Spin the Plot*, a book he had found on the library's Open Shelf. The selection of this novel was probably no accident since Fisher, a writer who enjoyed a

national reputation during the 1930s, was the visiting professor who had hosted the notorious failed cocktail party at the Keeneys' apartment. Morris also clearly chose the book for its potential shock value since it dealt frankly with a young man's emotional reaction to the discovery that his fiancée was more sexually experienced than he.

Morris's goal of convincing the board that standards would be raised under his leadership was not realized. Instead, his listeners cringed as the recitation continued unabated. To hush Morris, one of the board members interrupted and proposed banning *Passions Spin the Plot* "and all books of a similar character" from university libraries throughout the state.¹⁷ The resolution quickly passed, and Morris was ejected. Provoked by an awkward situation, the board failed to consider the implications of the resolution; they certainly did not see themselves as censors.¹⁸

For Philip Keeney, it was a different story. Upon being informed of the resolution, he treated it at face value, notified the board that he had removed *Passions Spin the Plot* from his library, and asked for further advice on identifying "what other books should be removed from the shelves."¹⁹ He received only silence in reply for three months, which he might have perceived as a snub. His subsequent behavior could have been the reaction to this seeming insult, or it is possible that he intended to organize a protest from the moment he heard of the resolution. In any event, by October he was collaborating on a petition calling for the board to reconsider its action.

The strategy for gathering signatures was handled by Stephenson Smith, a University of Oregon professor who had befriended Keeney while teaching in Missoula. Smith also might have composed the text of the petition which, instead of calling upon the board simply to rescind the censorship motion, suggested that problem literature be transferred to "the vault or lock shelf" from which it would be issued only to mature students by a faculty member or the librarian.²⁰ As this was a common practice at the time, it is unclear whether he was being sincere or sarcastic, but there can be little doubt that Smith was provoking his intended audience with the statement, "We recognize that your Board is the authorized spokesman for the moral convictions and tastes of the people of Montana, and we do not for one moment mean to call in question your final jurisdiction in these matters."²¹

To hone the element of surprise, Smith did not circulate the petition in Montana, so board members had no idea that a controversy was brewing. While this method of protest was somewhat jejune, it protected Keeney, since open criticism of university administrators was not viewed as the stuff of academic freedom during the 1930s. This was true even in public institutions, where legal protections for such expression were

largely undefined until the 1960s.²² If Keeney had been overt in his behavior, he could have been treated as nothing more than a troublemaker and summarily dismissed.

Even obvious clues to the scheme might have been ignored since the board was fixed on one goal as 1935 drew to a close: finding a new president for Montana State University. The search had bogged down when no suitable out-of-state applicants emerged, largely because of the job's uncompetitive annual salary of \$5,460 and a residence.²³ As the academic community scratched its collective head in dismay, the Downtown Group saw an opportunity to press for its presidential choice, a young assistant professor of zoology whose doctorate was less than a year old when he came to teach at the university in 1934.

George Simmons had been formally presented as a candidate, but his lack of experience, not to mention his friendliness with the Downtown Group, made him an inconceivable one in the minds of the faculty. Missoula's business interests were far less concerned with his academic credentials because they wanted to fill the presidency with a highly visible booster. A handsome man with a record of lively speechmaking at Rotary Club meetings, Simmons was their logical choice. His biography read like an adventure story and included jobs as a police reporter, a Red Cross ambulance driver during the First World War, and the director of a voyage to collect specimens for the Cleveland Museum of Natural History.²⁴

Knowing the furor that would greet any serious consideration of Simmons, the Downtown Group quietly courted the board. At its December meeting, when pivotal members opposing Simmons were out of the state, his allies seized the opportunity, and he was hastily selected as the university's president. The faculty were horrified, and among the outraged was Philip Keeney, who took it upon himself to circulate a petition, this time openly, calling upon the board to rethink its choice of president. But there would be no reconsideration because Montana's governor, one of the absent board members who opposed Simmons, suddenly died a few days after the vote, removing the spotlight from Simmons.

Demoralized faculty suspended their effort to recall Simmons, but not before he had a chance to size up his enemies, boding ill for Keeney. The very sight of the librarian, Simmons once said, made him "unhappy."²⁵ This reaction may have been colored by their political differences and certainly by the fact that Keeney had led the opposition to Simmons's presidency, but in the minds of some it was largely prompted by Keeney's personal appearance.²⁶ As physical types Simmons and Keeney were at opposite ends of a spectrum. In contrast to Simmons, who had the looks and carriage of a matinee idol, Keeney was stooped



George Finlay Simmons, courtesy University of Montana.

and balding. To further complicate matters, Simmons had been present at Mary Jane's reading of *Land of Plenty*, and he regarded her as a woman of exceptionally poor taste.²⁷

At the same meeting where the board elected Simmons, Keeney's request for help in identifying "unsuitable" books was finally taken under consideration. Missing any irony in the request, the board replied through its executive secretary, H. H. Swain, that the resolution would come to nothing. Swain assured him that "the entire incident will remain closed unless an effort should be made from outside the Board to reopen it."²⁸ The reply, no matter how well-intentioned, arrived too late to prevent fallout from the anticensorship petition which had been signed by sixty professors in Washington and Oregon.

Although the petition was originally intended for the board, Stephenson Smith decided to send it to George Simmons instead. Simmons had nothing to do with the resolution to ban *Passions Spin the Plot*, but Smith could not resist the opportunity to play the gadfly. He attached a letter to the petition urging the president to challenge the very people who had just put him in office: "It is my hope," wrote Smith, "that you will act on this matter and see that the proper modification of the Board's order is made. . . ."²⁹

Recognizing that Smith was testing him to see if he would choose the principle of academic freedom over loyalty to his political supporters, Simmons framed his reply carefully. In defense of the board members, he argued that censorship was not their intent and suggested that the instigators of the petition would have been better served by dealing directly with the individuals who had voted for the resolution.³⁰ Smith then did just that, sending the petition to each board member, along with a letter chronicling the history and folly of censorship. Since most of them were business people or politicians, Smith seemed to believe they would not understand the threat to intellectual freedom inherent in their action, so he appealed to them with the argument that books often increase their sales after being condemned.³¹

If Smith's purpose was to aid Philip Keeney in the defeat of book banning, the results were disastrous. The calm tone of Simmons's reply to Smith simply masked his rage. Simmons was further irritated when, nine days after taking office, he was presented with another anticensorship petition signed by four hundred students and faculty members from the local campus. The appearance of this second petition convinced Simmons that he must assert his authority, and like the hapless John Morris he decided that the moral tone of the campus had to be improved.

The first object of the president's efforts was a student production of *Ah, Wilderness*, which raised his ire because it included a character who was a prostitute. That a young female student would be cast in this role was unthinkable for Simmons, and to his relief the head of the drama department agreed to substitute another play. No less a target of the purge was H. G. Merriam, the editor of the university's literary magazine *Frontier and Midland*, who impressed Simmons as dangerously liberal. Because he was chairman of the English Department where both Vardis Fisher and Stephenson Smith had been visiting professors in the past, Simmons also suspected that Merriam had instigated the anticensorship petitions.³²

By misdirecting suspicion at Merriam, Simmons failed to immediately grasp the depth of Keeney's involvement in the anticensorship campaign. The truth began to unfold in March 1936 after an article appeared in a widely circulated West Coast publication, *Pacific Weekly*. The author, James Steele, criticized the board's censorship action and the questionable process by which Simmons had been placed in office. Readers were urged to express their disapproval of the resolution to ban *Passions Spin the Plot* by complaining to the same university president that the article had mercilessly discredited.³³

After a brief investigation, Simmons discovered that James Steele was a pseudonym. The editor of *Pacific Weekly* refused to identify the author, but divulged that information for the article had originated with the

librarian at Montana State University. If Keeney's star began to fall at this point, it crashed in April when all the newspapers in Montana received a letter from a J. Ryan, who called himself the secretary-treasurer of the Alumni Progressive League of Montana. Ryan claimed that this organization objected to censorship on the Missoula campus and wanted it stopped immediately. Appended to Ryan's letter was a mimeographed copy of the *Pacific Weekly* article. Like Steele, J. Ryan and the Progressive Alumni League turned out to be fictitious.³⁴ Believing with good reason that Keeney lay at the heart of these matters, Simmons began taking steps to rid himself of the man he found so troublesome.

The first sign of the president's intentions appeared in Keeney's contract for the 1936–1937 academic year, the sixth he had received since being hired in 1931. As standardized forms, all had contained the same language, including a list of the board's regulations for hiring, tenuring, and dismissing professors. But there was an important difference between this contract and the previous five: stricken from it was the clause granting automatic tenure to full professors after three years of service.³⁵

On the advice of a lawyer, a fearful Keeney added the words "by signing this contract, I am not in any way putting my permanent tenure in jeopardy" next to his signature. Four months later, Simmons informed him that the notation had no legal effect. He further insisted that—despite what Keeney's five years of service as a full professor might imply—he had been on one-year contracts since being hired by Charles Clapp in 1931, and there was no guarantee that they would be renewed indefinitely.³⁶

The path Simmons ultimately would take was unclear at that point, the summer of 1936. He later divulged that he had wanted to fire Keeney outright instead of giving him a contract of any kind, but had listened to cooler heads who warned him that this would lead to more campus turmoil.³⁷ Simmons appeared to embrace this advice, for even as he issued his warning to Keeney, the president held out an olive branch by telling him "I am anxious to work out our mutual problems." He went so far as to say that things were beginning to go well between the two of them, but left no doubt that the upcoming academic year would be crucial in determining Keeney's future.³⁸ Impressed by the warning, Keeney kept a low profile throughout the rest of the year, searching unsuccessfully for a new job and protecting the one he had by kowtowing to Simmons.

It is hard to imagine a more onerous situation for Keeney because it meant surviving in an increasingly repressive atmosphere. In April 1936 Simmons persuaded the board to rescind the resolution banning *Passions Spin the Plot*, and, instead, to set up review committees at Montana's

public universities, with each president and faculty body responsible for maintaining “proper standards” in the selection of library materials and in the production of student plays. Although varnished with language giving teachers control over the universities’ intellectual climate, this new resolution actually compromised them with a clause demanding “proper cooperation from all concerned in the type of plays performed and in the character of material used in student and faculty publications, in order that a proper high level of good taste and public decorum may obtain.”³⁹

One of the new resolution’s provisions was that “any writings found unsuitable for immature student reading shall not be admitted to the general or open shelves of the library,”⁴⁰ so Keeney inevitably came under scrutiny. In deference to Simmons’s warning against stressing “isms” in the library, Keeney voluntarily purged a dozen potentially controversial books.⁴¹ So deftly had Simmons forced Keeney’s hand that this advocate of intellectual freedom became a censor himself. When he was not removing parts of the library’s collection from public view, he applied himself to his duties. Not once during the 1936–1937 academic year did Simmons indicate that he was displeased with Keeney.

Unaware of Keeney’s predicament, a representative of the American Federation of Teachers (AFT) contacted him in January 1937 and asked if he would be interested in forming a chapter of the union at Montana State University.⁴² Primarily aimed at school teachers, the AFT had only a couple of dozen university chapters and was trying to increase its membership within higher education. One of the signers of Stephenson Smith’s anticensorship petition had suggested that Keeney would be a good organizer, but as the librarian regretfully explained, he couldn’t possibly engage in such activities. Besides, he had tried to rally the faculty to unionize just after Simmons had taken office. Even then, the atmosphere at the university was so charged that Keeney could not find a single recruit. “I am enormously interested,” Keeney wrote to the AFT, “and do not think that I will lay down if there is the slightest chance to get a chapter here.”⁴³

If Keeney’s life had been the staged melodrama it was beginning to resemble, the timely arrival of the letter from the AFT would have foreshadowed action soon to come. Within two months he had reversed himself and was scouring the Missoula campus for the signatures needed to start a chapter. He abruptly changed his demeanor, said Keeney, because other faculty members had approached him with interest in the union.⁴⁴ Between 31 March and 6 April he collected more than two dozen names and was arranging for an AFT organizer to come to Missoula. On the seventh day of the month he received a letter from Simmons informing him that his services as librarian were no longer desired; Keeney’s

contract for the 1937–1938 academic year would not be renewed.⁴⁵ A few days later, Simmons's action was confirmed by a majority vote of the board of education.⁴⁶

Keeney immediately charged that his efforts to form an AFT local had led to his dismissal, a serious accusation since the newly ratified Wagner Act enjoined employers from dismissing workers engaged in union organizing. Simmons, knowing the law and prepared for Keeney's strategy, rebutted that the teachers union had nothing to do with it. It was extremely important for Simmons to assert that the decision to let Keeney go was based on his incompetence as a librarian and disruptive behavior unrelated to the union.⁴⁷

Simmons was in fact eager to present himself as a friend of the working man because organized labor was a powerful force in the legislature, one as influential as big business in determining which towns and institutions received state contracts. Using the conservative *Daily Missoulian* as his medium, he announced that he had no desire to antagonize labor and that a teachers union would be welcomed at Montana State University.⁴⁸ This gesture by Simmons was never taken seriously and instead was overshadowed by rumors that he was conspiring with industry moguls to break up the new AFT chapter, which continued to have the support of many faculty members despite Keeney's dismissal. Montana's liberal congressman, Jerry O'Connell, spoke for many of his political allies when he wrote to Simmons in the wake of the rumors, "I feel that the State University has always been a very reactionary institution, that it has always been completely controlled and dominated by the Anaconda Company and the other corporate interests in Montana."⁴⁹

Luckily for Keeney, Montana's labor sector responded with an outpouring of support for him, and in very little time solidarity around him grew into a movement. By the summer of 1937, scores of written protests, mostly from white and blue collar unions throughout the United States, flooded Simmons and the board. With the help of labor the deposed librarian gained the courage to fight for his job through the courts, and his resolve grew as the American Civil Liberties Union and the American Association of University Professors took an active interest in the case. In June 1937, for the first time in over fifteen years, the AAUP would send a team to Montana to investigate the possibility that academic freedom was under assault.

Many individual librarians also spoke up on Keeney's behalf, but the American Library Association, the organization most representative of Keeney's professional interests, distanced itself from the case. To this day, the ALA's reluctance to act remains perplexing, since Keeney's dismissal emerged from the suppression of a book, a matter of natural interest to the association. The case also was extremely timely, for by

the late 1930s librarianship was consciously evolving into a profession with the mission of providing a comprehensive and balanced body of literature to the public. As Evelyn Geller has put it,

In 1876, when the American Library Association was formed, its leaders avoided controversial literature and endorsed the librarian as moral censor. In 1939, when the association adopted its first Library Bill of Rights, the librarian was defined as the guardian of the freedom to read.⁵⁰

This bill of rights, which emphasized the obligation of librarians to represent “all sides of questions on which differences of opinion exist,”⁵¹ originated in the public library sector, but its implications for academe were obvious. The Keeney case, which played out as the thinking that led to this “manifesto” reached its critical mass, provided the ALA with a forum to flex its organizational muscle and to proclaim the profession’s changing identity. In 1936 the ALA had laid the practical foundation for reviewing disputes like Keeney’s, when the executive board gave the association’s Committee on Salaries, Staff, and Service jurisdiction to investigate unjustified dismissals in libraries. In the summer of 1937, the committee’s name was changed to the Board on Salaries, Staff, and Tenure, further indicating the ALA’s sense of duty to members with employment problems.

Keeney’s expectation that the ALA was prepared to investigate his case were reinforced by a warm personal letter sent to him by executive director Carl Milam in response to the publicity drifting out of Montana. Milam compared Keeney’s dismissal with that three decades earlier of Pulitzer Prize-winning historian Vernon Parrington from the University of Oklahoma “to their everlasting disgrace.”⁵² Milam also counseled Keeney to keep him informed of further developments and expressed hope that “ALA might find some way to make the administration at Montana squirm.”⁵³

It soon became clear that these gestures by the ALA were without teeth or heart. Just three weeks after Milam wrote his letter, Paul North Rice, chairman of the Committee on Salaries, Staff, and Service, informed Keeney that it had no money to cover investigations “as has the A.A.U.P.”⁵⁴ Rice further implied that he was suspicious of Keeney’s integrity as a librarian:

I have no sympathy with any censorship of books in a college library which stress a different point of view than that of the administration, but neither have I sympathy, and I assume that with this you

will concur, with using a college library for propaganda. As an individual you should have been free to express any opinions, no matter how much at variance they were with the administration. As a librarian you should have been entirely neutral in all contraversial [*sic*] matters.⁵⁵

Rice also asked Keeney to explain away the university's position that he was on annual appointment and could be dismissed at any time. Rice's insights into that position can be attributed to a letter George Simmons had sent to the ALA headquarters in which he argued his side of the case and assailed Keeney's character. This letter was a copy of one Simmons had written to the AAUP as the formal explanation of why Keeney's contract had gone unrenewed.⁵⁶ Sharing this correspondence with the ALA was a violation of AAUP protocol, but that did little to lessen its damage.

Before Keeney could respond to the questions and implications raised in the letter, ALA president-elect Milton Ferguson had published an editorial in the June 1937 *Library Journal* suggesting that Simmons, not Keeney, was the wronged party. Ferguson casually stated that Keeney was a socialist and repeated a claim made by Simmons that the fired librarian threatened to "spread his case and our difficulties in every radical sheet across the country" if his contract were not renewed.⁵⁷ Ferguson further questioned the right of any librarian to ignore the opinions and wishes of higher authority, and wondered "how far will academic freedom and right of free speech permit a faculty member to project his personal convictions into college affairs and the administration of the library."⁵⁸

The 15 June 1937 issue of *Library Journal* went to press without Keeney having the slightest chance to establish his side of the story. To add insult to injury, Keeney learned of Ferguson's editorial as did most readers of *Library Journal*—when his issue arrived in the mail. A stunned Keeney immediately fired off a rebuttal to Ferguson, and although Keeney's anger was evident, he showed considerable restraint, probably because he still hoped to garner the ALA's support. He denied being a socialist "in the sense that I am a member of that party. I am a member of no party."⁵⁹ But he conceded that he belonged to the American Civil Liberties Union and the American League against War and Fascism, "both of which have been described by President Simmons as 'communitistic' organizations." Keeney also enclosed a list of books on the Open Shelf, demonstrating its balanced nature, and pointed out that he had complied with Simmons's every wish about library purchases.⁶⁰

Despite the shabby manner in which Keeney had been treated, he asked Ferguson for only one concession: to be given the opportunity to

present his side of the story in an upcoming issue of *Library Journal*, a request that Ferguson could hardly reject. "I will be pleased to urge the editor to print any brief statement you may send her," wrote Ferguson to Keeney.⁶¹ It is doubtful that he followed through on this promise, however, since *Library Journal's* editor, Bertine Weston, turned Keeney down flat when he asked her to print his response:

I can not agree with you in feeling that Dr. Ferguson has done you such grievous injury and I can not feel that you will be able to prove anything merely by writing letters to the *Library Journal* or other library organizations. Frankly, I feel that you would be much better off if nothing further about you appears in any magazines until the matter is investigated by a properly constituted committee.⁶²

Paul Rice also chided Keeney for objecting to the editorial, describing the protest as intemperate and regrettable.⁶³ In the same letter in which Rice delivered this scolding, he actually gave Keeney some heartening news. The Committee on Salaries, Staff, and Service had sent letters to Simmons and the board of education stating that Keeney had not received a fair hearing.⁶⁴ Rice also told him that the newly formed ALA Staff Organizations Round Table (SORT) had passed a resolution supporting his right to a hearing. Over time, SORT continued to be outspoken on Keeney's behalf, but it carried far less clout than the ALA's executive officers.

What can account for the ALA's reluctance to get involved with the Keeney case? The official explanation that the association had no money for investigations is hard to countenance. In 1937 the ALA's budget was some eight times greater than that of the AAUP, but unlike the faculty organization, most of the ALA's treasury was built from sources other than its members' dues.⁶⁵ As they were beholden to any number of individuals and foundations outside of librarianship, the ALA's officers could not automatically act on behalf of colleagues who faced dire consequences for living by their professional creed. To do so risked offending donors whose positions on censorship were unpredictable. This dilemma has remained with the association well into the recent past,⁶⁶ weakening its ability to affect national or local policies on intellectual freedom.

The stance assumed by the ALA's officers reflects both a deference to outside authority and an ambivalence to issues of censorship. It also illustrates the gulf between the conservative elite of the organization and the far more liberal librarians like those Nathan Glazer describes. The Staff Organizations Round Table members represented the latter element and their endorsement of Keeney did nothing to raise his stock at

ALA headquarters. Disaffection between these sectors only increased when in his 1938 inaugural address Milton Ferguson counseled librarians to avoid unionization to achieve their professional ends.⁶⁷ With this speech, Ferguson alienated many SORT members who were already members of labor organizations and made it clear that he disapproved of Keeney's effort to form an AFT local.

With or without the endorsement of his professional association's elites, Keeney had ample encouragement to continue with a lawsuit against Simmons and the board of education. The Montana Federation of Labor, convinced that the case would have far-reaching implications for the rights of unions, agreed to pay his legal expenses. He also was armed with the Montana attorney general's opinion that the dismissal was illegal for contractual reasons.⁶⁸ Furthermore, the draft report of the AAUP's investigative visit indicated that the association felt that his dismissal had been mishandled.⁶⁹ This conclusion was moral in its basis and was not legally enforceable, but the association's growing prestige made its threats of censure potentially embarrassing.

Although Keeney's basis for legal action was clear enough, it would have been even more explicit a few decades later when rules governing academic freedom and tenure were better defined and codified. The foundation of this "code" is the 1940 *Statement of Principles on Academic Freedom and Tenure*, jointly issued by the AAUP and the American Association of Colleges (AAC). While the principles still are not legally binding, they now guide the majority of institutions of higher learning in the United States. At their heart is the professorial right to teach and conduct research without fear of administrative censorship or retribution.⁷⁰ The *Statement's* guidelines on permanent tenure are explicit about procedure. Written contracts containing terms of appointment and a seven-year probationary period with tenure as the desired result are established norms. In framing the statement, the AAUP and the AAC agreed that dismissal of a tenured faculty member should occur only after a rigorous process in which the principle is served with written charges and given the option of a hearing with counsel. Teachers accused of incompetence are to be judged primarily by colleagues, not by university officers. Only in clear cases of moral turpitude or financial exigency are administrators given the upper hand.⁷¹

As commonplace as these ideas have become, they were quite radical in the late 1930s, even though the AAUP had issued similar sets of principles in 1915 and 1925. Between the wars the association worked to gain their acceptance by recalcitrant university administrators and scholarly organizations. Only the AAC, mostly comprised of undergraduate institutions, endorsed the 1915 principles in a timely fashion and worked with the AAUP to refine the document. The 1940 *Statement* was endorsed by

a handful of learned societies when it was issued, but not until the 1960s and 1970s did it gain almost universal acceptance within the American academic community.⁷²

The manner in which Keeney was removed from his job was in keeping with the prevailing atmosphere in universities of the time. Most professors, like other workers, served at the pleasure of their employers and without any special protections. An AAUP survey conducted in the mid-1930s indicated that nearly half the institutions sampled put all faculty, regardless of rank or longevity, on annual contracts.⁷³ For institutions west of the Mississippi the figure was 56 percent, with one-year contracts being most common among public universities.⁷⁴

Perhaps Keeney should have known that his position was insecure, but as it happened, most of the faculty at Montana State University had no idea if they were on annual, three-year, or permanent appointments, because these designations were made by the president and a select advisory committee after signed contracts were returned by faculty members every year.⁷⁵ Teachers with permanent status received notices annually merely to confirm their salaries. Keeney had reason to assume that he fell into this category since he had been appointed as a full professor and had been issued more than three contracts with varying salaries.

President Clapp, perhaps because he was less than completely happy with his performance, had made Keeney an exception to this general rule by marking his contract with an "A" (for annual) as opposed to the "P" (for permanent) assigned to more satisfactory professors.⁷⁶ Keeney was unaware of this, and neither did he know that the requirement that he sign a loyalty oath every year indicated his annual status. Permanent faculty only had to sign it once.⁷⁷ Due to the manner in which Clapp had handled the contracts, even the AAUP investigators who were generally supportive of Keeney admitted that his claims to permanent status were shaky.⁷⁸ Clapp's failure to adhere to the board's regulations or to communicate their contractual status to the faculty further demonstrated the widely held attitude that administrators "owned" the university and could dictate all terms of employment.

Because of the vagueness of his rights, Keeney's best hope for keeping his job initially appeared to be, as the Montana Federation of Labor contended, that his right to organize a union chapter had been violated. When his lawyers petitioned on 3 September 1937 in Montana's First District Court for Keeney's reinstatement, they argued that his dismissal was "caused solely by reason of his activity in connection with the proposed formation of said local labor union."⁷⁹

A judge immediately issued a writ of mandamus ordering the board to reinstate Keeney. This provided him with some momentary comfort,

but his lawyers soon advised him that the board would undoubtedly appeal the judgment, and that the case might end up in the state supreme court. As Keeney pessimistically wrote to the president of the AAUP, "My attorney. . . assures me that I shall win the case on law in the District Court and lose it by a 3-2 political decision in the Supreme Court."⁸⁰

In the hearing that resulted from the board's response to the writ of mandamus, it became obvious that Keeney's lawyers could not sustain the argument that he had been fired because of his union activities. George Simmons testified convincingly that he was ignorant of Keeney's plans to form an AFT local when the list of contract renewals was sent to the board in late March. Not revealed in court, but further undermining Keeney's position, was a letter Simmons received from Charles Hope, regional director of the National Labor Relations Board (NLRB) which monitored violations of the Wagner Act. Hope doubted that Keeney's case would hold up before the NLRB.⁸¹

As the hearing progressed, it wandered farther from the union issue and centered more around the small print on the contracts that Keeney had signed between 1931 and 1936. In addition to the stricken paragraph, there were two board regulations that seemed applicable to him. One mandated that any attempt to dismiss a tenured professor must be accompanied by written charges. The other required that the charges be investigated by a committee made up of three faculty members.⁸²

The similarity between the AAUP's *Statement of Principles* and the board's own regulations regarding charges and investigations was no mere coincidence. When the AAUP cited Montana State University for free speech violations after the First World War, the board had worked with the association to establish mutually acceptable methods for hiring, tenuring, and dismissing faculty. These procedures were adopted by the board in 1918 and revised for the last time in 1922. They had been printed on faculty contracts every year thereafter but never had been tested as having the weight of law. This, rather than the union issue, became the essence of Keeney's suit, which would drag through the courts for twenty-seven months.

During that time, Keeney's paychecks ceased. He and Mary Jane moved to Berkeley, taking up residence with his sisters. At age forty-six, his prospects dimmer than ever, Keeney began writing a book outlining the significance of libraries in world history, an ambitious project that never came to fruition. It was Mary Jane who kept bread on the table by taking a job with explorer and writer Victor W. Von Hagen. While her position was that of an editorial assistant, Mary Jane may have fallen into her tendency to exaggerate when she claimed to have rewritten his

book *Ecuador the Unknown*. It was a penurious time during which the couple depleted their savings and sold many possessions.⁸³

In March 1938 the district judge who had issued the first writ of mandamus issued a second one based on his interpretation of the board's regulations, which he felt entitled Keeney to permanent tenure. The board then appealed to the state supreme court, contending that the regulations on which the judge had based his decision were void of legal authority and existed solely for the board's guidance.⁸⁴ Its right to select, retain, or dismiss faculty members could not be limited by rules adopted by a board comprised of different members twenty years earlier. The point of mutuality also was used to shore up their argument: if Keeney could break his contract at any point, so too could the state.⁸⁵

Keeney's legal team asserted that the regulations did indeed have the force of law because the state constitution vested the board with general control of the university system.⁸⁶ Refuting the board's claim that enforcing the regulations would be an unreasonable surrender of its authority, his lawyers pointed out that Keeney never had insisted that he was entitled to lifetime employment. As a member of the permanent faculty, he simply was entitled to a hearing with charges and an investigation of his case. As for the point that his contract was void for lack of mutuality, the Keeney camp prevailed by demonstrating that the precedent on which this argument was based had been overturned just weeks before in the U.S. Supreme Court.⁸⁷

Throughout the appeal the union issue faded into the background but was never completely lost from sight. The board's attorneys devoted their last point to the matter, saying it was a myth that Keeney had been fired for his efforts to begin an AFT chapter. Keeney's team made less of it still, giving it a cursory mention at the conclusion of their brief. Only in an *amicus curiae* brief filed by the American Civil Liberties Union was it argued that Keeney's organizing activities had led to the board's refusal to renew his contract. The ACLU brief also was unique in its use of the phrase "academic freedom" and its assertion that Keeney's had been violated because of retaliation against him for his choice of books for the library.⁸⁸

Contrary to Keeney's expectations, the state supreme court found in his favor on 17 June 1939. In a decision that mirrored the brief filed by his lawyers, the court ruled that the board's regulations were legally binding.⁸⁹ Consequently, Keeney had earned tenure after signing his third contract, and his status could not be arbitrarily changed. When Simmons and the board dismissed Keeney, they erred in failing to serve him with formal charges and the option of a hearing. Eventually, Keeney's ordeal would take its place in the legal canon as an instance

of the right to due process for tenured professors,⁹⁰ and would be cited numerous times in the years that followed by college professors and school teachers seeking reinstatement after being dismissed from their jobs.⁹¹

While it advanced faculty rights, the court's decision obscured a central theme of the case: the violation of Keeney's right to free speech. By focusing on the failure of the board to follow its own procedures, the justices only broached the matter of how Keeney was dismissed, but not why. The question of whether he had the right to criticize the university administration or to exhibit controversial literature on the library's shelves was left unresolved. If Montana's supreme court justices had taken a different tack, the case might have ended up in the United States Supreme Court since it raised First Amendment questions. Not until the 1950s, however, would academic freedom be treated as a constitutional issue in the high court. Between 1952 and 1989 the Court heard more than two dozen cases that dealt with the free speech rights of both students and teachers. With these cases came a greater affirmation of open expression in the academy.⁹²

As part of an evolutionary process, Keeney's case falls neatly between two eras—one practically barren of defined rights for teachers and another in which their claims to free expression were raised to an almost sacramental level. For Keeney the court's judgment meant that he could go back to his job and collect two years' salary, but when he returned to Missoula, broke and in poor health, he found a hostile environment. George Simmons had obstructed the paperwork needed for Keeney to get paid and had set up a regimen of petty rules that the librarian was certain to violate. Simmons undoubtedly intended to put Keeney in a position where he could be fired again, but through a facade of due process.

To make matters worse, Keeney had made himself a pariah among his fellow librarians. Upon realizing that the American Library Association would not take a stand on his behalf, Philip and Mary Jane started their own organization, the Progressive Librarians Council (PLC).⁹³ There was never the slightest possibility that the PLC with its two hundred members would eclipse its huge and long-established rival, but it proved to be an effective irritant by taking positions contrary to those that the ALA espoused. Especially annoying was the PLC endorsement of Franklin Roosevelt's nomination of Archibald MacLeish to the position of Librarian of Congress in 1939. The ALA had objected vehemently to the appointment, arguing that it should go to a professional librarian. To add insult to injury, MacLeish accepted Keeney's invitation to address PLC members while they were meeting in Cincinnati in May of that year, coinciding with ALA's annual conference in the same city.

Keeney's career in mainstream librarianship may have been finished, but he was well served by the PLC endorsement of MacLeish. In 1940 he had a new job at the Library of Congress, and just as importantly he and Mary Jane found a lifestyle in Washington, D.C. that truly suited them. There was no shortage of museums, concerts, or interesting food, and there were plenty of like-minded people for them to befriend. During the early years of the war, intellectuals with openly leftist views flourished in federal jobs. Several of them, including economists Herbert Marcuse and Paul Sweezy, worked in the Research and Analysis Division of the Office of Strategic Services where Keeney served as librarian.

As long as they were securely entrenched in the civil service system—Mary Jane got a job with the Foreign Economic Administration—the Keeneys prospered, especially after the war. Mary Jane joined an American reparations mission in France, and Philip headed up an effort to assess damage to, and the future of, public libraries in occupied Japan. This was the high point of Keeney's professional life, and his work won him praise from Japanese librarians. But it all ended abruptly. In April 1947 he was severed from government service, just as the State Department was thrown into chaos by accusations that it was harboring communists. A purge of federal employees had begun, and both Keeneys fell victim to it. Two years later, they were called before the House Un-American Activities Committee (HUAC) to answer questions about their associates and political activities. Throughout their testimony, the couple repeatedly took the Fifth Amendment or “drew a blank” when they were asked to implicate other people who could be called by the HUAC.⁹⁴

Philip Keeney's return to a career in librarianship outside of the government was hopeless, and he never worked within the profession again. Mary Jane obtained a job with the United Nations in 1948 and was dismissed in 1951, when the American government pressured Secretary General Trygve Lie to fire American employees suspected of leftist activities. For the rest of their lives, Philip and Mary Jane resided in New York City. Their last major venture was an art theater showcasing folk singers and subtitled foreign films.

As Philip Keeney's life came to a close, he could take some cynical pleasure in knowing that his old nemesis George Simmons had endured his own share of trouble. Soon after the end of the Montana tenure dispute, Simmons and the board had differences that resulted in his removal as president in 1942. He remained on the faculty of the biology department for two more years before moving to the Loyola University School of Medicine in Chicago, where he retired in 1948. He died seven years later.⁹⁵

Mary Jane survived her husband for seven years, and the traumatic effect of the tenure dispute remained with her to the end. Just before her death she was composing “The Political Persecution of Philip O. and Mary Jane Keeney,” a rambling document that accused an array of people—from financiers to socialists and “renegade” intellectuals—of hounding the Keeneys out of public life. For all its eccentricities, it was a remarkably lucid attempt to make sense of two lives turned upside down by the events of three decades that began with a fairly innocuous protest against the removal of one book from a library’s shelves. In retrospect, Mary Jane speculated that the court decision on Keeney’s behalf was a blessing and a curse of grand proportions: “A consequence of this victory, one of the most sweeping ever won in an academic freedom case, was that my husband and I became marked people. We gained many new friends as a result of the fight, and also became known as people who would not compromise an issue.”⁹⁶ She died in 1969 at the age of seventy-one.

Notes

Most of the materials cited are from the following three sources: Philip Keeney Personnel File, K. Ross Toole Archives, University of Montana, Missoula; referenced in the endnotes as [Montana]. Philip Olin Keeney Papers (BANC MSS 71/157p), The Bancroft Library, University of California, Berkeley; referenced in the endnotes as [Bancroft]. Montana State University–Philip Keeney File, archives of the American Association of University Professors; referenced in the endnotes as [AAUP].

1. The economic status of academe in the early 1930s is well described in Malcolm M. Willey, *Depression, Recovery, and Higher Education* (New York: McGraw-Hill, 1937).

2. The former Montana State University in Missoula is now called the University of Montana. The current-day Montana State University is located in Bozeman. During the 1930s the “University of Montana” was the umbrella name for all public institutions of higher learning in the state.

3. C. H. Clapp to Sydney B. Mitchell, 9 June 1931 [Montana]; Mitchell to Clapp, 1 July 1931 [Montana].

4. Mitchell to Clapp, 1 July 1931 [Montana]; Theodore Norton to Clapp, 8 August 1931 [Montana]; F. L. D. Goodrich to Clapp, 10 August 1931 [Montana].

5. Mary Jane Keeney, “The Making of a Radical,” *Black & White* 1 (September 1939): 16.

6. U.S. Federal Bureau of Investigation, “Mary Jane Keeney; Philip Olin Keeney,” file no. 101-467, section 2.

7. This author filed an inquiry with the Los Angeles County Superior Court County Records Center in 1992. A routine search of its indices from 1921 to 1928 produced no records of this divorce.

8. In May 1995 I interviewed Melba Phillips and Anne Florant, with whom Mary Jane lived from 1962 until her death in 1969. Both women were unaware that Philip, whom they also knew, was her second husband.

9. Mary Jane Keeney, "Biography of Mary Jane Keeney," (typescript, [1942?]), 3 [Bancroft, Box 2].

10. Keeney, "Making of a Radical," 18.

11. Nathan Glazer, *The Social Basis of American Communism* (New York: Harcourt, Brace & World, 1961), 141.

12. *Ibid.*, 225.

13. [Mary Jane Keeney], "Interview with Civil Service Investigators, 810 18th St., N.W., Friday, 10 September 1943, 1:00-4:30 P.M.," 2. This is not an official transcript, but rather Mary Jane's dramatization of the interview based on her memory [Bancroft, Box 2].

14. *Ibid.*, 3.

15. "Report of the Committee Inquiry Concerning Charges of Violation of Academic Freedom Involving the Dismissal of the President and Three Members of the Faculty at the University of Montana," *Bulletin of the American Association of University Professors* 3 (May 1917): [3]-25.; "Report on the University of Montana," *Bulletin of the American Association of University Professors* 10 (March 1924): [50]-58.

16. Willey, *Depression, Recovery, and Higher Education*, 23.

17. George Simmons to Carl Moore, 17 April 1936 [Montana].

18. H. H. Swain to Philip O. Keeney, 10 December 1935 [Bancroft, Scrapbook].

19. Keeney to Montana State Board of Education, 20 September 1935 [Bancroft, Scrapbook].

20. Stephenson Smith, "To the Members of the Montana State Board of Education" [Bancroft, Scrapbook].

21. *Ibid.*

22. In the opinion of legal scholar William W. Van Alstyne, the case that significantly broadened the right of teachers in public institutions to openly differ with their employers was *Pickering v. Board of Education of Township High School*, 399 U.S. 563 (1968). The U.S. Supreme Court found on behalf of a high school teacher who was fired after the local newspaper published his letter to the editor criticizing the local school board for its method of raising revenues. William W. Van Alstyne, "Academic Freedom and the First Amendment," *Law and Contemporary Problems* 53 (Summer 1990): 94.

23. Harry Clements and Charles McKinley, "Draft of a Report on the University of Montana Tenure Inquiry," 24 [AAUP].

24. Simmons, George Finlay, *Who Was Who in America*, vol. 3 (Chicago: A. N. Marquis, 1960), 787.

25. *State of Montana ex rel Philip O. Keeney v. Roy Ayers, et al.* (1st Cir, 1938). Reprinted in Transcript of the Record on Appeal, 69, *W. S. Davidson, et al. v. State of Montana ex rel Philip O. Keeney*. From a facsimile copy in the Philip Olin Keeney Papers at the Bancroft Library. Hereafter cited as "Record on Appeal."

26. Clements and McKinley, "Draft of a Report," 61.

27. *Ibid.*, 62.

28. Swain to Keeney, 10 December 1935 [Bancroft, Scrapbook].

29. S. Stephenson Smith to Simmons, 20 December 1935 [Bancroft, Scrapbook].

30. Simmons to Smith, 22 February 1936 [Bancroft, Scrapbook].

31. S. Stephenson Smith, "An Open Letter to Members of the Montana State Board of Higher Education" [Bancroft, Scrapbook].

32. Simmons to Smith, 22 February 1936 [Bancroft, Scrapbook].

33. James R. Steele, "Hire Learning in Montana," *Pacific Weekly* (16 March 1936): 131–132.
34. "'J. Ryan' of 'Progressive League' not Graduate," *Montana Kaimin* (10 April 1936): 1:5; 4:5.
35. "Statement of Philip O. Keeney," I, 8 [Bancroft, Box 1].
36. Simmons to Keeney, 8 July 1936 [Montana].
37. Clements and McKinley, "Draft of a Report," 3.
38. Simmons to Keeney, 8 July 1936 [Montana].
39. Resolution of the Montana Board of Education, 14 April 1936; this quotation is taken from an undated, handwritten copy of the resolution in the Montana archives; in a letter that Simmons wrote to Keeney two days later he refers to the resolution and informs Keeney that it was passed at the board's 14 April meeting (Simmons to Keeney, 16 April 1936) [Montana].
40. *Ibid.*
41. "Statement of Philip O. Keeney," I, 8; Merriam also provides a description of the Keeney case in a chapter of his history of the university, *The University of Montana: a History* (Missoula: University of Montana Press, 1970).
42. Herbert R. Ranson to Keeney, 14 January 1937 [Bancroft, Scrapbook].
43. Keeney to Ranson, 16 January 1937 [Bancroft, Scrapbook].
44. "Statement of Philip O. Keeney," I, 10.
45. Simmons to Keeney, 6 April 1937 [Montana].
46. Superintendent of Education Ruth Reardon and State Attorney General Harrison Freebourne voted against firing Keeney.
47. Clements and McKinley, "Draft of a Report," 4.
48. "Dr. Simmons is Given Contract for 3 years," *Daily Missoulian*, 14 April 1937, 1:5; 5:1.
49. Jerry O'Connell to Simmons, 3 May 1937 [Bancroft, Scrapbook].
50. Evelyn Geller, *Forbidden Books in American Public Libraries, 1876–1939: A Study in Cultural Change* (Westport: Greenwood Press, 1984), [xv].
51. "The Library's Bill of Rights," *Bulletin of the American Library Association* 33 (15 October 1939): 60–61.
52. Carl Milam to Keeney, 13 May 1937 [Bancroft, Box 2].
53. *Ibid.*
54. Paul North Rice to Keeney, 7 June 1937 [Bancroft, Box 2].
55. *Ibid.*
56. Simmons to R. E. Himstead, 17 May 1937 [Montana].
57. Milton Ferguson, "A Case for Careful Investigation," *Library Journal* 62 (15 June 1937): 512.
58. *Ibid.*
59. Keeney to Milton Ferguson, 25 June 1937 [Bancroft, Box 2].
60. *Ibid.*
61. Ferguson to Keeney, 21 July 1937 [Bancroft, Box 2].
62. Bertine E. Weston to Keeney, 22 September 1937 [Bancroft, Box 2].
63. Rice to Keeney, 13 July 1937 [Bancroft, Box 2].
64. Rice to Simmons, 28 June 1937; Rice to Swain, 13 July 1937 [Bancroft, Box 2].
65. Geller, *Forbidden Books*, 171.
66. A historical summary of the ALA's position on intellectual freedom can be found in Louise Robbins, *Toward Ideology and Autonomy: The American Library Association's Response to Threats to Intellectual Freedom, 1939–1969* (Ph.D. dissertation, Texas Women's University, 1991).

67. Milton J. Ferguson, "The Library Crosses the Bridge," *Library Journal* 63 (July 1938): 425.

68. Freebourn's opinion.

69. Clements and McKinley, "Draft of a Report," 88.

70. "AAUP Principles," in American Association of University Professors, *Policy Documents and Reports* (Washington, D.C.: American Association of University Professors, 1977).

71. *Ibid.*

72. Walter P. Metzger, "The 1940 Statement of Principles on Academic Freedom," *Law and Contemporary Problems* 53 (Summer 1990): 4. The principles have been updated with supplements and the elimination of gender specific language but remain essentially as they were in 1940.

73. Willey, *Depression, Recovery, and Higher Education*, 80.

74. *Ibid.*

75. Clements and McKinley, "Draft of a Report," 8.

76. *Ibid.*

77. *Ibid.*, 10.

78. *Ibid.*, 22.

79. "Record on Appeal," 15.

80. Keeney to Ralph Himstead, 24 August 1937 [Bancroft, Scrapbook].

81. Charles W. Hope to Simmons, 10 August 1937 [Montana].

82. Such a committee existed when Keeney was informed that his contract would not be renewed, and within twenty-four hours he had appealed to its members to take on his case. Their first impulse was to back away, probably out of fear, but ostensibly because they did not have enough time to review the matter before the board voted on contract renewals. The committee did in fact convene shortly before the vote, but its deliberations were inconclusive. Clements and McKinley, "Draft of Report," 14.

83. Keeney, "Biography of Mary Jane Keeney."

84. *W. S. Davidson, et al. v. State of Montana ex rel Philip O. Keeney*, Appellant's Brief, 41. At the point of this appeal, Governor Ayers dropped out of the case and its name was changed from *State of Montana ex rel Philip O. Keeney v. Roy Ayers, et al.* to *W. S. Davidson, et al. v. State of Montana ex rel Philip O. Keeney*. Davidson was another board member. Superintendent of Education Reardon and Attorney General Freebourn never participated in the board's case and testified in court on Keeney's behalf. From a facsimile copy in the Philip Olin Keeney Papers at the Bancroft Library. Hereafter cited as "Appellant's Brief."

85. "Appellant's Brief," 57.

86. *W. S. Davidson, et al. v. State of Montana ex rel Philip O. Keeney*, Respondent's Brief, 17. From a facsimile copy in the Philip Olin Keeney Papers at the Bancroft Library. Hereafter cited as "Respondent's Brief."

87. "Respondent's Brief," 27; the case was *Indiana ex rel Anderson v. Brand*, 303 U.S. 95 (1938).

88. Brief on Behalf of the American Civil Liberties Union, *W. S. Davidson et al. v. State of Montana ex rel Philip O. Keeney*, 29-31. From a facsimile copy in the Philip Olin Keeney Papers at the Bancroft Library.

89. *State of Montana ex rel Philip O. Keeney v. Roy Ayers et al.*, 92 P2d 306 (1939). When the case was decided in the state supreme court, it was cited under its original name.

90. Colleges and Universities, *Construction and Effect of Tenure Provisions of Contract or Statutes Governing Employment of College or University Faculty Members*, 66 ALR3d 1018 (1975).

91. As of January 1994, *Shepherd's Citations* lists fifteen cases citing Keeney's case, but not all were related to teaching. For example, a Montana state highway commissioner successfully used the case to argue for reinstatement after he was fired without due process. The Keeney case was last cited in 1978.

92. Van Alstyne, "Academic Freedom," 107.

93. A detailed description of the organization may be found in this author's article, "The Progressive Librarians Council and its Founders," *Progressive Librarian* 2 (Winter 1990-1991): 23-29, and in Joe Kraus, "The Progressive Librarians Council," *Library Journal* 97 (July 1972): 2351-2354.

94. "Testimony of Philip O. Keeney and Mary Jane Keeney and Statement Regarding Their Background," Hearings before the Committee on Un-American Activities, House of Representatives; Eighty-first Congress, First Session, 24, 25 May; 9 June 1949 (Washington: Government Printing Office, 1949).

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96. Mary Jane Keeney, "The Political Persecution of Philip O. and Mary Jane Keeney" [Bancroft, Box 2].

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