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ABSTRACT

Minutes from the 1985 Membership Meeting of the Association of REsearch Libraries (ARL) include the full text of three presented papers: "Changing Information Policies and Research Libraries" (John Shattuck); "Management of Government Information" (Timothy Sprohe); and "Access to Information in Canada" (Bruce Mann). The views of journalists and academic researchers are expressed by two users of government information: Scott Armstrong of the Washington Post and Anna Nelson of George Washington University. Discussion and comments follow the papers. Two speakers then discuss the role of the ARL on Capitol Hill: "Effective Communication with Legislators" (Lisa Phillips) and "Legislative Issues Update" (Shirley Echelman). Business meeting coverage includes reports from: (1) the Office of Management Studies; (2) the ARL Executive Director; and (3) the ARL President. An announcement by the Vice President/President-Elect, election of new board members, a dues increase, revisions of ARL Bylaws, consideration of new members, the change of officers, and other business are also reported. Supporting information is appended, including: ARL Activities and Status Report; a statement from the ARL on Access to Information; the report of the Bibliographic Services Development Program (BSDP); lists of attendance from member institutions, members, and guests and staff; and a list of officers, the board, and committees of ARL. (THC)

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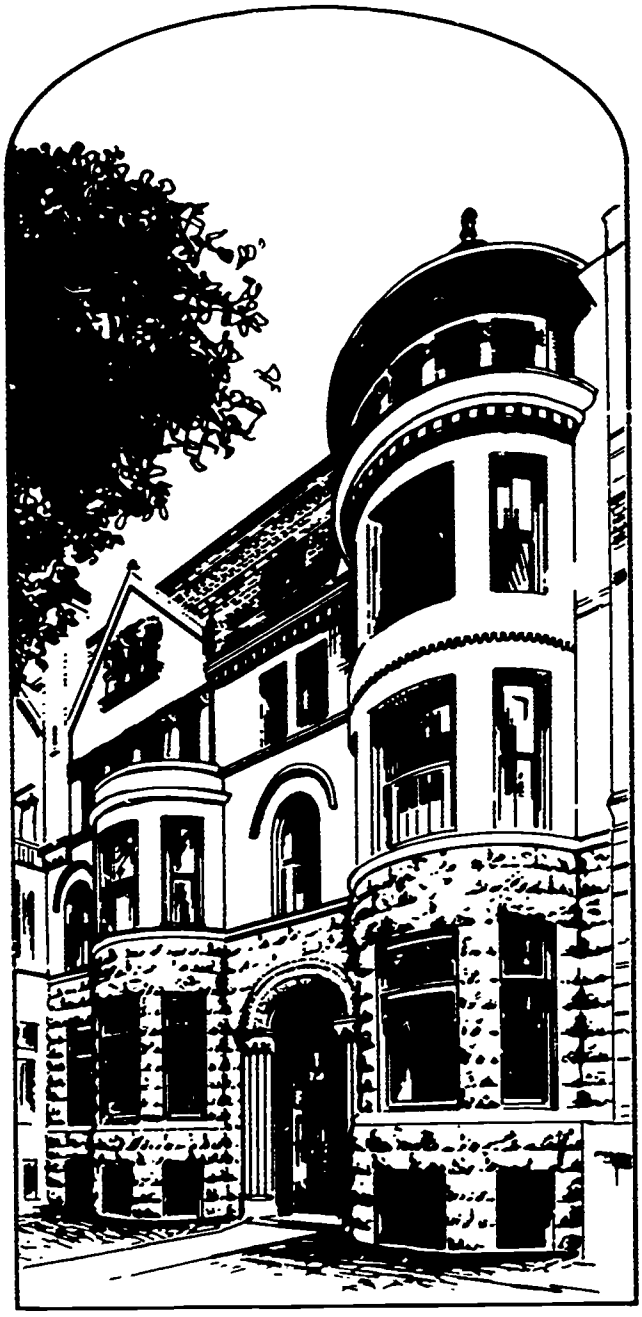

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The Restrictive Effects of Government Information Policies on Scholarship and Research

Minutes of the 107th Meeting

October 23-24, 1985
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ASSOCIATION OF RESEARCH LIBRARIES

Minutes of the 107th Meeting

Richard J. Talbot, Presiding

The 107th Membership Meeting of the Association of Research Libraries was held at the Georgetown Hotel, Washington, D.C., October 23-24, 1985. The Business Meeting convened on October 23, followed by the program session, "The Restrictive Effects of Government Information on Scho'arship and Research." "ARL on the Hill" took place on October 24.

INTRODUCTION

Anne Woodsworth
University of Pittsburgh

MS. WOODSWORTH: I would like to welcome you to Part I of the program portion of the 107th ARL Membership Meeting. As you know, our program addresses "The Restrictive Effects of Government Information Policies on Scholarship and Research." Before I introduce the topic and our speakers, permit me to outline the format for the next two hours. After all five speakers have made their presentations, there will be time for discussion and questions. In order to help you remember your questions and comments during the presentations, the staff has passed out cards on which you can record the questions. During the break, please hand the cards to any ARL staff member and I will then read the questions from the podium. There are, of course, floor mikes for you to use if you wish to have a more interactive debate with the speakers.

Please allow me a few moments to put this program into context. As many of you know, government policies and government activities impinge on almost every aspect of our personal and working lives. This program is evidence of the fact that the Association of Research Libraries believes strongly that government policies not only have significant impact on the research libraries of North America, but can, indeed, put restrictive influences on our ability to accomplish our mission collectively and to fulfill our role in the scholarly communication process.

To affirm that this interest of ARL's is far from quixotic, I would like to point out that two of the Association's first objectives have a direct relationship to our discussion here today. One of those, of course, is to influence information policies that affect research libraries and their clientele. The second, although being directed by efforts in a slightly different direction, is to make systems of access more effective for research libraries.

In addition, some of the recent actions of the Board are illustrative of our deep concern. The first is the policy statement on access to information that was adopted by the Board earlier this week [see Appendix E]. This statement affirms ARL's commitment to the principle that unrestricted access to and dissemination of ideas are fundamental to a democratic society. The second action is the decision to establish a committee to review governmental policies and activities with a view to analyzing trends and policies that ARL might pursue in order to achieve its objectives and its members' best interests.

That governments can and do influence research libraries and scholarly communication is perhaps most apparent in the policies they enact about government information per se. Governmental activities, however, are also known to be part of the rapidly changing environment that we live in, that scholarship survives in, along with technology, economic influences, and higher education trends.

What may be less obvious, however, is the extent to which government policies and activities are restrictive and serve as an impediment in our collective lives. Even though some government policies appear on the surface to be irrelevant and tangential to the interests of research libraries, many have more impact than most

of us care to consider. Remember the power tool company called Thor and how far that hammer went? In short, it is these direct and indirect policies and practices that our speakers will address this afternoon. I am promised that they will not only describe problems, but that they will try to suggest strategies to help us in the future.

CHANGING INFORMATION POLICIES AND RESEARCH LIBRARIES

John Shattuck
Harvard University

MS. WOODSWORTH: The first of our speakers is John Shattuck, who is Vice President of Harvard University for Government, Community and Public Affairs. He has a law degree from Yale University, an M.A. from Cambridge University in international law and jurisprudence, and a B.A. in history, also from Yale. Prior to his present position, he was Executive Director of the American Civil Liberties Union in the Washington Office for eight years, and before that was on the ACLU national staff council for another five years. He has also worked in many legal positions and is a prolific author and lecturer.

Recognition for Mr. Shattuck's very active role in the civil liberties movement has come in the form of two awards. In 1984, he received the Roger Baldwin Civil Liberties Award from the New Jersey ACLU, and in the same year, the President's Award from the Minnesota Civil Liberties Union.

Please join me in welcoming Mr. Shattuck.

MR. SHATTUCK: Thank you very much. I cannot resist starting by saying as an academic administrator and civil liberties lawyer, I have spent most of my professional life trying to figure out exactly what the First Amendment means, how far it reaches, what it protects, and what it requires. In this audience I feel less anxiety about those questions than in many others. In fact, I would say that this is almost like coming to the inner sanctum of First Amendment activity, because as we all know, research libraries are really the core of our tradition of freedom of speech and freedom of inquiry.

I should say, however, that there is some risk involved in my speaking before you, because while I have studied the principles that guide you, I am woefully ignorant of the essential facts of how research libraries actually work and the ways in which the various government policies that we are going to be considering this afternoon may or may not impact directly on them. In this respect I feel a little like Yogi Berra, who when he was asked whether he had noticed the sex of a group of streakers who had captured his attention when they ran across the ballfield replied that he could not tell what sex as they were because they all had bags over their heads.

So you will have to judge whether I present to you an analysis of this subject with a bag over my head. But bearing in mind my ardent interest in all of the principles that guide your work, let us at least see whether we can agree on some essential facts about the importance of public access to government information and some of the public policy issues that are facing us today.

I would like to start by putting into historical context the issues we are going to be discussing this afternoon. You do not need to be told, but it is sometimes good to be reminded that this country has a long and deep tradition of public access to government information, going back to the Constitutional Convention and the

Articles of Confederation.

The Constitution was adopted after an exhaustive public debate unparalleled in human history. Within a year after the Constitution was voted out by the Convention in Philadelphia, 12 states had held ratifying conventions which carried that debate into cities and towns and hamlets all across the country. The proposed Constitution was argued extensively and publicly in the Federalist Papers and in scores of other publications and pamphlets, and ratification of that important document was assured only after two very important things occurred that are relevant to the discussion today.

First, an affirmative obligation was placed on the Government to publish regular information about its spending and taxing activities and the manner in which they would affect the citizenry. Second, promise was made that there would be another document, the Bill of Rights, the cornerstone of which, of course, was to be the First Amendment.

Out of this period a strong tradition of open government grew up and flourished in this country for a long time. It can best be summed up by the very powerful comments of James Madison in the Federalist Papers, when he said that "a popular Government without popular information or the means of acquiring it is but the prologue to a farce or a tragedy or perhaps both. Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power that knowledge gives."

Now, this tradition that came to us from that early period was really taken for granted during most of the 19th century when the role of the Government in regulatory and service activities was quite limited and we were preoccupied with the expansion of our borders and activities which were not particularly governmental in nature. But towards the end of the 19th century, two very important developments occurred of which we need to take note. First, the Government began to collect economic and social welfare data. The Bureau of Labor Statistics was created in 1884 and its charter defined basic government information policies that have prevailed until quite recently, which can best be summarized by quoting that short passage from the charter of the Bureau obligating it to collect data about the "material, social, intellectual and moral prosperity of the work force."

The second major development at the end of the 19th century was the creation of the Federal Depository Library System, to provide a regular flow of information free of charge to the public. The system, of course, ultimately grew into a remarkable collection of 1,400 public and academic libraries throughout the country.

When we get to the New Deal, the growth in the amount of government information and its production through the various engines of statistics gathering and release into the Federal Depository Library System becomes truly prodigious. A huge expansion of the regulatory and service functions of the Federal Government, of course, was occurring and in the management of the flow of information during that period we made a conscious decision, reflected repeatedly in the Congressional debates, not to impose a European-style policy of official secrecy on the government bureaucracies that were developing during that time. There were a number of attempts to bring the British Official Secrets Act into the Congressional arena and each one of them rejected.

In the post World War II period and the development of our current National Security Policy, there was a new development somewhat at odds with this tradition of open government that I have just been describing. What happened was the development of a classification system, loyalty security programs, the expansion of the Executive Branch in many respects, principally in its foreign policy activities, and the emergence of a fairly large secret bureaucracy, the Central Intelligence Agency, the National Security Agency, parts of the Defense Department, and others. Despite the steady growth of secret government for three decades after World War II, or perhaps even because of it, a powerful principle of freedom of information emerged during the mid-1970's in the aftermath of the Watergate crisis.

There was a broad public concern at that time about secret developments in the government. We saw the Freedom of Information Act and its 1974 amendments, the Government in the Sunshine Laws, a narrowing of the classification system during both the Ford and Carter Administrations, and an enormous public demand for government information of all types and from all sources—civil rights information, labor and business information, environmental information, health and safety information, etc.

And finally, the one other point that I would make in this historical summary is that at this juncture, the 1970s, a technological revolution was taking place in the new information processing which the government and private bodies throughout the country were able to take advantage of in terms of storing and disseminating and making available larger and larger bodies of information.

Looking back, by the early 1980s, the demands for government information were at an all time high. The government was generally responsive to those demands and Madison's principle seemed to be the basis for a long-term public information policy in this area. Unfortunately, this could not have been further from the truth. In fact, as we now begin to look at the 1980s in a somewhat different perspective, we see that this was a watershed for the period of open government, that profound changes are taking place in information policy and that it is now necessary to take active roles in trying to preserve principles that we always thought we could take for granted.

Let me just give you a few concrete examples of what we have discovered in the 1980s with respect to this watershed. The Department of Education recently indicated that it was considering rejecting 40% of the requests it had received from government-sponsored education laboratories and centers to publish reports that those centers wished to publish on the ground that the publication would be too expensive.

As a second example, over the last two years a wide variety of government statistical reports and bulletins have either ceased publication or have substantially reduced their frequency of publication. These include the monthly Labor Review, the monthly Consumer Price index, which, of course, is still published, but does not reflect the same amount of data that it previously did, the Employment and Training Report of the President, and a variety of Census Bureau publications.

A third example is that the Department of Energy has begun considering a rule to establish a new category of sensitive unclassified data which could not be published by contractors or university researchers working with funds from the Department of Energy. We, of course, hope that it will not promulgate such a

regulation, but consideration has begun.

Fourth, the Merit Systems Protection Board, a small, but relatively important government agency, announced in March of this year that it would no longer publish the full texts of its decisions in bound volumes, but that the decisions could be purchased from private publishers in prices ranging from $250 to $498 per year—not a significant amount of money for a library that would like to stock those reports, but nonetheless, a substantial change from the period when the material was more readily available.

Finally, one more random example, the Society of Photo Optical Instrumentation Engineers was preparing last spring to hold its 26th International Symposium in Washington. Two days before the convention, the Pentagon requested that several unclassified technical papers not be publicly presented because they contained, quoting from the request, "technical information that could not by law be exported to America's adversaries."

To ask what is going on here really requires an answer at two levels—one, in terms of the larger political trends of the day; and two, in terms of specific policies.

At the end of my remarks I will return to why it is we need to take into account some of the larger political trends in order to understand the specific policies. There are really five of those trends. First is a reduction of the regulatory functions of government in many areas, both as a matter of economic policy and as a matter of ideology. Second is an effort to reduce government spending, a very important effort, but not one that people are able to agree on, and, therefore, the spending does not tend to get reduced in all areas, and there is a great deal of controversy about where it should be reduced. Third is the reemergence of a national security protection principle as a major function of government in the 1980s. Fourth is a sharp reduction in the role of government as a domestic service provider in terms of the health and safety of a variety of the citizenry. Fifth is a privatization of government functions in many areas where the government used to provide subsidized services.

These are the large trends that are driving the policy changes in government information that we see around us. There are two categories of changes. The examples that I cited fall into both of them.

First are the changes in government management of information—how it is that the government takes the information that it has and processes it and determines whether or not to release it. This change can be summarized very succinctly in five words: "Keep less and publish less."

The starkest example of that comes to us, not from the Administration, but from the Congress where the Deficit Reduction Act of 1984 requires all Federal agencies to reduce their publication and information budgets by some 29% in fiscal year 1985. Following in that spirit, the Office of Management and Budget issued a draft circular in May of this year that requires all Federal agencies to justify periodicals, reports, bulletins, newsletters, and other publications in a rigorous annual review to determine whether or not they ought to be continued.

The largest policy change in this area of government information management is looming on the horizon. It is one that you are all quite familiar with—the

proposed circular of the Office of Management and Budget for the management of information resources. If that circular were to be finally promulgated either its original form or in its somewhat revised form, it would drastically contract the role of the Federal Government as a provider of public information.

Here are a few examples from the proposed circular. First is the so-called necessary to the mission rule. Information would not be kept, processed, or released unless it were necessary to the mission of the agency in question—a relative innocuous sounding principle. This is a rather sharp instrument in the hands of an administrator who chooses to determine that certain research publications that are coming from government-sponsored research should not be published because the research was not necessary to the mission of the agency.

A second example from this OMB circular, which I believe is of particularly great importance to you, is the unspecified categories of information that would be taken out of active circulation. The Government would not have an obligation to disseminate these categories of information, but rather the public would have to request them under the Freedom of Information Act. They would be available, but it would not be possible to get the information unless you knew what it was and were willing to take the time and effort under the Freedom of Information Act and pay the various fees and requirements that are charged, essentially a fee shifting approach, I think, from the subsidy that we have been paying. You shift the fee to the user of the information and you put the burden on him or her to find out where it is and then go and get it—sort of a needle in a haystack problem.

Finally, in this OMB circular is the increasing reliance on the private sector for dissemination of government information. It is not clear that the market will support certain information publications that are now available because of the limited users who are involved.

The other broad category of policy changes involves a growing number of restrictions aimed at barring writers, researchers, and speakers from disseminating certain information to the public. The focal point of this policy change is the tightening and increasing enforcement of the classification system. A rather substantial change in the classification system occurred in 1982 when the broader definitions of the categories of information that could be classified was promulgated.

A determination was made that you could classify information after the fact—midstream classification where the information might not be classified at one point, but subsequently it would become classified. We see a practical example of what that means in the some 15,000 books, articles, and speeches of current and former government employees that were subject to prior review and clearance by the CIA and the Defense Department in 1983. A more graphic example of the enforcement of this system is the recent successful prosecution in the Morrison case where the government was able to use the espionage laws to successfully prosecute someone for producing classified information to the press. Now, whether or not one believes that is ethically or otherwise appropriate, the fact of the matter is that where the Ellsberg prosecution failed, the Morrison prosecution succeeded. We have a rather strong enforcement mechanism in place now, assuming that the prosecution is upheld on appeal for enforcing the classification laws and systems.

Let me conclude by suggesting a few strategies that we might consider in trying to reverse these trends. The first strategy really relates back to why I listed those

broader political trends at the outset, and that is I do not believe we should assume that nothing can be done to preserve the principles of freedom of information until or without a change in the broad political trends that we have in the country today. There is no reason for secrecy to be any more attractive or necessary to a government that is engaged in deregulation or withdrawal or change in certain service productions or deficit production or any of the other broad trends that I was describing than a government that is engaged in a high degree of regulating and service provision and large budgets. The fact of the matter is that restrictions on information flow hurt the process of discovery, invention, initiative, all the basic elements of free enterprise, as well as the free inquiry that goes on within universities and research libraries, regardless of what your viewpoint is about the proper role of government.

The second point that I would make in considering a strategy is that we really need to argue the case with the Government itself. There is every reason for the Government to be as concerned about some of these trends that I have been describing as we are. Certainly when it comes to the OMB circular or the export control laws or other specific new policies, there is every reason for us to take the case, not only to the Executive Branch, but to the Congress, which as I have been saying, is clearly as much responsible for this change of direction as the Executive Branch. We should join forces with our natural allies in this area, taking the case to the Congress and the Administration with universities, with press and publishing organizations, public education groups and other government information consumers, including business and labor organizations. This is a very broad issue which affects a large number of people in our society and institutions.

The final point that I would make is that we should never assume that this subject is too technical or too narrow to become a matter of political controversy and concern to the Congress and the Administration. If it is framed the way Madison put it in terms of the fundamental health of our democracy, which is the proper way to frame it, there is no issue more important or more compelling for the Government to consider in the mid-1980s.

MANAGEMENT OF GOVERNMENT INFORMATION

Timothy Sprehe
Office of Management and Budget

MS. WOODSWORTH: Our next speaker is Timothy Sprehe. Dr. Sprehe received his Ph.D. in sociology from Washington University, followed by a post-Doctorate at Johns Hopkins. After two years as an assistant professor at Florida State University, he entered the federal service as a statistician and held a variety of positions in the government, including Associate Director of Statistical Policy in the Office of Management and Budget. He is currently, as is indicated on the program, the Senior Policy Analyst in the Information Policy Branch of the Office of Information and Regulatory Affairs at OMB. In that capacity, he is Director of the OMB project to develop a policy circular on the management of Federal information resources. It is about this that Dr. Sprehe will give you his views.

MR. SPREHE: Thank you. I take it that I can assume there is some familiarity here with the OMB draft circular on the management of Federal information resources, an assumption which is useful to me because I can reduce the amount of time that I would have spent describing the circular.

I might tell you to begin with what kind of an animal the circular is. An OMB circular is a government-wide policy directive that tells Federal agencies how they shall implement laws or Presidential policies. In the present case, OMB would be prescribing a general policy framework as dictated by the Paperwork Reduction Act—and here I quote from the languages of the Act—"for developing and implementing uniform and consistent information resources management policies and overseeing the development of information management principles, standards and guidelines and promoting their use."

So what we are trying to do is implement Congressional intent when it passed the Paperwork Reduction Act. It is popularly known as the Paperwork Reduction Act. It is actually codified as the Coordination of Federal Information Policy, and this latter title is more what we intend to be about in drafting the information policy circular.

The draft circular was published on March 15 of this year. By August we had received over 350 letters of comment from the public, Federal agencies, and members of Congress concerning the proposed policy. By far, librarians and academicians provided the greatest number of comments.

Reaction to certain aspects of the circular, particularly those dealing with information access and dissemination policy, was quite negative among the press and the library and academic communities. Members of Congress and the public have urged that OMB publish a revised draft for public comment. In his confirmation hearings, James Miller said that he would look into this matter and would review the request for another round of comment. As of the moment, Director Miller has not yet decided that question.

What I would like to talk to you about today has to do with the principal areas of criticism to the draft circular and how OMB is reacting to those. In analyzing

public comments on the draft circular and revising it, we are attempting to think through the legislative basis for Federal policy on information collection and dissemination. In particular, we return to the Paperwork Reduction Act and its legislative history, and we have been guided by three of the basic purposes of the Act; namely, to minimize the Federal paperwork burden for individuals, small businesses, state and local governments and other persons; to minimize the cost to the Federal Government of collecting, maintaining, using, and disseminating information; and to maximize the usefulness of information collected by the Federal Government.

That is a quotation from the beginning paragraphs of the law. It is not something that OMB invented or that this Administration invented. It is the language of Congress. And for the purpose of talking about information access and dissemination, I believe the operative parts are to minimize the costs and to maximize the usefulness. Many commentators criticize the draft circular for its emphasis on cost benefit analysis. We would be quite happy to do away with the language of cost benefit analysis and say simply, "minimize cost and maximize usefulness." That would encompass our intent.

In fact, Congress has given Federal agencies fairly explicit policy about information collection and processing and about the public's right of access to government information upon request. However, neither in the Paperwork Reduction Act nor elsewhere has Congress given the Executive Branch a single comprehensive set of statutory directions regarding responsibilities of all Federal agencies for actively disseminating information.

Put another way, the Paperwork Reduction Act provides fairly explicit statutory policy regarding information inputs to government—collecting information and imposing record-keeping requirements—but says little regarding policy on the information outputs from government. In other pertinent laws, such as the Freedom of Information Act, the Privacy Act and the Government in the Sunshine Act, Congress has set policy regarding information access; that is, what information the public is entitled to upon request. But beyond access, Congress has not defined Federal agency responsibilities for actively reaching out and placing information in the public's hands.

Nonetheless, the term dissemination is in the Paperwork Reduction Act. It is part of the concept of information resources management, and when drafting a policy on information resources management, OMB felt it had no choice but to say something about information dissemination policy. The point I am trying to make is that we have no clear direct Congressional guidance when we formulate information dissemination policy.

One of the areas that was sharply criticized in the draft circular was our Basic Considerations and Assumptions. A feeling expressed broadly was that these statements conveyed a very negative and restrictive view of the value of government information to society. We accepted these criticisms and in redrafting the circular have attempted to make a much more positive statement about the value of government information.

We said, for example, that the free flow of information between the government and its citizens and vice versa is essential to a Democratic society. Picking up from the Paperwork Reduction Act, we have also said it is essential that

the government should minimize the cost of collecting, maintaining, and disseminating information, and should maximize the usefulness of information. But we find ourselves struggling with what we mean by the notion of the free flow of information between the government and the public, and I would, indeed, appreciate it if Mr. Shattuck or some other legal scholar could really elucidate for us what we mean by the concept of the free flow of information between the government and its citizens.

This was a phrase that recurred repeatedly in the comments. As one source has put it, the free flow of information is quite distinct from the flow of free information and the flow of information for free. Information costs money and the transmission of information costs money. Moreover, much information flowing in our economy is someone else's intellectual property, to which laws governing patents, copyrights, performing rights, and trademarks apply. Charges are established administratively, not always by competitive markets for the means of information flow; such as the mail, the telephone, and the television. Contrary to the views of some, protecting the free flow of information does not mean the government has an unqualified obligation to provide information free of charge and without a regulatory structure.

One of the areas of the draft circular that drew an awful lot of fire was the distinction that we introduced between access to information and dissemination of information. Access was defined as providing to members of the public upon their request the government information to which they are entitled under law. Dissemination was defined as actively distributing information to the public.

We introduced the two definitions because we believed the distinction clarified discussion. In our usage, access refers to the situation in which the public comes to a Federal agency and requests information. Statutory policy as embodies in the Freedom of Information Act, the Privacy Act, and Government in the Sunshine Act govern access to information. Dissemination refers to the situation in which a Federal agency distributes information, as through publishing, irrespective of any request.

The distinction between access and dissemination drew a reaction that at first puzzled us. The public asked: if access refers only to information available upon request, how does the public know what government information is accessible? We were puzzled because, when we look at the circular, the circular does nothing to restrict public access to information. If anything, it has policy statements that underline the statutory responsibilities of Federal agencies to provide access. After thinking about it, we took the question to mean that while the draft circular makes the distinction between access and dissemination, it does not elaborate the relationship between the two concepts.

The relationship is this. The public knows what information is accessible because existing laws require Federal agencies to disseminate information about their information holdings. The Freedom of Information Act requires agencies to publish on a current basis descriptions of agency organization, where and how the public may obtain information, the general course and methods by which agency functions are determined, including all procedural requirements, rules of procedure, descriptions of forms and how to obtain them, substantive regulations, and statements of general policy.

The Privacy Act requires publications regarding systems of records that have individually identifiable information. The Government in the Sunshine Act requires agencies to make public announcement of meetings, what is going to go on at the meetings, whether they are open to the public, etc. The Paperwork Reduction Act and OMB's regulation on controlling paperwork burden on the public requires agencies to publish notices when they submit information collection requests to OMB for approval.

In sum, every Executive agency already has obligations to disseminate basic information to the public concerning what the agency does, how its programs operate, what the public must do to comply with laws or regulations, how to receive benefits, how the public can use agency services, including how to gain access to information holdings. These obligations are the basic linkage between access to and dissemination of government information. In revising the draft circular, we retained the distinction between access and dissemination and added a policy statement that emphasizes Federal agency responsibilities for disseminating information about their information holdings and how to gain access to them.

Another aspect of the draft circular drawing perhaps the largest volume of negative comment was the policy statement that agencies shall disseminate government information and products and services only where dissemination is essential to the agency accomplishing its mission. Commentators believed this policy was negative and restrictive and failed to emphasize the positive value of government information dissemination. OMB accepted these criticisms as valid and sought to find a formula that would accommodate the intent of the criticisms.

The Paperwork Reduction Act states that OMB shall review information collection requests and determine whether they are "necessary for the proper performance of agency functions." In revising the draft circular, OMB adopted this standard for information dissemination. Agencies are to disseminate such information products and services as are "necessary for the proper performance of agency functions." As both the draft and the revision make clear, determination of what dissemination is necessary for the proper performance of agency functions is primarily the responsibility of the head of each agency.

A new policy statement added in the draft revision is an idea presented to us by commentators; namely, that when agencies intend to terminate major information products, and services, they should provide adequate notice to the public before doing so, in order to give the public an opportunity to inform the government as to the value of the information, products and services, and, in fact, also in order to prevent the government's operating in an arbitrary and capricious manner.

We thought that was a good idea. We wished we had thought of it, and we adopted it in the revision. We added to it, however. We said that agencies ought to provide adequate notice either when initiating significant new information products and services or when terminating significant information products and services. The reason for saying "when initiating" is because we had in the draft a statement that agencies should not duplicate information products and services that could "reasonably be expected" to be provided elsewhere. That statement, people said, was vague and impossible to implement, and we agreed that that formulation was inadequate. We believed that our intent would be well conveyed if we said that agencies should provide public notice before initiating new information products and services. If they provide public notice, that will allow other agencies or the private

sector to say, "Hey, wait a minute. We are already doing that, or we could do that."

Another new point that we have adopted was one that was made strongly by the library community; namely, that the circular should buttress the Federal Depository Library System. The Federal Depository Library System is seen as a basic information safety net for assuring that government publications are placed in the hands of the citizens. So, in revising the circular, we have inserted a policy that says, "All Federal agencies shall establish procedures for making their government publications available to the Federal Depository Library System." That is effectively the language of the statute. It is a good idea. It is a matter of law and it costs Executive agencies nothing to do it. The fact that many government publications do not get into the Federal Depository Library System, I believe, is both a failure of Executive agencies to comply with the law and, I would say, less than vigorous administration of the Federal Depository Library Program by the Government Printing Office.

Finally, let me turn to the question of private monopoly over public information. Federal agencies are finding that they can provide more information in more timely fashion at lower cost by moving to electronic publishing arrangements, and users are finding that they can get more information more quickly and in a more usable and more manipulatable format by acquiring these electronic products.

OMB's main counsel to Federal agencies embarking on electronic dissemination enterprises is: you had better examine carefully how Federal policy on information access and dissemination applies to electronic dissemination. Can agencies ensure that access is provided to each class of users upon reasonable terms, avoid problems arising from monopolistic control, ensure maximum reliance upon the private sector, and take necessary steps for cost accounting and cost recovering?

The reason that the problem of monopoly arises so acutely is because Federal agencies are often the sole holders of certain information. Only the Census Bureau, for example, can and does conduct a decennial census of population. Only the Census Bureau holds the original census records. When these Federal agencies disseminate, they are sole suppliers and hence in a position of natural monopoly. When agencies use private sector contractors to accomplish dissemination—and OMB policy urges them to do so—the agencies must take care that they do not permit contractors to exercise monopolistic controls in ways that defeat the agencies' obligation to provide equal access to all.

OMB has no single formula for solving the monopoly problem in government information dissemination because the problem seems always conditioned by the particular circumstances and laws that affect a given agency.

Our general belief is that the first answer to the monopoly problem lies in fair and careful competition of contracts. Beyond that, agencies must formulate contractual terms, with respect to equal access, so that the contractor functions as a mere intermediary for the agency in dealing with end users in the public. For purposes of providing other parties with access to the information, the contractor must be made to perform as though the contractor had the same responsibilities as the Federal agency itself.

I might conclude by saying I believe there is a lot of misunderstanding that surrounds the understanding of what we mean by involving the private sector in

information dissemination. Let us take the case of the Department of Agriculture's new program for the electronic dissemination of information. When USDA went out with a request for proposals for that contract, what they were basically seeking was a computer timesharing service, and the question as to whether USDA should perform that, or whether the private sector should perform that, is a question as to should USDA acquire the hardware, software, and personnel necessary to transmit the information electronically from USDA to the end user?

There is nothing inherently governmental about a computer timesharing service that serves as a mechanism for transferring information from the Department of Agriculture to the public. And consequently, it seems to me entirely proper that USDA contracted out that function. The control of the information remains with the Department of Agriculture. The Department of Agriculture put upon the contractor rather severe clauses as to what the contractor could or could not do with that information. For example, the contractor was required to sign an anti-competition clause saying in effect that the contractor would not get into the business of agricultural information marketing, but would simply serve as a computer timesharing service.

This is the kind of thing that we are talking about when we refer to the role of the private sector in information dissemination; and the fear of the cost of information going up, I believe, arises from the fear that the private sector contractor will exercise monopolistic controls in ways that are adverse to the public interest. If the agencies behave as we have indicated and take great care to avoid the monopolistic control, this should not occur.

ACCESS TO INFORMATION IN CANADA—HOW IT IS DIFFERENT*

Bruce Mann
Office of the Information Commissioner
Ottawa, Canada

On July 1, 1983, Canada's 116th birthday, our Access to Information Act was proclaimed in force. You are familiar with the United States Freedom of Information Act so this makes the description of our Act a little easier. Not surprisingly for two countries which are generally like-minded on matters of rights and freedoms, our respective Acts are similar in their broad sweep.

The purpose of the Canadian Access to Information Act is stated right at the beginning of the statute. It is:

> "to extend the present laws of Canada to provide a right of access to information and records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific and that decisions on the disclosure of government information should be reviewed independently of government."

The drafters of the Canadian legislation had the opportunity to observe the operation of the United States Freedom of Information Act for 15 years, and so it is also not surprising that there are some fundamental differences between your legislation and ours. These are not so much differences in principle as in form and procedure. First, under the Canadian legislation the exceptions to the right of access are stated in very specific terms. Second, third parties who might be affected by the disclosure of information have a right to be notified and to intervene in the process before disclosure takes place. Third, the office of the Information Commissioner, a specialized Parliamentary ombudsman, has been established to investigate and mediate complaints under the Act and, ideally, resolve them without having to go to court.

1. So Many Exemptions—So Finely Tuned

What You Might Not Get. In Canada's Access to Information Act, nine pages of bilingual text are devoted just to the statutory provisions which the government can use to exempt requested records from disclosure. They deal with the same sort of things as you have become familiar with under the United States law: confidential records from foreign governments and organizations; records where disclosure could be injurious to national defense or international affairs; records of law enforcement investigations and techniques; records essential to the economic interests of Canada; personal information; confidential commercial information from third parties; and records about government positions or plans that have not yet been put into operation.

* This text is a redactation of the speaker's notes. It includes material which was not previously available or which because of time constraints was not in the oral address.

Comparison With FOI Act To illustrate just how finely tuned the Canadian statute is, let us compare one of its provisions with the sixth exemption from disclosure under the United States Freedom of Information Act which protects

> "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."

That provision, as you are no doubt aware, has been subject to extensive judicial interpretation, right up to the United States Supreme Court.

Under the Canadian legislation, the government is prohibited from disclosing "personal information," the definition of which includes nine illustrative paragraphs, along with eight paragraphs and subparagraphs of items not to be included. On top of that, there are 18 paragraphs and subparagraphs setting out those circumstances under which the government may disclose personal information notwithstanding the general prohibition.

So Many Exemptions—Not So Bad. One commentator observed that while there are only nine exceptions to the right of information in the United States, the Canadian government can withhold information from a requestor in several hundred different ways. While this criticism may not be exaggerated, I think that it is unfair. There are some distinct advantages to such a detailed list of items which the government can withhold from disclosure under the Access to Information Act. First of all, our detailed list of exemptions gives the user of the Act a fairly good idea, in advance, of what to expect in response to his or her access request. Second, if access is denied, the requestor has a better chance of successfully appealing the decision by being able to show that the exempted information is not covered by the precise list of exemptions. We have had relatively little litigation in Canada, possibly because the law is quite clear as it stands and does not require the extensive judicial interpretation to which the United States Freedom of Information Act exemptions have been subject.

2. Third Party Rights of Intervention

Commercial Information. Third party commercial information is protected from disclosure under the Access to Information Act by a provision which states that the government shall refuse to disclose records containing trade secrets of a third party or financial, commercial, and technical information that is supplied to the government in confidence and has been maintained by the third party in a confidential manner. Also, the government must refuse to disclose any information which could reasonably be expected to result in material financial loss or gain to, or prejudice the competitive position or contractual negotiations of, any third party.

There are a few exceptions to this non-disclosure rule, including one where the public interest in disclosure as it relates to public health, public safety, or protection of the environment clearly outweighs in importance any potential harm arising from disclosure.

Notification Procedure. The drafters of our legislation must have observed with some trepidation the practice that developed in the United States to commence so-called "reverse FOI suits," brought by corporate lawyers to prevent possible disclosure of information injurious to the interests of their clients. I understand

that your Congress has been lobbied by the business community to amend the fourth exemption (which protects trade secrets and commercial and financial information) to require prior notice to third parties of intended disclosure. Some U.S. agencies have voluntarily instituted notification programs; others have not.

The Canadian Parliament included in our Access to Information Act a statutory requirement to notify third parties of intended disclosure of records which the government has reason to believe might contain trade secrets, confidential commercial information, or information which the government could reasonably foresee might effect harm to the third parties described previously.

Upon receiving such notification, the third party has 20 days to make representations to the government department that has control of the record as to why the record or any part of it should not be disclosed. The government must make its decision quickly. If it decides to release the requested record it must first tell the third party, which then has the right to apply to the Federal Court of Canada for an order prohibiting disclosure. The government may not take any action while the matter is before the Court.

Personal Information Protected. The rights of individuals to protection from disclosure of information about themselves to others is protected by both the Access to Information Act and its companion statute, the Privacy Act. The rule under the Access to Information Act is quite simple: There shall be no disclosure of personal information unless the subject individual consents, the information is publicly available, or disclosure is specifically permitted under the Privacy Act.

Let us take a quick look at the Privacy Act. It has two purposes. First, it is a personal freedom-of-information law that gives Canadian citizens the right of access to federal government records about themselves, subject to specified exceptions. Second, it restricts severely the use which the government can make of personal information records, even prohibiting the transfer of personal information from one government department to another unless authorized by law.

Some of the exceptions under the Privacy Act are of particular interest to historians and other researchers. The extensive definition of "personal information" which I referred to earlier does not include information about government officers or employees in their capacity as such. Consequently, details of their jobs, salary ranges, and even personal opinions or views expressed by them in the course of employment cannot be withheld from disclosure under the Access to Information Act on the ground that this information is personal. Also, personal information loses its privileged status after an individual has been dead for 20 years.

It would be virtually impossible for academics to carry out much of their research or statistical studies without getting access to government records containing personal information. The law permits an exception to the non-disclosure rule where the head of a government department is satisfied that the persons engaged in research cannot reasonably accomplish their task in any other way, and a written undertaking has been given that no subsequent disclosure of personal information will be made in a form which could reasonably be expected to identify any individual to whom it relates. This provision is of particular significance because while the Access to Information Act generally gives an equal right of access to all Canadians, accredited researchers can enjoy a special advantage.

Finally, there is a very general provision in the Privacy Act which states that the government may disclose personal information about an individual where

> "The public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure."

A Watergate-type scandal no doubt would trigger the operation of this provision. The government is required to notify the Privacy Commissioner (a specialized Parliamentary ombudsman dealing with complaints under the Privacy Act) before disclosure is made, if practicable, and the Privacy Commissioner may, if he thinks it appropriate, notify the subject individual. The Act does not specify any procedure from that point, but presumably the Privacy Commissioner may intervene and recommend that the government not disclose a record—perhaps even commence court proceedings for an injunction.

It is interesting to compare this provision with the sixth exemption under the United States FOI Act which prohibits the disclosure of personal information only where it would constitute a clearly unwarranted invasion of personal privacy. There appears to be an initial presumption that disclosure is warranted. In Canada it is the other way around—disclosure of personal information is generally prohibited unless there is a public interest which clearly outweighs any invasion of privacy.

3. Role of the Information Commissioner of Canada

Commissioner As Parliamentary Ombudsman. The third major distinction between our legislation and yours lies in the role of the Information Commissioner, a federal Parliamentary ombudsman who, under the Access to Information Act, is required to investigate complaints about denials of rights under the Access to Information Act and to report to Parliament about them. The Commissioner also has a special role in bringing complaints before the Federal Court of Canada. I will describe this in a moment.

Under the Access to Information Act, the Information Commissioner is appointed by the Governor-in-Council, after approval by resolution of the Senate and House of Commons, and holds office during good behaviour for a term of seven years, removable only by the Governor-in-Council on address of the Senate and House of Commons. Translation into ordinary English: the federal Cabinet nominates the Information Commissioner, but the appointment must be approved by a vote in Parliament. (This makes the appointment a matter for debate in the House of Commons and the Senate. The incumbent Commissioner, Inger Hansen, was approved by a unanimous vote.) Like a Superior Court judge in Canada, the Commissioner may be removed only by impeachment proceedings before Parliament for some scandalous act, breach of trust, manifest incompetence, and the like.

Investigations and Recommendations. The Commissioner is required to receive and investigate complaints from persons who have been refused access to a record requested under the Act, who have been required to pay fees which they consider unreasonable, or who feel that extensions of time to comply with an access request are unreasonable. Other grounds of complaint are the official language in which disclosure is made, the adequacy of publications or bulletins concerning the Act, and generally any other matter relating to requesting or obtaining access to records.

Our office has extremely broad powers to carry out investigations, including the power to subpoena witnesses and to compel the production of documents. We may enter any premises occupied by the government to conduct enquiries and examine any records relevant to our investigations. In practice, we have never had to exercise these powers formally or take evidence under oath. Most investigations are carried out by way of interviews and correspondence with both complainants and government officials, followed by a tentative written finding which is subject to further representations by either the government or the complainant.

If the Information Commissioner proposes to recommend disclosure of records but is concerned that a third party might be adversely affected by disclosure (in the same manner as I described earlier) that third party must be given the opportunity to make representations to our office on the matter.

Where a recommendation is made to a particular government department in respect of a complaint, the head of that department is given a time limit, usually about four weeks, in which to give our office notice of any responsive action taken or proposed to be taken or reasons why nothing will be done. We cannot compel the government to take any particular action. By law our reports and recommendations to government carry only persuasive force.

Initiating Judicial Review. The Access to Information Act gives a person who has been refused a record under the Act the right to judicial review of the government's decision by the Federal Court of Canada. (This is not a review of the Information Commissioner's recommendation.) If the Court finds that the government, in exempting a record from disclosure, was acting beyond its legal authority under the Act, it may order that the record be disclosed. Either party may appeal to the Federal Court of Appeal and then to the Supreme Court of Canada.

Before a complaint about non-disclosure may be brought before the Federal Court, it must first have been investigated and reported on by the Information Commissioner. By this requirement, our Parliament has intended that as far as possible complaints will be resolved through mediation by the Information Commissioner.

The Information Commissioner has a special legal status which is without identical precedent under Canadian law. With the consent of a complainant, the Commissioner may, as a distinct party, bring a case before the Federal Court or add it to a court case already underway. This offers several advantages over simply leaving the matter to the complainant to take to court. Our office charges no fees for its services. Generally speaking, we have greater expertise in this area than most lawyers in private practice and since we have access to the records which are the subject of contention before the Court, we can often present arguments in a much more cogent fashion.

4. Some Statistics

How the Government Is Doing. Figures developed by the Treasury Board of Canada, which administers the Access to Information program, indicate that over the first 30 months that the Act was in force there were, in round numbers, 6000 access to information requests, and they were handled as follows:

- 40% resulted in full disclosure of requested information;

- 25% resulted in disclosure of some information;

- 15% resulted in no disclosure at all;

- 20% could not be handled definitively.

In half of the cases where there was no disclosure at all, it was because the requested records did not exist.

How the Information Commissioner Is Doing. During the same 30-month period, our office received close to 600 complaints—roughly one complaint for every ten access requests filed with the government. How did we dispose of them?

- 60% were dismissed. For the most part these were complaints where we found that the individual had not been denied any of his or her rights under the statute. A few were abandoned by the complainant.

- 30% were found to be justified and through mediation some resolution was achieved. The complainant went away happy—or at least happier than he or she was at the beginning of the process.

- 10% of the complaints were justifiable, but we were not able to achieve any resolution through negotiation with the government department. In these cases it was necessary for us to make a formal report of our findings to the Cabinet Minister responsible for the government department in question. About half the time these complaints concerned delays under the Act and ultimately the government responded, so that it was not necessary to recommend any specific action. The other half of the time we recommended that some specific action be taken to disclose records which had been exempted. In every such case we offered to bring the matter before the Federal Court on behalf of the complainant.

So much for the one out of ten users of the Act who filed complaints with our office. We would like to know more about those nine out of ten users who did not file a complaint. Were they completely satisfied with the records which the government disclosed to them? Did they accept any exemptions as completely legitimate, or just shrug them off feeling that it is hopeless to try to get any more from the government?

5. Fees

In these times of privatization and cut-backs of government-financed services, Canada's Access to Information Act offers one of the greatest bargains in the country. Under the Act, a basic $5 application fee must be submitted with an access request, and beyond that an applicant is required to pay $10 per hour for search and preparation time in excess of five hours. (Time spent by the government to decide whether portions of records should be exempted is not billed.) At the government's option, records may be inspected at a government office or

photocopies will be provided at 25 cents per page. Microfiche are produced at 40 cents per fiche and microfilm will be duplicated at $12 to $14 per 100 foot roll. Once the $5 application fee has been paid, most government departments waive further fees under $25.

According to Treasury Board figures, last year it cost $1,107 on the average to process an access request, but the fees levied averaged only $13 per access request.

Get a Canadian Friend to Use the Act. Only Canadian citizens and landed immigrants have rights under the Access to Information Act, but there is nothing to prevent a non-citizen from seeking the assistance of a Canadian friend to make a request under the Act. And do not forget that current exchange rates make services under our Access to Information Act an even greater bargain.

TWO VIEWS FROM USERS

1. The Journalist

Scott Armstrong
The Washington Post

MS. WOODSWORTH: Our remaining speakers were invited to address our topic from the point of view of users. The first, Scott Armstrong, is a journalist, who is co-author of a book on the United States Supreme Court, The Brethern. He is currently on leave from The Washington Post while preparing a book on national security decision making. Mr. Armstrong has brought five Freedom of Information Act (FOIA) lawsuits forth which are presently pending in the Federal courts, and has filed a total of over a thousand FOIA requests with the National Security Council, CIA, and other Federal Government agencies. He is a graduate of Yale University and attended law school at Harvard briefly. I am delighted to turn the podium over to Mr. Armstrong.

MR. ARMSTRONG: Having been introduced with all this FOIA background, I am going to speak to you about something else. I purport to try to give you a very quick, since I am told I will be held to ten minutes, sketch of United States Government information policies as they affect journalists in the operational, not theoretical, sphere relating to the very specific area of national security information—an area where Government practices of control and management of information are often misunderstood.

For example, we should understand that much of the national security information that you and I, as lay people, believe is secret, in fact, is not secret. It is widely available. For example, the presence of nuclear weapons and the conditions under which they will be present in Canada is available in open information in the United States, although it would not be available in Canada under their own restrictions of intergovernmental information.

The birds-eye view that I want to give you starts with an interpretation of the evolution of the present control of national security policy information. I believe it is a pivotal point in the modern American intellectual history of U.S. government information, particularly in the use of contemporary Government documentation by journalists, scholars, Congress, and a variety of others.

This happens to be a story in which I play a minor role, so I will describe it from the personal point of view. You will recall in the summer of 1973 that our beleaguered President, Richard Nixon, was being investigated by the Senate Watergate Committee, for which I worked. On Friday, July 13, 1973, in the Senate Dirksen Office Building, Room G308, a completely enclosed room, swept regularly for surveillance devices, where the staff interviewed prospective witnesses, I had the good fortune to interview on obscure Air Force Colonel named Alexander Butterfield.

Col. Butterfield was being called as a potential witness on the question of Presidential documentation, on how Government documents are used in the White

House. He was called because we were in the midst of a factual debate between John Dean and the President of the United States that the President was winning by default. You may not recall it now, but at that point John Dean was the only evidence of the President's involvement in Watergate, other than common sense, that is.

John Mitchell, the former Attorney General of the United States, was testifying publicly while we were interviewing Butterfield privately. Mitchell was on television upstairs in the Senate Caucus Room, admitting that all these things which Dean had alleged had happened, but that Dean had done them. The President did not know about them. The President was insulated. That was the White House position. Haldeman and Erhlichman were soon to follow Mitchell. We had a few other witnesses and very little rebuttal.

So, we were asking Butterfield how the documents that were important to the White House were kept; how we could find documents that would lead us to more information about the meetings that Dean had with the President, because there was at that point no corroboration of Dean's version of these meetings. He described the National Command Authority Locator System, which keeps track of the President and each of the presidential successors at all moments; he described the system of logging in telephone calls, of tracking who the President called, and of recording who was in the room when calls were made, and the system of recording the substance of meetings, and of the fact that Henry Kissinger still owed 354 memos to the file on meetings for which he had been present, and the system of how logs of every person that entered or left the Oval Office were kept and so forth. In the midst of all this, the Watergate Committee had received from the White House, a memorandum originally intended only for the Republican minority staff. (In those days, no one's desk was ever too secure, and things that found their way into Republican hands went into Democratic hands and vise versa.) This memorandum was a description in great detail of the President's meetings with Dean that refuted everything that Dean had said. It included actual quotes from the conversation, and we were curious from where these could have come. It had not been sprung on the Democrats of the Committee yet, but it was obviously going to be used by Haldeman and Erhlichman in their testimony before the Committee. In the course of going through all the sources of documentation with Butterfield, I handed this description to him and asked where it could come from, which of these systems we had discussed would have accounted for this level of detailed information.

Butterfield looked at it and said, "Well, none of them could account for it." Having the hypothesis that this information had been invented from whole cloth, I suggested that perhaps this could come from the "President's memory." He said, "No, the President's memory is not this good. He has a bad memory. He doesn't take this kind of notes, rarely takes notes at all. It couldn't have come from that." And I said, "Well, where could it come from?" And he said, "Well, let me think about that a minute." and set it down on the table in front of him.

The questioning went in a different direction. Another fellow named Don Sanders, who worked for the minority staff, asked the fateful question in passing at a later point and said, "When Dean testified, Dean said that during one of their meetings the President had gone in the corner and lowered his voice at one point and Dean had the impression that the President might have been recording some of the conversations." Sanders asked Butterfield, "Is it possible Dean knew what he was talking about?" Butterfield said, "No, absolutely not. There is no way he could have

known." At which point he picked up the document which was before him and said, "But, of course, that's where this came from. I guess you guys must know about the automatic taping devices in the President's offices."

A little chill went up my back thinking that I might just have seen a little history made, and I said, "Yes, of course, we know about it, but could you give us your own description in your own words of how it works?"

So he then described the system about which he said four people knew. It turned out there were several more because there were some Secret Service people who serviced it. Now, I tell this story not because of the ultimate effect of what these documents did and the tapes coming out, or the fact that there was a criminal conspiracy to obstruct justice going on inside the White House, but for the effect I believe it had on journalists, on scholars, on Congress, and on the public in general, in terms of the use, the desire, and the demand by all of us for detailed, authoritative descriptions of actual events.

As you will recall, those tapes, as they made their way into the public domain, did not exactly compare with the civics textbook description of how the White House was supposed to run. There were some good case studies of lobbying and other events, but, in fact, the most interesting thing that I found about the whole episode and the information that came out during the period was the nature of the information and the notion that the extraordinary interplay between events. In fact, for a while it made credible some of the President's claims that national security events might, in fact, have had something to do with Watergate, that there might be some legitimate national security restrictions on this information. What it did primarily was start a paper chase for contemporary internal documentation that is, in fact, the business of journalism, the business of scholarship, the business of history.

What we are talking about today are contemporary government documents, not the documents that find their way into an archive 30 years later, but the documents that are in government offices now—the documents that we are talking about when we talk about access to information, not simply its dissemination. What I would purport is that during the 1970s, during 1974 to roughly sometime in 1979, there was, because of the Freedom of Information Act and of the general climate that Watergate created, a change in the approaches of the Ford and Carter Administration to requests and demands for information. They were much freer with the information that was necessary to do a reasonable job of reporting on events in Washington.

Beginning sometime in 1979 and through late 1980, an embattled President Carter changed the rules as they exist is Washington, the rules that affect Government information. I believe it is important for us to recognize the change as issuing from that point forward. You will recall that Carter was undergoing an extraordinary re-election campaign that was not exactly going well. There was an energy crisis afoot. There was the fall of the Shah of Iran, the Iran hostage crisis that was going on and the Iran rescue attempt that had failed. There was the Soviet invasion of Afghanistan. There were all the questions raised by American farmers about the sanctions that we had imposed upon Afghanistan. SALT II was being second guessed and eventually had gone down the tubes. And, of course, then there was the "all important" Billy Carter affair about his relationship with the Libyans.

Suddenly we all began to use the Freedom of Information Act. It really was quite sudden. Although it had been around for some time, we began to use it in a much different way with a much greater regularity. It was in response to this flurry of requests that we began to recognize that there was also an internal change in the way information was being controlled. (I am going to try and compact that last 30 minutes of my talk into the next two.)

For those of us out there reporting national security affairs, these events raised many questions about the adequacy of our reporting. As information sources were closed off or controlled by the Carter Administration, we began to realize that the lies, the distortions, the half truths, the purposely leaked information which you see every day on the front page of The Washington Post and The New York Times (traditionally with an apologetic that follows that explains that there is another point of view on these issues) were being presented from the Administration's point of view without any apologetic, without any corrective influence.

As we were overwhelmed by detail and the complexity of domestic and international events grew, we found that we were not able to keep up with the quantum leaps in communication technologies, such as satellite communications, which allow people from Washington to control the public face put on events abroad. As the amount of activity in Washington increased, our ability to cover it decreased. The problems that we began to face and began to recognize were the very problems that the Reagan Administration understood how to capitalize on when they arrived. They hit the ground running, immediately able to use our liabilities, our inabilities to provide accurate, detailed, up-tp-date information of the kind the public had come to expect, in order to get there our message across. In particular, there was an attempt to orchestrate with precision and with symphonic results the national security information that comes from the highest level leaker. Of course, this was not new to the Reagan Administration. Brezenski had done it, Kissinger had done it, as had many National Security Advisors before.

I am talking about the Zbigniev Brezenski's and the the Bill Clark's of the world that say, "We have a satellite photograph from yesterday that says such-and-such. You have got to protect me. This is all deep background, but here is what is going on in Ethiopia." Or Nicaragua. It is exactly this kind of information that when reported in The Washington Post or The New York Times jeopardizes the national security in the sense of revealing an intelligence ability that might not otherwise be known. But that risk was worth it. What happened was this use of the strategic leak was perfected by the Reagan Administration. The "Confidential, high Administration disclosure of classified information" has become the principal tool for manipulating the public record, even for announcing policy.

What a journalist normally does is respond by going out and finding another, lower level person who knows what the context of that classified information is, not only for the purpose of confirming it and putting it in the right context, but also for the purpose of letting them say, "Yes, that is truly sensitive. Leave out the fact that we found it out yesterday. Leave out the fact that it is a satellite photograph." These secondary sources provided information that is crucial to understanding the true story. As this corrective information became more and more important and began to dispute the information that leaked out officially from the White House, we began to see a different type of control of national security policy information in order to prevent unofficial leaks from correcting official leaks.

This control is what is normally called classification. We are talking not only about the secret information about nuclear targeting, information about certain weapons capabilities, this information is clearly meant to be kept secret as classified. But also classified is virtually all other information on national security affairs, exactly the kind of information that reporters discuss on a daily basis with those members of the Administration. This is classified not for national security reasons, but for Administrative convenience at best and policy control at its worst. Essentially, the counterleak, the whistle blower, the person who would limit damage began to get closed off intimidated by fear of prosecution or firing. (I think I am going to have to bifurcate this talk and do the rest in response to a question.)

The process that John Shattuck described of National Security Decision Directive #84 began with an earlier version which required every person talking to the press to report it to the White House. In other words, every press contact by an Assistant Secretary of State, by an Assistant Secretary of Defense, or any lower bureaucrat, had to be cleared with the White House first. The objections to this were so strong it was immediately withdrawn, virtually before it was officially issued. It was replaced two months later with this National Security Directive of #84, which allows for pre-publication review and allows for polygraphing of those people who have access to compartmented information.

The direction that things have taken since then is the proliferation of now 10,000 compartmented seperate programs in the Government. That is 10,000 programs above the level of top secret to which people with top secret clearance need yet another level of clearance for each. Only the President of the United States in theory has access to all. No other official in Government has access to any significant multiples of any of these 10,000 programs. You can imagine the problems such a system creates for internal communication, but imagine the problems that that creates if you also begin to use it as a mechanism for control of internal dissent, control of dispute work in the policy debate, as well as for the purpose of classifying legitimately secret information.

I am going to give Anna a chance. I am hoping to find someone who is going to ask me a question about the effects of the Morrison case and the espionage statute and its applications to the press and in particular its applications to librarians; you probably did not know that you are now subject to the espionage statutes for simply holding material that was once classified.

(I will meet my obligation and only be ten minutes overtime by stopping now.)

2. The Scholar

Anna Nelson
George Washington University

MS. WOODSWORTH: Our final speaker this afternoon is Anna Nelson, who is currently Associate Professor of History at George Washington University. She earned her Ph.D. at George Washington, and her Bachelor's and Master's Degrees from the University of Oklahoma. Her interest in public records, according to her account, was first stirred by a position that she had on the staff of the Public Documents Commission in the mid-70s. Apparently, that commission was one of the forgotten by-products of Watergate. She then held a position in which she conducted a study for the Congressional Research Service on the impact of historical offices in Federal agencies on records in the National Archives. Next came a study for a Congressional Committee on Legislative Records. What we are about to hear today is, to use her words, the frustrations of a hooked historian seeking access to government records that are 30 years old.

MS. NELSON: Watergate is always a hard act to follow.

The thrust of this discussion today has been almost entirely on the impact of new decisions on current information policy. John Shattuck spoke of the problem of statistics, science, and technology. Tim Sprehe talked almost entirely about current problems, and Scott Armstrong about what journalists face today.

I would like to turn the discussion to another dimension, and talk about the fact that current information policy also influences what we know about the past. Obviously as a historian, a diplomatic historian, I have a profound interest in the influence of current policy on our knowledge of the past. Then, if I have any time left, I would also like to talk about the impact of current policy on the future, an aspect of the problem that became clear in the two years I worked with the Committee on the Records of Government.

First of all, it is very important for us in the research community to understand that even though government information policy is made for the present, it invariably influences the past. For example, the Presidential Recordings Act, which came out of the Watergate era described by Scott and which protected those marvelous tapes, ironically now is keeping historians from using any records from the Nixon Administration. No one, at the time, understood that because of that act, Nixon's papers are not subject to any of the other Acts that have provided access to Presidential papers.

But the best example of how government information practices influence the past is the effect on old records of Executive Order 12356, which is the Reagan classification/declassification EO. Thirty- to 35-year-old documents have been re-reviewed under this order, which as you recall, allowed for reclassification. Publication of The Foreign Relations of the United States, a solid set of books on all of your shelves, which historians have turned to for years, has fallen even farther behind because of the Executive Order. The Foreign Relations series has in the past been published no later than 25 years after the events. But the volume on Europe for 1951 was published only this year. That is far over 30 years.

Currently the declassification section of the National Archives is reviewing State Department documents from the 1950 to 1954 years under the new Executive Order. The archivists tell us that many more documents are being removed than from the records of 1945 to 1949 which were reviewed under an earlier Executive Order. Furthermore, the National Archives is no longer trusted to do the declassification. They must send the documents back to the State Department for further review.

We can all agree as to the importance of foreign policy, its formulation, its implementation. Actually most of what is being written about events after 1952 or 1954 by the people who use your research libraries, most of what has been written on American foreign policy, has been written from a mixture of self-serving memoirs, The New York Times, maybe The Washington Post, and what the declassifiers have given us.

All researchers on the post World War II period are very much subject to current information policy. The overburdening of the Freedom of Information offices means that even when we request information from, for example, 1950, 1951, or 1952, we often wait two or three years for it. (I think I hit some kind of a grand total. I just got a document that I asked for five years ago.)

Similarly, I would like to offer the idea that those who pass paperwork legislation or write OMB regulations rarely give a thought to the future. While in the past we have managed to muddle along in a world dominated by paper, I am not so sure that technology is going to allow us that extravagance any more. It is clear to all of us that if agencies only collect information tied to mission, there will be less information, a considerable loss of knowledge. Social scientists and public administrators will know less about American society. The people who govern us will know a lot less about American society. What is not so obvious, though, is the impact of this decision, the decision not to capture and disseminate much information, on future knowledge of the past; that is, what people know about us in 30 years.

I would like to point out that the first draft of the OMB circular occupied thirteen and one-half pages of the Federal Register. Of that, one and one-half inches, less than 50 words, were devoted to the National Archives and Records Administration, which happens to be where all that information is going to end up if it is of any value. This isolation of record keeping, of archives, from the course of information policy illustrates a profound indifference to history and to the nation's future, it seems to me. The authors of the circular tell us that government information "is an essential tool." If information provides citizens with knowledge, history provides government accountability.

In fact, to return to something that Tim said earlier, what does the free flow of information mean? To most of us it means government accountability. Some of that accountability comes from the information that we have always kept about our own past, whether for social scientists, scientists, government officials, public administrators, or just historians.

It is no exaggeration to say that if the Government adopts the kind of information policy indicated in the circular and implemented through current budget restrictions and allocations, researchers 30 years from now will know very little about American society in our own time.

In this age of electronic information, of floppy discs and hard discs and main frames and tape libraries, there can no longer be a distinction between information and records, between today's document and tomorrow's archive, or between what used to be in research libraries and what has always been in archives. These new technologies will threaten many of our traditional concerns and much of the information and access to information that we may have in the future. Note the ease with which electronic information can be destroyed. We may not be talking about access to much information in future years. Note the ease with which too much information can be stored without any retrieval capacity. That may also cut back on access. There are a lot of unanswered questions. As distinctions blur, the research librarians should extend their interest to original sources.

Ask yourself a number of these questions. Who will decide what to keep and what to throw away when all of these tapes and discs are stacked up? Will these decisions be driven by the profit motive or will they be driven by a traditional view of archival standards? Who will assure us that the decisions of what to keep and what to throw away will not simply be a part of the privatization of government information—something that we will suffer from considerably in the future.

It is never really news, I believe, to the scholarly community when technology outstrips our institutions and our organizations. We examine that all the time in history. We analyze it. We, of course, never see it among ourselves and we never see it among our organizations, but I believe that we are partly to blame for the fact that government and industry has separated today's information from yesterday's record and from tomorrow's archive. Since we were asked to suggest a few strategies, I would like to suggest that we form some alliances on this whole business of government information. Librarians as well as archivists, the entire research community, including a few professors who resent coming out of their carrels, had better start worrying about the primary sources as well as the secondary sources.

We do face a formidable threat. The fact is there is no government information policy. As Tim Sprehe indicated, there is a good bit of managing of government information, but it seems to me that managing of information is informed only by the concerns of the marketplace, by an ahistorical view of our world and our society, and by an obsession with secrecy.

DISCUSSION

MS. WOODSWORTH: Thank you for a frightening and somewhat stimulating conclusion. I would now like to start the question period and discussion period. Russell Shank?

MR. SHANK (University of California, Los Angeles): Scott, what did you want to say about the espionage statutes?

MR. ARMSTRONG: Does this mean I can finish my talk? The recent prosecution of Samuel Morrison was the first full application of these new efforts to control compartmented information. The Administration chose not to do it under the Executive Order, the directive that had created it. Rather they did it with a broad interpretation of the espionage statute, so the result it is quite troubling to all of us.

To get the facts of the case out of the way quickly so you have an idea of how this might apply to you, we are talking about a fellow, Samuel Morrison, who worked for the Department of the Navy's intelligence branch and often viewed satellite photographs of ships in the course of his daily business, which was to determine what changes had occurred in the Soviet Navy. But he also occupied another job at the same time, known to the Government and encouraged by the Government. He was the American editor of a book, which I am sure is in every library here: he was the editor of the American section of Janes Fighting Ships. Through that publication he had a relationship with Janes Defense Weekly, the new weekly publication which is also in many of your libraries.

There is no dispute on the record that he transmitted three photographs of a Soviet ship that were taken by an American reconnaissance satellite. They are not the large resolution photographs that the intelligence agencies normally use, but are ones that are published internally so that they can be seem by perhaps as many as 20,000 people inside the Government that might have access at the level of secret.

Essentially, the Government's theory of the case was that by transmitting these photographs to someone not authorized to have access, Morrison broke the control that existed around them. There is no statute that has established the classification system per se, so the only law that was applicable was an espionage statute, which means that once this chain of custody was broken, once the access was decontrolled, the information was out there in public, and was available to a hostile force. The facts of the case that the Government started to present changed on them over time and they began to realize that there were suddenly witnesses, including the head of the CIA's Committee on Satellite Reconnaisence, that said there was absolutely no damage done by these photographs, that these photographs told the Russians nothing new. They did not tell the Soviets anything about our capabilities. The great quote that came out of the CIA's representative's testimony was, "Zero plus zero plus zero equals zero. This was the damage done by this disclosure."

So the Government then had to talk about potential damage. Potential damage became, because of a lack of instruction by the judge and the way the prosecution pursued it, any damage that anyone could conceive of that could be done. There was no actual damage. The testimony was not conclusive on the question of whether

there could be any actual damage or any damage that would be real in any sense. What we had was the first prosecution that was simply for giving out controlled information. It sounds sexy that it was a satellite photograph, but we are talking about informationally at the level of "secret," of which there is an awful lot in Government—including most policy information—most of which normally can be decontrollable after about two weeks. The agendas for the meetings that are going to take place at Geneva two months from now are now at the level of "secret," should be confidential the first weeks afterwards and then be decontrolled sometime shortly thereafter. Under this Administration, however, there is a tendency to keep them classified for at least 30 years.

So the fact of the matter is we now talk about the Government's ownership of the information.

There was, in fact, a second charge, which was that Morrison had classified information which he took home. There was no allegation that he gave that information to Janes, but because he took it home, he took it out of these controlled circumstances and, therefore, stole it. So there was also a charge of theft.

Under the Government's theory of this case, any journalist receiving classified information, or for that matter, anyone else receiving it, whether it is in its initial form or some derivative form—reprinted, for example, in a newspaper--is guilty of exactly the same act. The Government was quick to point out, even though this was their theory of the case, that they had not applied this operationally for the purpose of the prosecution. As they said, "Well, we didn't prosecute Janes. We didn't prosecute The Washington Post. We didn't prosecute The New York Times." But what they did not point out was that when they went to Janes and they said, "We are conducting a criminal investigation. Who gave this to you?" Janes said, "It was this fellow Morrison."

Well, if I were a journalist at The Washington Post, I would not reveal Morrison's identity. I am not saying I would have published these photographs, or that this particular set of events would have happened. But if I had protected my sources, if Janes had protected its sources, it was very unclear whether the Government would pursue them. The one big difference between then and now is that they have now had a successful prosecution in which they have a conviction without proving damage. They have a conviction without proving that there was anything other than transmission of the information itself. There was no espionage in the common dictionary sense of the word, and yet that was the statute under which this person was convicted by a jury of his peers, under facts that were relatively uncontroverted.

MR. SHATTUCK: May I add just one very short sentence? I do not want to intrude on anyone else's time, but there is one other aspect of the case that is troublesome and that was that there was no proof or need to prove in the Government's theory that Morrison intended to damage the national security. That was a very important element that was lacking. The espionage laws have generally been construed to require some kind of specific attempt to damage the national defense, and that was not put forward in this case.

MR. ARMSTRONG: Can I add one example that will make this palpable, I believe, for people here? You will recall that when the U.S. Embassy was seized in Iran, the so-called students took a great deal of U.S. Government documents that

were classified and reprinted them in booklet form. Those booklets are all over the world. They are in Moscow, Beijing, and in the United States. If you hold those books in your library, you hold classified documents and can be prosecuted under the law. The government's theory is that simple.

MS. WOODSWORTH: While people are getting to the microphones, allow me to interject a question that was handed on a card. I will ask them in the order received.

Mr. Shattuck, what in your opinion is a reasonable national security protection principle for information?

MR. SHATTUCK: The three hour answer or the one sentence? That is a very difficult question, but let me try just three elements of it.

First, I believe a classification system of real military secrets is probably necessary. No classification system that we have had would, I believe, satisfy the criteria that I would apply to it. However, some basis for protecting real military secrets is necessary, and the protection that would have to be afforded those secrets has to be much more serious than the protection that does not exist now for most of the information that, as Justice Stewart says, "When everything is secret, nothing is secret."

Second, no prior restraint on publication of information other than arguably under the standard that was used in the Pentagon Papers case, which is there would have to be overwhelming and imminent damage to the nation for the restriction on the publication of information, even if it fell within the classification system.

Third, there should be "classification" only, and no other categories such as the many categories that we have been describing today of sensitive information, unclassified information that is otherwise restricted—these various forms of compartmentalization.

MR. NELSON: May I add something? One other important facet ought to be a timeline, a classification system that recognizes the fact that time takes care of some security classified information. We had that in the Nixon Act with its 30 year cutoff. President Carter tried to make it less. Now, with this declassification system, there is no timeline, so that it costs an American taxpayer as much money to declassify one of those six million pieces of paper from the State Department from 1950 to 1954 as it does something that Scott Armstrong requests that happened last month. A rational classification, declassification system would have some sort of a timeline on it, too.

MS. WOODSWORTH: I have received several questions on the OMB circular. Dr. Sprehe, if you will allow, I would like to summarize them and ask you to respond.

The first question is, will the revised OMB circular be published in the Federal Register or otherwise be made available before it is promulgated? A similar question: what could be the harm in putting the revised circular out in draft form for another round of public comment? And again on the circular, I understand the revised OMB circular will allow an agency to set up different fees for different users. If so, will librarians be expected to differentiate among classes of users?

MR. SPREHE: The revised OMB circular, whether published in draft or published in final, will appear in the Federal Register and when published in final, it will be promulgated through the Federal Register.

I do not wish to suggest that there would be harm in putting the revised circular out in draft form for another round of public comment. However, some of the considerations are the fact that OMB has already gone through two rounds of public comment on the circular, in September 1983 and March 1985. Another consideration is the fact that putting it out for public comment delays publication by at least half a year and the document has already been more than two years in preparation.

The revised OMB circular will allow an agency to set different fees for different users. If so, will libraries be expected to differentiate among classes of users? Actually, under current policy, there is no reason why Federal agencies cannot set differential user charges and choose, for example, to charge for profit organizations more than they would charge non-profit organizations, and I believe that may even be done by some agencies. So the new circular or the draft does not affect that question.

MS. WOODSWORTH: Thank you.

I have a question for Mr. Mann. How is a Canadian Information Commissioner selected? Is it a political appointment?

MR. MANN: That is an interesting question because it is a political appointment in the sense that the Cabinet of the Canadian Government makes the appointment. But it is one of only a few types of appointments in Canada where the approval of the Senate and House of Commons is required, and in Canada this virtually assures that the individual is politically neutral; otherwise, the debate would go on forever with no appointment. Also the appointment is for a fixed term of seven years and the individual can be removed only if, to use a quaint Canadian phrase, "not of good behavior," meaning that the incumbent has to be impeached before the Senate and House of Commons to be removed.

MS. WOODSWORTH: Again, for Dr. Sprehe. To what extent does Title 44 set law to reach out and put information into the public hands? And a second question on that, to what extent does the Title 44 govern dissemination of Government information?

MR. SPREHE: We get this kind of question frequently. The Paperwork Reduction Act is part of Title 44. What is usually meant by the question is how does the OMB draft circular on the management of Federal information policy relate to the Government Printing Office and the Joint Committee on Printing and the responsibilities of the Superintendent of Documents to price, sell, and distribute all Government publications? I do not know. The best thing to do is to ask Congress. The year in which Congress passed the Paperwork Reduction Act was the same year in which the National Publications Act of 1980 was not passed by Congress. That was a law which would have revised statutory policy on the Government Printing Office and the Joint Committee on Printing.

One of the comments we received on the circular was why don't you say something about printed information since there is statute on that matter? We ducked that by saying that the Paperwork Reduction Act does not differentiate

between printed information and other kinds of information, nor does the Paperwork Reduction Act straighten out the relationships between the Government Printing Office and the Office of Management and Budget and other executive agencies. Since Congress did not do it, we are not going to do it, either.

MS. WOODSWORTH: Thank you very much. This question is for anybody who feels the urge to respond. Has the increase in use of FOIA contributed to Government policies to pull back and establish new barriers to information?

MR. ARMSTRONG: Having used the FOIA a number of times, well over a thousand—probably closer to 2,000—the answer, I believe, is, yes. The use has created internal barriers that have been designed by individual agencies to impede the free flow of information or freely flowing information or whatever, at least through the use of FOIA.

We have a number of administrative pigeonholes that have been created by different agencies to conform with particular court cases, and in some instances to use court cases in a way which amounts to simply balking at servicing FOIA requests in areas that are politically sensitive.

A request to the State Department or the Department of Defense dealing with Central America is treated much differently than a request for even more sensitive information about NATO, e.g., NATO basing of nuclear weapons. The pattern and practice is clear. Queues are created that are infinitely long for those cases in which there are politically sensitive materials being sought. Those cases in which the material is being sought for some other purpose, e.g., strictly for academic purposes, or in other cases where the requesdtor is a former official, the responses can be quite expeditious.

In terms of the amount of information coming out, though, we have seen no major change. When cases are serviced, they seem to be done in much the same way. There is information redacted as being classified. It is often inappropriately redacted, but the degree and nature of the redaction seems to be uniform among agencies. The number of abuses seem to be about roughly the same as they were before, but the information still comes out.

It is amazing what this country is able to release without jeopardy to the national security. Unfortunately, it is often done in a partial form. It takes many years to get. If the scholars who are doing books receive the information shortly after the book has been remandered and gone off to the last warehouse. . . .

It is in response to that, I just mention in passing, that a number of us, including John Shattuck and myself, are involved in trying to create something called the National Security Archive to hold declassified policy information on national security decision making in one location. It will be accessible and useful to libraries and will involve you folks in the struggle to keep information flowing.

MS. WOODSWORTH: Does anyone else up here wish to comment?

MS. NELSON: I would disagree with Scott on one thing. I believe that the nature of the information coming out is somewhat different. There is less of it. You almost never get a document back that has not had lots of information taken out of it because there are new rules and guidelines under declassification. So in the

last few years you get a lot of dots back on those pages. You pay a lot of 30 cents to the National Archives—it is 30 cents to the National Archives a page—for information that, in fact, you may only get one line on a page. They do not charge you when they say, "Pages 9-12 are still retained or exempted."

What I believe is important, though, for the research library community to realize is that the Freedom of Information Act was never designed for research scholars. It was designed for people who wanted a piece of information or two or three pieces of information. It is very difficult to do research through the Freedom of Information Act because you do not know what you need, and you do not know what is out there and there are no finding aids, no indexes, or anything of that sort. You either are reduced to asking "please send me everything on," which is not the best policy, or else you guess. You go through a real guessing game unless you go to Presidential libraries where they have the documents set out. I believe that is an important point, because of the sense in Tim Sprehe's earlier comments on the circular that there is information the public can get out of the Freedom of Information Act. It is very difficult to ask for information. It is not a substitute for printed information, and I would suggest that it is a much more expensive way of informing the public, because you have to pay so much money to these people in the Government agencies to answer requests for different people around the country who could normally find it in a printed source if the search is done and printed just once or put on computer just once.

MR. SHATTUCK: Let me just underscore that point from my own experience as a lawyer representing scholars who have sought information under the Freedom of Information Act. A decade ago, I represented Alan Wienstein, who at that point was writing a book about Alger Hiss, to get information from the FBI and other agencies about the Hiss case. The information just poured out. It was one of the early cases involving a substantial documentary request. We got some 65,000 pages of documents. Fees were waived. It was a very early experience for the Government in complying. They learned, and subsequent scholars have had a much more difficult time, both in terms of fees and redaction of information and limitations on the actual amount released in terms of pages and what have you.

MS. WOODSWORTH: I think that is a good note on which to end.

Introduction

MS. WOODSWORTH: Welcome to this important and informative session. We had hoped to have Senator Paul Simon with us, but he unfortunately, and understandably, could not be with us. He did send us a letter, however, which he asked that we read in full:

Dear ARL Friends,

I regret that I am unable to join you today, but I did want to send this message. You administer the core of what learning is about. Whatever the technology, resource centers called libraries provide what we need to know and help us to learn how to know even more.

There are compelling reasons for libraries in general and research libraries in particular to receive federal support. I hope you take today's opportunity to remind us on the Hill about the importance of library programs in the Higher Education Act and other statutes. You don't have a hard case to make and you have an effective advocate here every day with Shirley Echelman.

I am pleased to welcome you to Capitol Hill and pleased to be associated with the Association of Research Libraries and the Federal Library Programs. You are all commended for keeping our past and taking us into the future.

My best wishes,

Cordially,

Paul Simon
U.S. Senate

EFFECTIVE COMMUNICATION WITH CONGRESS

Lisa Phillips
U.S. Senate Subcommittee on Arts, Humanities and Education

MS. WOODSWORTH: It is now my pleasure to introduce to you Lisa Phillips, a long-time supporter and promoter of the humanities and libraries. She is a graduate of Vassar College in Victorian Studies and is soon to receive an MALS from Georgetown University in East European Medieval Studies.

Lisa has worked in Washington for a number of years, and in her next-to-the last position was Executive Director of the National Humanities Alliance. She is currently Legislative Assistant for the Senate Subcommittee on Arts, Humanities and Education. I think you will find her informative and instructive.

MS. PHILLIPS: Thank you very much and welcome. There are several suggestions I would like to make for communicating effectively with Members of Congress and their staffs.

Those of us on the Hill are frequently juggling 110 issues in the space of 10-hour days, so you cannot presume that we are terribly up-to-date on your issue. You are an education for us and a resource. If, when you meet with us, you begin with a general background on who you are, the specific issue or statutes you are interested in, and what it is you want to say, it is very, very helpful. Stating clearly and concisely what the issue is at the outset is very effective as it cuts down on conversation time and gets you that much sooner into substantive questions and answers. In other words, do not assume you are speaking to someone with a strong background in your topic. If you have supporting documents, highlight them in the discussion and leave copies. These documents can be very useful to staff—they are not thrown out!

On the Senate side, we have larger staffs, between 40 and 60 people, so staff members specialize more. I recommend that, when visiting the Senate side, you check your senator's committee assignments. If a senator is on any education-related committee, you can assume that the staff person is fairly up-to-date on these issues. For those who are going to see members of the committees such as Armed Services, start at a very elementary level and work up quickly to your points.

On the House side, the offices are smaller, and you have a chance to meet more easily with those who are in policy-making positions. At the same time, because the staffs are smaller, the specialization is less, so you may be talking to persons who spend their time on issues quite removed from yours. Find out at the beginning what the level of knowledge is on your program.

Remember—as hokey as it sounds, you are constituents, and believe it or not, your opinion still matters. Many Members call their office "the Illinois Office in Washington," not Congressman X's or Senator Y's office. And they really mean it. We work for you, and both staff and Members are clear about it. If you keep that in the back of your mind, it will make the interaction much better. We are here to listen to you.

May I suggest a follow-up letter? "It was nice to talk to you. Our issues are X, Y, and Z. I hope to hear in response your reaction to the material I left." That compels them to go back to the material, and it is something that will also get you on a computer list. The computer list is actually a bit strange, but it is effective. It means that periodically, based on your computer code, you are sent letters with updates. Generally, the last paragraph of such letters says, "Please let me know what you think." And it means just that. Responses from constituents are used by Members in testimony on behalf of certain issues. I have been in conferences between the House and Senate where an issue is being discussed and the final point that makes a difference on the vote is a Member pulling out a letter and saying: "Here, this is what they say in Albion, Illinois." A follow-up letter is very helpful.

If you have a newsletter or press releases, consider putting the Member on a mailing list. It is not just for information. You are a resource, very clearly, not just for libraries, but for what is happening back home—often there are announcements of events and occasions for which the office sends out congratulatory notes.

We work frequently with ARL on an ongoing basis. Shirley is very effective in working on the Hill, I am pleased to report. She is quite aware of the issues and the timing, and she can organize and galvanize people.

Often responses to legislation are required from you and let me assure you it is not a waste of time. Your responses are used. Do not hesitate to call. Once you make a contact, Members and staff tend to remember who you are because it was a face-to-face meeting. A phone call just before the vote on an issue can make a significant difference. I remember a particular instance when a Member was uncommitted on an issue. A caller from the home district said, "I can't understand why you are even considering voting no"—and changed the vote. It happens more often than you think.

If it were not for you, we would not be here. You are the reason we are here; you are also our resource. It is our job to listen to you. It is our job to follow up on the information you give us. It is our job to try to put that into effect somehow under the restrictions we have, given Budget Resolutions, etc., and you have every reason and every right to ask us to do that.

MS. WOODSWORTH: Are there any questions that anyone would like to ask Lisa at this time?

A MEMBER: I have a question about mass mailings orchestrated by organizations. Recently I received a letter and three postcards, and was invited to sign these and send them to my Congressmen in support of a particular cause. I have always understood that a personal letter with one's own point of view was far more effective than something like this; on the other hand, I have also heard that the volume of mail is crucial. What is the truth?

MS. PHILLIPS: Both are effective. Postcard messages are counted and added to the computer list tally about the particular issue, but there is no personal handling of a postcard message. A personal letter is more effective because it gets an individual answer. Also, depending upon the office—and it is more common on the House side—there are a number of Members who read all their mail.

A MEMBER: What if you are fairly sure that the Member one is going to see is

fairly opposed or very much opposed to what the organization is espousing? Any particular tactics?

MS. PHILLIPS: In many cases, you will be talking to people who will never come around to supporting either the statute or dollar levels that you are requesting. You can do two things that will require his or her attention.

The first is that you care enough to come talk to them. They cannot dismiss you; they must listen. That means they must respond. You will force them to think of an answer other than a pat answer. Then, if you have a follow-up letter, it will require an answer from the Member and his or her staff. You will make them uncomfortable. You will indicate the magnitude of support and that the constituency is interested. "This represents X institutions, which contains X thousands of individuals over voting age of 18." You may not change their minds, but you may prevent them from actively working against your cause. You can contain the no vote. You can stop lobbying on the part of that individual, which is no small feat. In all frankness, you will probably not change a vote. But you will educate that person that your concern is not an isolated issue with no supporters and you will not take fiscal constraint as a simplistic answer. You can force them to consider the issue thoroughly, and I believe that is valuable.

MS. WOODSWORTH: Any other questions?

A MEMBER: We will be speaking to our Senators and Congressmen. Are our conversations with those people likely to have any effect on the OMB proposal for management of federal information resources?

MS. PHILLIPS: Possibly, if you approach it as an informational matter. In general with Executive Orders, there is not a great deal of congressional input. If you discuss this, I would suggest that you request that they write to OMB about the circular. If it appears they are familiar, you can ask them to write and suggest certain questions or certain complaints that you would like the Member to raise. If they are not very familiar with the issue, you can ask them to write and say, "I have been informed that there are areas of concern in this circular. I would like to know more about it. Let me know what the schedule of implementation is. Please respond before it is implemented."

There is nothing directly that Congress can do, but if you get enough letters going to OMB, particularly from Republican Members, it may have some effect. But you have to suggest what you want them to do, and follow it up with a letter or call after your visit.

UPDATE ON LEGISLATIVE ISSUES

Shirley Echelman
Association of Research Libraries

MS. ECHELMAN: I would like to spend some time talking with you about some of the specific issues that we believe you should be discussing with your Congressmen during these visits.

First, the Office of Management and Budget circular on federal information policy. We sent copies of our comments to a large number of Representatives and Senators, so many legislators and staff already know there are concerns with the draft. In the House, several Congressmen are very much interested in this issue. Reps. Glenn English (D-OK) and Barney Frank (D-MA) have already held hearings on the OMB circular and expressions of thanks, if you are going to see either one of them, would be very much in order. On the Senate side, you might ask your Senator to consider whether he or she might like to hold hearings or ask an appropriate committee to hold hearings before the circular is promulgated. If that does not seem to be a good line to take, then suggest that they write a letter to OMB urging that the circular be published in the Federal Register and that a period for public comment on the second draft be allowed. That seems to be the best strategy at the present time, since we have not yet seen the second draft and do not know exactly what the language is.

I would like to bring you up-to-date this morning on what is happening at the National Endowment for the Humanities and then discuss reauthorization of the Higher Education Act.

First, National Endowment for the Humanities. The Senate Labor and Human Resources Committee held hearings on the nomination of Mr. Edward Curran as chairman of the Endowment on October 2. Any of you whose newspapers reported on those hearings know that they were very substantive and that the Senators seemed to be very much troubled by Mr. Curran's responses to questions that were raised during the hearings. Originally, the Senate committee was scheduled to vote this morning. Within the last couple of days, however, Senator Hatch (R-UT), who chairs the committee, apparently took an informal count and discovered that he did not have a sufficient number of votes to assure that the nomination would be approved. Therefore, he has scheduled the vote for sometime next week.

The Democratic Senators on that committee seem to be holding solid with negative votes. If one Republican Senator votes no, the nomination will be blocked, and will not go forward to the full Senate with a recommendation from the committee. If you are visiting with a Republican Senator, especially if he or she is on the relevant committee, this is a good time to talk about the Curran nomination.

I would like to give some special thanks at this point to three of our members who have worked very hard with the ARL office on the issues that surround the current nomination: Roger Hanson, Merrily Taylor, and John McDonald. They have been very instrumental in getting information to us and also in contacting relevant staff members in the Senate.

The NEH reauthorization bill is now in progress. The Senate bill, which passed on October 3, contained an amendment relating to the post of consultant to the Library of Congress, but otherwise was pretty much what we expected. The House bill was passed on October 10, with amendments which cut the authorization period from four years to two and imposed more stringent reporting requirements and prohibitions on individuals sitting on sub-panels that consider their applications. The authorization levels for NEH are $139.5 million for 1987 and in the Senate bill, which is the only bill that reauthorizes for longer than two years, $150.9 million. A conference committee has been appointed to negotiate the differences, and early passage of the conference report is expected. What I would suggest you do is to urge the adoption of a three-year authorization rather than a two-year and admit to yourselves that we have to live with lower authorization levels than we hoped we would get, but thank the Senators and tell them how important NEH is both for libraries and for the humanities scholars who are their major constituency.

The Senate will consider the NEH appropriations bill late in October, so there is some time to talk with your Senators about it. The House of Representatives' appropriation bill was passed on July 31 and it freezes the FY 1986 appropriations at the '85 level, which is $139.5 million. It does, however, include funding for the new Office of Preservation. Since the appropriations level is frozen, that money is going to have to come from other Endowment programs, but the Office of Preservation is in that bill.

Are there any questions about the NEH appropriation or authorizations or the nomination?

A MEMBER: Is there a fallback candidate who has received good support? Who is the alternative choice?

MS. ECHELMAN: We can not say anything to the Senate as to who the alternative might be. At earlier hearings about NEH, ARL was represented as well as a number of other scholarly societies by the recently deceased president of the American Council of Learned Societies, John William Ward. After Dr. Ward left the hearings, one of the Senators said to the audience, "Why can't we have somebody at NEH like William Ward?" The Senate is aware of the kind of person they would like to have.

Five or six names have been proposed and are being considered by the White House, but very quietly, because the Administration's public position is that they still support Mr. Curran. It is possible we can influence that process in a quiet way by making alliance with other scholarly societies and talking with people at the White House appointments office. It is my understanding that Senator Stafford did ask Mr. Curran to withdraw. He has not done so.

A MEMBER: I have no name to offer, but I do understand that there is a candidate in the wings in the event that the Curran nomination fails and that that candidate is acceptable to the ACLS and other knowledgeable groups, and would probably be acceptable to the Administration.

MS. ECHELMAN: Are there any other questions about NEH?

A MEMBER: Could you tell us a few points we should make when we tell them who to propose?

MS. PHILLIPS: I was at the hearing about Mr. Curran' nomination that seemed to enrage many people there. The points that made the Senators angry might be the ones you would like to pursue.

The first is that Mr. Curran has been through four or five appointments in the Reagan Administration since 1981, so he does not have a long-term track record at any agency and keeps coming up here for confirmation for something else on an average of every 11 or 18 months.

The second point is that Mr. Curran was nominated as Director of the National Institute of Education. At the time of his nomination he said, "I am a conservative. I am not certain of the role of education, but I believe research is the most legitimate federal role." Within eight months he had written a letter to President Reagan saying, "Please abolish the agency. It is a waste of taxpayers' money." He was fired by the then-Secretary of Education, Terrel Bell, for that action. This was the most damaging thing in his background that we discovered in the hearing, and most people are sensitive to it.

MS. ECHELMAN: Another point for you to make with the Senators, as representatives of major academic institutions, is that the humanities constituency deserves a leader and administrator for the major federal agency in the humanities, whose mission is to support the humanities, of stature equivalent to that for the Surgeon General, Director of the National Institutes of Health, or the Director of the National Science Foundation. It will be a very bad blow to humanists all across the country if the Senate thinks so little of the humanities, after all the reports that have come out on the importance of humanities in education, that they appoint a director who does not have appropriate credentials; and one might ask the question: Would they appoint a surgeon general who did not have a medical degree or was not indeed even a practicing nurse?

If there are no other questions, I want to go on to the HEA reauthorization. In the House, subcommittee markup of the bill to reauthorize the Higher Education Act has begun and is expected to conclude on October 29. The bill will go to the full committee for consideration the first week of November.

You have received in your packets a sheet that gives ALA and ARL, Recommendations for Reauthorization. [See Appendix B.] This should be your major piece of information. So far the House bill follows the recommendations that ARL has made with the following exceptions:

1. While the authorization levels for the first year are the same as we recommended, the legislation recommends "such sums as are necessary" instead of exact amounts for the second through the fifth year, and it is worthwhile to talk with people you are visiting with about the fact that exact recommendations are better in a bill from our point of view.

2. In the markup session in the House subcommittee, an amendment to Title II-C was introduced. That amendment, which was introduced at the last minute and has had no hearings, reads "Section 231 of the Act is further amended by inserting at the end thereof the following new subsection:

(c) To the extent that an application has been submitted, the Secretary shall permit at least one institution in each State to compete for a grant under this part for each fiscal year."

Now in effect what this amendment does is to remove the eligibility requirement for those states which have not built major research libraries. I believe it is an amendment that we have to oppose. It is unfortunate that it appeared in the bill so late and without a chance to address it in subcommittee hearings.

Working together with our colleagues in the American Library Association, Washington Office, we are taking two positions. The first is that this issue is better addressed in the report language rather than in the statutory language. We are making suggestions that could go into the report language that would allow the Secretary of Education to consider II-C proposals for unique collections of national significance in those libraries that are not qualified under Part I of the qualifying regulations and request documentation from those institutions that would demonstrate the overwhelming importance and significance of the collection, so the proposal could be put into the pool.

Mr. Jeffords (R-VT) is the Congressman who inserted the amendment. We had hoped that we could convince him that report language was better than changing the statutory language. But he is at the present time maintaining his position that he does not want it in report language, because he is not at all certain that Secretary Bennett will carry out the intent if it is in the report language, and therefore he wants it in the law.

We are suggesting, and the Board of Directors reviewed this suggested language earlier this week, the following substitution for 231, Subsection c: "In determining eligibility for assistance, the Secretary shall permit institutions that do not otherwise qualify to provide additional documentation to demonstrate the national or international significance for scholarly research of the particular collection described in the proposal."

In other words, if it has to be in statutory language, our fallback strategy is that it is better to address the collection described in the proposal rather than to tamper with the eligibility requirements. There are all kinds of problems with automatically qualifying one institution in every state. What will you do in states where there are eight or nine institutions that already qualify? Will you automatically qualify the University of California Berkeley, or UCLA, or Riverside, or will it be Davis? Will you require that those states that have made sufficient investments to build research libraries have to meet different criteria from those states that have not made such investments?

I could go on for a long time about the problems with tampering with the eligibility requirements, but I would like to leave that for a moment to tell you briefly what happened in the Senate.

Markup of a Senate bill to reauthorize HEA is expected to begin November 14. This II-Camendment has not appeared in the Senate bill as yet. There is time to talk to the Senators about the importance of maintaining the eligibility requirements. The Senate legislation, however, will probably differ from the House version by lowering the authorization level and the argument we should make in the Senate is that we do not want to be saddled with low or nonexistent appropriations as caps for

the next five years. II-A was not funded at all and you do not want to be saddled for that in the face of increased cost. II-C will get $6 million this year, but with the inflation factor, it is equivalent to 75% of what it received three or four years ago, even though that was the same $6 million in current dollars. Emphasize that in ARL's authorization recommendations, we have tempered our assessment of what the needs are by what we believe are realistic expectations of what the Congress will be able to do for us.

I believe it is important that you also mention the need for Title II-A and the importance of supporting a needs-based criteria for II-A that has been developed by the librarian community and is very widely supported by the community. It is much better to have the community set the criteria than to depend upon the Department of Education to do so.

The House has passed a HEA appropriations bill for FY 1986. It freezes Title II and VI at the 1985 level, which means no funding for Title II-A. The Senate version is still pending but it does not differ in any major way from the House bill.

I wish you all luck this morning. As always, when dealing with Capitol Hill, we are in the middle of the second part of a current opera in the Congressional ring cycle. It is an opera in which Siegfried and Sieglinde are about to meet the dragon of deficit control. The plot is confusing, there are a lot of characters. The motivations are sometimes murky. The musical structure is very complex. It is well to remember the popular maxim: "It ain't over until the fat lady sings," or in this case, until the President signs off. Good luck to you all.

Are there any questions?

A MEMBER: Can you talk a bit about HEA Title VI?

MS. ECHELMAN: Title VI deals with international education programs and area studies centers. Our suggestion is that money be placed in the education and foreign studies area part of the bill to support the acquisition of and access to periodicals published abroad.

A MEMBER: Where did it come from—Part of NDEA, or part of the areas studies?

MS. ECHELMAN: Title VI is the old NDEA. This suggestion is a survivor of the National Periodical Center idea, and quite frankly, it is a particular interest of Senator Simon. I believe it is an excellent idea, and I am very happy that not only the support, but the initiative came from the Hill.

MS. WOODSWORTH: Are there any other questions?

A MEMBER: Shirley, do you want us to bring out postal subsidies?

MS. ECHELMAN: I do not intend to bring it up this morning. ALA has informed you through its newsletter of problems of postal subsidies. If you believe that is of urgency, by all means talk to your legislators.

A MEMBER: What is the status of the appointment of the Archivist of the United States?

MS. ECHELMAN: The White House, as I understand it, and this is rumor at this point, is considering five or six names, one of whom is a director of a major library, but no particular name has come forward yet.

MS. PHILLIPS: It is getting closer. The last of the nominees went for White House interviews a week ago Monday.

MS. WOODSWORTH: Any other questions to Lisa or Shirley?

MS. ECHELMAN: I would like to ask you to let us know what the results of your meetings are, especially if there is anything we can do to follow up with staff members to give them more information, to give them a place to make a quick phone call if they need a quick response and can not reach you. That is why we are in the ARL Office in Washington. Let us know if there is any information that you think we can provide.

Report from the Office of Management Studies

MR. WEBSTER: I want to review briefly four OMS activities that may be of interest to you: the training and staff development activities of the office, the North American Collections Inventory Project, the Institute on Research Libraries for Library School Faculty, and finally, the Preservation Planning Program.

A new brochure on OMS training and staff development resources was recently sent to all directors by Susan Jurow, the OMS Training Specialist. The brochure describes the full range of training service and activities that are available to you as members. We are, for example, scheduling six public institutes for 1986: two basic management skills institutes, two advanced institutes, and two analytical skills institutes. Those six "public" institutes are also available to members on a sponsored basis; that is, we will conduct any or each of those activities for you on a basis that is most convenient for your institution. Your obligation is to commit 20 participants to the program at a reduced rate and help with local arrangements.

In addition to the public and sponsored institutes, the brochure describes more fully the type of assistance that we can give you in designing, conducting, or evaluating training capacities within your institutions.

Also as a part of that mailing, we sent you a report on our "experiment" with an analytical skills institute at the University of Pittsburgh last June. That experiment was successful. The participants found the event useful, and the University of Pittsburgh, which hosted the event, found it useful. We are now prepared to operate that institute as a regular part of our training program, or as a sponsored institute at your institution.

One item that was not a part of that training brochure sent to you in October is the schedule for a third Management Institute for ARL Directors. We plan to conduct another of those institutes in early February 1986 for those directors who are either new to the Association or did not attend one of the first two institutes. This institute is directed specifically toward ARL directors. It covers three themes: strategic planning, the role of the library in the university, and organizational change. If you are interested in that program, talk to Susan Jurow or myself, or possibly one of the 30 directors who participated in one of the first two institutes.

The second activity I want to highlight today is the North American Collections Inventory Project (NCIP), which is now in its third phase. As you may recall, in June the Andrew Mellon Foundation awarded a three-year grant of $220,000 to the Association to move NCIP into full operation. This means developing and making available collection description and assessment resources for all ARL members interested in taking advantage of that service. The resulting data from that project, through the RLG Conspectus Online, will help improve internal collection management as well as assist in making cooperative collection development, preservation, and retrospective conversion decisions. To date 60 ARL member libraries have completed or are involved in completing collection descriptions.

Ultimately, we expect over 100 libraries to contribute to this data file.

Progress over the summer has been good. We have been able to recruit members of your staff to serve as NCIP trainers. They are being prepared for this responsibility via a workshop that Jeff Gardner, who is the principal staff person, and Jutta Reed-Scott will conduct in Boston in November. Fifteen people were selected from an applicant pool of 60 people.

Because of the wide interest in this project and because of the numerous activities related to it, the Advisory Committee has urged us to distribute an informal newsletter to keep you up-to-date on the activities. That newsletter is now in the planning stages. Meanwhile, the Status Report on the OMS activities gives you some additional details on the activities of the project. [See Appendix C.]

The third item I want to call to your attention is the recent announcement of the Institute on Research Libraries for Library and Information Science Faculty. As you may recall, the institute, which is funded by a CLR grant of $45,000, builds on an earlier effort, also sponsored by the Council, that was conducted at the University of North Carolina in 1984. The second institute is scheduled for the summer of 1986 in the Boston area. It will be hosted by the Massachusetts Institute of Technology Libraries and the Simmons School of Library Science.

The features of this institute are somewhat different than the first institute. First, the field visit, which was an integral part of the first institute, is a requirement for participation in advance of the institute. That is, we want the 12 faculty members selected for the program to complete their field visits in a research library prior to coming to the institute in Boston. Now, for that to work, of course, it means that they have to be welcomed into your institutions. We are very interested, as you are contacted to serve as a possible field visit site, in having the opportunity to work with you in designing that field visit to make the most of the learning experience for the faculty member, while at the same time minimizing the impact on your daily operations. We will be preparing a set of guidelines for research libraries to use in putting together this field visit.

The other new part of the program is that we have been fortunate to secure the interest and the cooperation of the Boston area research libraries in including an actual program review of their organizations as a part of the institute. I would like to thank Boston Public Library, and the libraries of Boston University, Harvard University, and MIT for their willingness to work with us on this project.

The Preservation Planning Program demonstration sites studies, sponsored by the National Endowment for the Humanities, are proceeding on schedule. Ten member libraries are participating in that program. Two libraries have completed their studies, five are currently operating them, and we expect to start the final three in the next three months.

Finally, I want to thank the Committee on the Management of Research Library Resources for their help, guidance, and assistance in designing and operating these programs.

Report from the ARL Executive Director

MR. TALBOT: Thank you, Duane. Shirley will now give the Executive Director's Report.

MS. ECHELMAN: An activities and status report on ARL's operations was sent to you prior to this meeting. [See Appendix D.] I would like to begin my report by asking whether you have any questions or comments on anything in my written report, or if I can clarify anything for you.

I am going to be as brief as possible this afternoon in bringing other items to your attention, since we have a very full agenda, both for the business meeting and for the program meeting to follow. The update on legislative issues of interest to the Association I will defer until tomorrow morning when we meet on Capitol Hill so that it will be absolutely fresh in your minds as you begin your visits with your Representatives and Senators.

I would like to tell you that selected representatives of the press have been invited to attend this afternoon's program session and this evening's dinner. This is a departure from traditional ARL practice, as most of you know, and was decided upon by the Board of Directors. The issue to be addressed in this meeting is a shared concern of interest to librarians and journalists, as well as to scholars. We do not anticipate that this departure will set a precedent for future membership meetings. As far as we know, we will have representatives from The Chronicle of Higher Education, The Washington Post, and Library Journal with us this afternoon, and there may be others as well.

A note about the ARL statistics. Programs which will enable the office to check statistics questionnaires for inconsistencies and other anomalous information are being developed and should be in operation in our office within the next month. This new capability may result in some additional requests to you to have some of the data that you have turned in verified. We hope that it will minimize errors prior to publication and clarify the reasons for some apparent anomalies.

Also with regard to statistical information; in early November, we will be asking you for copies of your HEGIS library data, and, at the same time, for your university's general and educational expenditures.

At status report on the current activities of the Council on Library Resources Bibliographic Services Development Program has been made available to each of you. [See Appendix G.]

I would like to tell you a bit about the telecommunications coalition that was formed a little more than two years ago, as you recall, by ALA, ARL, RLG, OCLC, a number of other library associations, and most of the regional networks to address the issues arising from the court decision on divestiture of the American Telephone and Telegraph Company. The coalition has been very active and very effective during its two year life. As with all coalitions, however, it was brought together to address a particular issue. Earlier this fall, a group of us who had been involved met to try to make a decision as to whether we needed to keep it going in the same form in which it now exists and with the same dues structure for an additional year. After conferring with all coalition members, the decision has been made not to ask

for contributions for 1986 and not to retain a consultant full time for the next year. The reason is that we believe that the major purposes for which the coalition was organized two years ago have either been accomplished or have become moot at this time. The ALA Washington office will continue to monitor developments both on the Federal and state levels, and they will alert us if action is needed. If we need to bring the coalition together on a quick ad hoc basis again, we have all agreed that we would act as quickly as possible to do that.

Next, an item on the Joint Committee on Printing. Hearings on the provision of electronic Federal information to depository libraries were held on June 26. ARL was represented at those hearings by Russell Shank of UCLA and the hearings were reported on in the July ARL Newsletter (No. 126). Some of you, especially those who have interests in becoming sites for pilot projects in the proposed program that JCP may put together, have been waiting for the next event in the progression. The Committee print of the report on these hearings, Senate Print No. 9984 titled "An Open Forum on the Provision of Electronic Federal Information to Depository Libraries," is now available and has just been sent to all depository libraries.

That is all I have to report to you this afternoon. I will save the rest for the briefing tomorrow morning on the Hill.

Announcement of Vice President/President-Elect

MR. TALBOT: Thank you, Shirley. I want to announce to you that Ted Johnson of Emory University was elected Vice President/President-Elect for 1985-86.

ARL President's Report

MR. TALBOT: I would like to report on actions taken by the Board at its meeting earlier this week.

First, the Board approved a statement on access, which we recommend to the membership. [See Appendix E.]

The Board is proceeding with plans to hold the Fall 1988 ARL Membership Meeting in England in conjunction with the Fall Meeting of the Standing Conference on National and University Libraries (SCONUL), provided that a joint program meeting can be arranged.

The Board has asked the Committee for Bibliographic Control to clarify its role reviewing proposals for the ARL Recon Project, and the committee is in the process of doing that.

The Board adopted the ARL Plan as revised and agreed upon a mechanism for its continued review. I am not going to dwell on the plan at this time, as you have all had a chance to review it. Nevertheless, I believe the plan is important, as do most of the members of the Board. It is a way for us to think about ourselves, to

make changes, and to mobilize the skills and abilities of the people in this room, which in the end, is our greatest strength. What we have tried to do with the plan is to take an initial step to that end. The acid test will be to review it and to continue to use it as a vehicle to carry to term what our esteemed ex-President, Penny Abell, began.

We reviewed the guidelines covering appointments to ARL committees. You may recall that in the packet for this meeting you got a request to give us some information about the committees you would like to serve on and this is a part of that review.

We voted to establish a standing committee on legislation, government, and regulatory affairs. This is not intended to take the place of the excellent work that the staff have been doing in legislation, nor to take the place of the ARL Legislative Network, but to provide a forum for members of the Association to assist the staff in dealing with the legislative and regulatory policy.

We approved a proposal for the Preservation Committee to seek funds for retrospective conversion of the National Register of Microfilm Masters.

The Board endorsed a statement on accreditation—a statement of principles by the Committee on Institutional Cooperation—and forwarded it to our ARL representative on the steering committee for the USDE/COA Accreditation Project. This is a project in which ALA is attempting to modify its procedures for accreditation of library schools and has asked for participation of certain groups.

We endorsed a report by the Task Force on Scholarly Communication and instructed the staff to distribute it to the membership and other interested parties. This is a document on which many of you have labored for some time. It is authored by the committee, of course, with Thomas Shaughnessy and Stuart Forth playing large roles in writing the actual prose.

We approved a new policy on the release of the ARL Salary Survey data. This will be distributed to membership as an attachment to the October Board minutes. It is intended to provide a greater protection in the security of the release of the Salary Survey data, which is acquired from all of you.

We accepted a salary schedule for the Association and staff and procedures for administration of salaries. This is the result of a consultant's report, which was commissioned and which the Board discussed in an attempt to not only to establish a salary policy for ARL, but to insure that our salaries are fair and equitable. We have an excellent staff and we want to make sure that we retain them. We believe that this is an equitable policy and we can continue to make it so.

Election of New Board Members

MR. TALBOT: Would the chair of the Nominations Committee, Anne Woodsworth, please review the nominations for the Board?

MS. WOODSWORTH (University of Pittsburgh): The other members of the

Nominating Committee are Irene Hoadley and Don Tolliver. We present the following slate for your consideration: Charles Miller, Florida State University; Martin Runkle, University of Chicago; and Elaine Sloan, Indiana University.

MR. TALBOT: That constitutes a motion before the assembly, and the floor is now open for additional nominations should you choose to make them. Are there further nominations? If there are none, are you ready for the question? All those in favor of this committee's report, please signify by saying, aye.

(Chorus of ayes.)

MR. TALBOT: Opposed?

(No response.)

MR. TALBOT: Our three new Board members are Elaine Sloan, Martin Runkle, and Charles Miller.

Dues Increase

MR. TALBOT: We next come to the dues increase. You will recall that some years ago we decided that we would keep any dues increases over the next few years in the range of 4-7%. The recommendation the Board brings to you this year is a dues increase of $230, which is an increase of 4.4%.

That is a motion before you. Is there any discussion of this motion? All those in favor please signify by saying, aye.

(Chorus of ayes.)

MR. TALBOT: Opposed?

(No response.)

MR. TALBOT: This is in addition to the $500 which you have already taxed yourselves for the retrospective conversion project.

Revision of ARL Bylaws

MR. TALBOT: I would now like to deal with the proposed revision to the ARL Bylaws. I believe you were sent a copy of this bylaws revision prior to the meeting. It is a modification of the language of Article II, Section 1 on Member Institutions, and we suggest two revisions to this bylaw in order to clarify it.

The first sentence of the bylaw reads, "Membership in the Association shall be on an institutional basis." Our first modification is to add the words, "by invitation," to that sentence. So the whole sentence would now read, "Membership in the

Association will be on an institutional basis by invitation."

The last sentence of the bylaw reads, "Invitations to other libraries shall be issued at the initiative of the Board of Directors after approval by membership." We suggest that sentence be moved up behind the other one and be slightly modified to read, "Invitations to libraries shall be issued upon recommendation of the Board of Directors and approval by the membership."

That constitutes a motion before you. Is there any discussion on this motion? All those in favor please signify by saying, aye.

(Chorus of ayes.)

MR. TALBOT: Opposed?

(No response.)

MR. TALBOT: The motion carries.

The second reads, "Libraries must meet the criteria for membership as established under Article II Section 2 of these bylaws." That refers to the qualifications for membership, which we establish from time to time. So I will present this to you as another motion. Libraries must meet the criteria for membership as established under Article II Section 2 of these bylaws. That simply ties these two things together.

Is there discussion on that point? Hearing none, all those in favor please signify by saying, aye.

(Chorus of ayes.)

MR. TALBOT: Opposed?

(No response.)

[The ARL Bylaws as revised appear in Appendix F.]

Consideration of New Members

[The Membership considered an application for ARL membership from the library of Northern Illinois University and voted not to extend an invitation to join the Association.]

Change of Officers

MR. TALBOT: I would like to thank all of you who helped me so much during my year as President and I would like to turn the gavel over to our new incoming

President. Please welcome our new President, Anne Woodsworth.

MS. WOODSWORTH: Thank you, Richard. I did not expect to have a gavel, but I will be pleased to pound it when the time comes.

There is a tradition in ARL of not having inaugural addresses and, in fact, I confirmed that by going back through the minutes to Jay Lucker's accepting the gavel in 1980 when he said, "There is no tradition of a Presidential inaugural speech at this organization." And since later in the minutes somebody pointed out that normally incoming Presidents address an empty house, I am pleased to have a full house. Therefore, I will take a few moments of your time before I adjourn the meeting.

In 1981, Penny Abell pointed out that Jay only allowed 120 seconds for her to accept the gavel and that she would, therefore, forego the opportunity to present an inaugural address. Sounds like you tried, Penny, but did not have the chance.

When Penny turned over to gavel to Jim Govan, his second utterance to her was, "Would you please be quiet for a minute!"

In 1983, and despite the fact that Govan labeled turning over the gavel as the most constructive act of his Presidency—this is in the minutes—Eldred Smith, then incoming President, nevertheless, did thank Govan for guiding ARL through one of the most complicated and pivotal years of the Association's history.

In 1984—I do not know if you remember 1984—that was the transition from Eldred Smith to Richard Talbot and the gavel barely got passed. In fact, it got passed so hurriedly, we forgot one important act of business, which was the increase in the dues.

I want to thank Richard on our behalf by expressing our deep appreciation for what he has done for ARL in the past year, and also in the prior three years on the Board. Richard, along with Eldred, Jim Govan, and Penny Abell, have provided me with guidance and examples of what to do as ARL President, and I hope that with their examples and style I can provide you with the leadership you need.

I also hope I can match their contributions to ARL. I will need the help of many of you, both as member representatives and as members of task forces and committees—those past Presidents out there, I will be calling you—and especially those who will be serving on the Board on the coming year. I will also look to smaller, more informal groups that seem to form within ARL from time to time for assistance, sustenance, and help. Some of these are those directors that have gone through the Senior Fellow's Program at UCLA (with thanks to the Council) and who share a common experience; those directors who have gone through and will continue to go through OMS institutes, I am sure feel a similar kinship and fellowship with each other. Then, there are the bikers out there, whether it is pedal power or motor power. There is the special lunch group, which I am beginning to hear more about. There is a disco group that Joe Boissé, I believe, is the unacknowledged leader of, and there is the group that plays Cosmic Wimp-out and those that are trying to learn how to play cosmic wimp-out. To all of you, seriously, I look to you for help and assistance.

Other Business

MS. WOODSWORTH: Is there additional business to come before this assembly?

MR. SHANK (University of California, Los Angeles): I do not know where this fits in; perhaps I should have jumped up earlier. I am concerned about the comments that were made about the statistics that we are going to be asked to provide. Instead of reducing them, we are going to increase them: the ARL Statistics, the campus expenditures statistics, and now the HEGIS statistics. I assume that that is done as kind of a watchdog effort to make sure that UCLA, or anybody else, doesn't make any mistakes. But you are going to introduce more ambiguity into the deliberations. I do not know what those statistics are going to be used for, but they do not match, and they are not intended to match, because they ask for different things. I would like to know a little more about what they are going to be used for before we submit them.

MS. WOODSWORTH: If Ted can respond quickly, I would ask that he do so.

MR. JOHNSON: I am chair of the Committee on ARL Statistics. We have been wrestling for some time with the problems perceived by some in the reliability and consistency of the ARL Statistics, and we have been listening to the concerns and interest in improving our data. So we have been looking at ways that we might be able to achieve some improvement. One of the first steps is to get a better sense of the different kinds of data that are collected. A number of directors are also asking us to consider adding additional elements to our statistics that might measure, for example, access as opposed to volume counts and things of this nature. We are concerned that we not burden ourselves more than necessary with data gathering and other elements. Our hope has also been, over the last couple of years, to try to make the data gathering easier by doing more coordination between our ARL statistics and those of other agencies such as HEGIS and CARL. We are working along those lines.

We are not asking you for more data. We are simply asking for information that you already provide to another agency, such as HEGIS, so that we can take a look at it and do some comparisons and try to get a better handle on what directions we should be taking.

Also, just a comment. The G&E data that Shirley mentioned we have been collecting for some time. It is not collected as a part of the regular forms. It is collected via a seperate memo. All she was saying was at the time that ARL Office sends out the request for the G&E information, we were going to ask you to just make a photocopy of whatever you sent in to HEGIS. Does that help?

MR. SHANK: Fine. Thank you.

MS. WOODSWORTH: Is there any other business to come before the meeting? If not, I declare the meeting adjourned.

APPENDIX A

FEDERAL RESTRICTIONS

ON THE FREE FLOW OF ACADEMIC INFORMATION AND IDEAS

JULY 1985

(Revised Edition)

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The freedom of scholars to express ideas and exchange them with colleagues is essential to the operation of universities in the United States and to maintaining the high quality of academic research. Academic freedom is rooted in the First Amendment to the Constitution, the same provision that protects the right of people to speak freely and the freedom of the media to report events as they see them.

Recent actions and proposals by some agencies of the federal government threaten to erode the American tradition of academic freedom. These proposals and actions fall into two broad categories -- those restricting dissemination of ideas and those restricting the access of foreign scholars to U.S. classrooms and laboratories.

In most instances, the justification given for these restrictions is the need to protect national security, an area in which technology plays an increasingly important role.

Responding to mounting government concern that technological information with potential military applications may be reaching the Soviet Union and other adversaries through industry and the scientific community, the National Academy of Sciences (NAS) published a study in September 1982 entitled Scientific Communication and National Security. The study was conducted by an NAS panel chaired by former Cornell University President Dale Corson. The authors expressed the hope that their recommendations would make it possible to "establish within the Government an appropriate group to develop mechanisms and guidelines in the cooperative spirit that

the report itself display[ed]."[1]

Universities, which conduct most of the basic scientific research in the United States, were a primary focus of the NAS study. The report found "a substantial transfer" of U.S. technology to the Soviet Union, but concluded that "very little" of the problem resulted from open scientific communication.[2] Moreover, the report took note of the close connections between the American tradition of open communication, scientific and technological innovation, and national security. Despite this conclusion, NAS staff members reported in 1984 that government policymakers were moving to implement new secrecy regulations before any government-wide consensus had been reached.[3] The staff also stated that where regulations already exist, policymakers are aggressively stretching their authority beyond its previous limits.

These secrecy regulations often go far afield of any reasonable definition of national security. Indeed, the requirements of prepublication review now reach several federal departments and agencies and areas of sponsored research which have no relationship to national security matters. Furthermore, the regulatory scheme is not limited to research that is federally funded. Instead, it is being extended to broad categories of research and information -- such as cryptography and nuclear energy -- that are deemed to be so sensitive and important that the federal government must intervene whether or not it is paying for the research.

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1 National Academy of Sciences, "Scientific Communication and National Security" (National Academy Press: Washington, D.C., October 1982). Quoted from cover letter by NAS president Frank Press. This study is also known as the Corson Report.

2 Ibid.

3 M. Wallerstein and L. McCray, "Update of the Corson Report", January 26, 1984 (unpublished staff report for National Academy of Sciences), p.12.

The movements afoot in Washington to restrict publication and dissemination of scientific research findings are matters of great concern among members of the academic community. Similar concerns also arise over government restrictions on the activities of foreign scholars.

Prepublication Review and Contract Restraints

Political philosophers have long maintained that the rights of free speech and a free press are essential to the proper functioning of democracy. The importance of open communication in our society has been so compelling that courts have held that only an overwhelming danger "so imminent that it may befall before there is opportunity for full discussion" provides sufficient grounds for restraining free speech. If the danger is not imminent, then the remedy is "more speech, not enforced silence."[4]

Any proposed prior restraint on publication has traditionally come under a "heavy presumption against its constitutional validity."[5] This presumption has been so dominant that only narrowly focused government claims of national security during wartime could be balanced against it. For example, the Supreme Court held in Near v. Minnesota that publishing "the sailing dates of transports or the number and location of troops" would be the only kind of publishing activity the government could rightfully prevent in wartime circumstances.[6]

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4 Whitney v. California, 274 U.S. 357, 377 (1927) (Brandeis, J. concurring).

5 United States of America v. The Progressive, Inc., 467 F. Supp. 990,992 (1979), quoting New York Times v. United States, 403 U.S. 713 (1971).

6 283 U.S. 697,716 (1931).

As advanced technology has come to play an increasingly important role in warfare and national defense, the traditional analysis of prior restraint issues has come into question. Many analysts have argued that U.S. security no longer depends on having "the largest military" or "the best-trained soldiers" but increasingly, rather, on a "technological lead over our military adversaries."[7] This has led to a change in the focus of controls over exports "from goods to the technology used to produce those goods."[8] One technique for achieving this new objective is prepublication review.

In the past, only the CIA has used prepublication review, pursuant to contractual arrangements with its employees which implement its statutory mandate to "protec[t] intelligence sources and methods from unauthorized disclosure."[9] CIA employees involved in covert intelligence operations have routinely had their speeches and writings reviewed for content that discloses classified information without authorization. The constitutionality of this specialized CIA practice was upheld in United States v. Marchetti.[10] That decision did not, however, address whether prepublication review could be required for all material, including unclassified information.

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7 Testimony of Frank Press, President of the National Academy of Sciences before the U.S. House of Representatives, Subcommittee on Courts, Civil Liberties and the Administration of Justice. Oversight hearing, "Civil Liberties and the National Security State," November 3, 1983, 98th Cong. 1st Sess., at pp.4-5.

8 Testimony of Edith W. Martin, Deputy Under Secretary of Defense for Research and Engineering, Department of Defense, before a joint hearing of the Subcommittees on Science, Research and Technology and Investigation and Oversight, Committee on Science and Technology, U.S. House of Representatives, "Scientific Communication and National Security," 98th Cong., 2nd Sess., May 24, 1984.

9 50 U.S.C. Sec. 403 (d)(3).

10 466 F. 2d 1309 (4th Cir.), cert. denied, 409 U.S. 1063 (1972). See also Alfred A. Knopf, Inc. v. Colby, 509 F.2d 1362 (4th Cir.), cert. denied, 421 U.S. 992 (1975).

The Supreme Court addressed this issue in 1980, in Snepp v. United States,[11] a case involving a former CIA agent who published a book criticizing practices of the United States during the Vietnam War.[12] All parties to the litigation agreed "that Snepp's book divulged no classified intelligence."[13] Nevertheless, the Court held that Snepp had violated his agreement with the CIA by not giving "an opportunity to determine whether the material he proposed to publish would compromise classified information or sources." The Court awarded damages to the government in the form of a "constructive trust", into which Snepp was required to "disgorge the benefits of his faithlessness."[14]

The application of this decision has far-reaching consequences for academic research and publication. Two recent developments illustrate the point: 1) National Security Decision Directive 84, a Presidential order requiring all government employees and contractors with authorized access to certain categories of classified information to sign lifetime prepublication review agreements as a condition of such access; and 2) the trend

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11 444 U.S. 507 (1980) (per curiam).

12 Frank Snepp, Decent Interval (New York 1979).

13 444 U.S. at 510.

14 444 U.S. at 515 (i.e. all book profits). Also, the Court found that Snepp had done "irreparable harm" to the Government because "the Government has a compelling interest in protecting both the secrecy of information important to our national security and the appearance of confidentiality..." 444 U.S. at 509. See also Wallerstein, & McCray, "Update of the Corson Report."

toward including prepublication review clauses in government-sponsored, university-based basic research contracts.

National Security Decision Directive 84

On March 11, 1983, the White House announced a security program designed to prevent unlawful disclosure of classified information by government employees. From the date of its release, National Security Decision Directive 84 (NSDD 84) generated a storm of controversy.[15] Two of its provisions were particularly onerous. The first required more than 120,000 government employees to sign nondisclosure agreements containing prepublication review clauses as a condition of access to certain categories of classified materials.[16] The second permitted government agencies to order polygraph examinations of agency personnel "when appropriate, in the course of investigations of unauthorized disclosures of classified information."[17] The Directive also required each agency to promulgate regulations to "govern contacts between media representatives and agency personnel, so as to reduce the opportunity for negligent or deliberate disclosures..."[18]

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15 "Reagan v. Madison", N.Y. Times, March 17, 1983; "The Who, What and Why of Reagan's Prepublication Review", N.Y. Times, March 27, 1983; "Men of Zeal", N.Y. Times, March 31. See also text of NSDD 84, Appendix A.

16 In a letter dated July 19, 1983, Deputy Assistant Attorney General Richard K. Willard noted that "the prepublication review provisions of the proposed [nondisclosure] agreement are similar to the agreement found by the Supreme Court to be enforceable in Snepp v. United States, supra. See also Alfred A. Knopf, Inc. v. Colby, 509 F. 2d. 1362 (4th Cir.), cert. denied, 421 U.S. 992 (1975); United States v. Marchetti, supra; Agee v. CIA, 500 F. Supp. 506 (D.D.C. 1980)." (See letter attached at 3.)

17 NSDD 84 p.2.

18 Ibid, p.1.

In a 1984 Congressional hearing, Thomas Ehrlich, Provost of the University of Pennsylvania, described NSDD 84 as "virtually alone among important issues in recent times" in receiving a "completely uniform and completely negative.. reaction of those in academia."[19] Speaking for his own institution as well as for the Association of American Universities, the American Council on Education, and the National Association of State Universities and Land Grant Colleges, Ehrlich declared that he could not "overstate the dangers I see in the approach it adopts."[20] If fully implemented as issued, NSDD 84 would have "disastrous effects on the quality of our government in terms of those who enter and leave public service from academic life", Ehrlich stressed.[21] It would, he said, cast a "deep freeze over any inducement for academics to serve in government by denying them the primary benefit of using government experience and information in scholarly publications and classroom lectures."[22] Government would be deprived of academia's much needed expertise and insight. More important, the Directive would thwart criticism of government, since those "in the best position to provide that criticism" -- academics who have served in government and returned -- would be enjoined from discussing matters on which they had worked.[23] In view of academia's traditional role

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19 Testimony of Thomas Ehrlich, Provost, University of Pennsylvania, before a joint hearing of the Subcommittees on Science Research and Technology and Investigation and Oversight, Committee on Science and Technology, U.S. House of Representatives, "Scientific Communication and National Security," 98th Cong., 2nd Sess., May 24, 1984.

20 Ibid, p.1-2.

21 Ibid, p.1-4.

22 Ibid, p.1-5.

23 Ibid, p.6.

of providing a forum for criticism and debate, the restrictions in NSDD 84 would significantly reduce the scope of academic freedom.

Full implementation and enforcement of NSDD 84 has been held in abeyance as a result of a Senate resolution requesting further consideration by the Reagan Administration. The resolution expired at the end of 1984, but the directive has not been reissued. While no government employees are currently required to take polygraph exams under NSDD 84, "120,000 employees have signed lifetime censorship agreements through Form 4193."[24]

Government Sponsored Research

Most major universities receive funding for basic scientific and social research from the federal government. The funding is generally bestowed through contracts and grants between federal agencies and individual institutions. The terms of a contract or grant are subject to the statutory mandate and regulations of the funding agency.

In recent years, a growing number of officials at various levels of federal agencies have attempted to insert prepublication review clauses in university contracts, even those involving only unclassified material. For example, publication restrictions have been proposed for unclassified research to be performed under contract with the Department of the Air Force ("Measurement of Lifetime of the Vibrational Levels of the B State of N_2"), the National Institutes of Health ("International Comparison of Health Science Policies"), the National Institute of Education ("Education and Technology Center"), the Environmental Protection Agency ("Conference

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24 See "Hear No Evil, Speak No Evil, Publish No Evil", N.Y. Times, August 16, 1984.

on EPA's Future Agenda"), the Health Resources and Sciences Administration ("Workshop for Staff of Geriatric Education Centers"), and the Food and Drug Administration ("Development of a Screening Test for Photocarcinogenesis on a Molecular Level").[25]

Although prepublication review arose from national security concerns about the illicit transfer of technology to unfriendly governments, some of the most restrictive proposed contract clauses are contained in non-technological, social-research contracts. Apparently, federal agencies believe they can in this way insure that the research they fund is consistent with their view of their mission. The following provisions appear in a proposed contract offered by the Department of Housing and Urban Development for university research on the use of housing vouchers:

> In the review and acceptance of written products of work, the GTR...may require corrections of errors or omissions in the data, methodology, or analyses on which they are based....
>
> Approval or disapproval (in part or in total) of the final report shall be accomplished by the GTR within thirty (30) days after receipt. Disapproved reports shall be resubmitted for review following correction of the cited deficiency unless otherwise directed by the contracting officer.[26]

Consider another clause from a contract offered by the National Institute of Education:

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25 Examples of the publication restrictions proposed by these and other federal agencies are on file with Government Information Quarterly.

26 Housing and Urban Development: Housing Voucher Demonstration Project.

> The contractor shall not disclose any confidential information obtained in the performance of this contract. Any presentation of any statistical or analytical material or reports based on information obtained from studies covered by this contract will be subject to review by the Government's project officer before publication or dissemination for accuracy of factual data and interpretation.[27] [Emphasis added.]

Similarly, The National Aeronautics and Space Admistration promulgated a regulation in April 1984 requiring its contractors "not to establish claim to copyright, publish, or to release to others computer software first produced in performance of this contract without prior written permission of the contracting officer."[27A]

In addition, two other contract provisions referred to commonly as "Technical Direction" and "Changes" clauses can be invoked to alter the outcome of a given project. This is done either by direct participation in the project by a government official (technical direction) or by changing without notice the content and/or scope of the research contract without the researcher's agreement (changes clause).[28]

At Harvard University the Office of Sponsored Research (OSR) reports success in negotiating changes in all three types of restrictive clauses. These negotiated changes enable Harvard researchers to accept such contracts and perform them successfully, consistent with the University's policy barring the acceptance of any research contract restricting publication. On the other hand, OSR reports growing resistance to

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27 National Institute of Education: Education and Technology Center Contract.

27A National Aeronautics and Space Administration, Federal Acquistion Regulation, April 1, 1984.

28 Pertinent clauses exemplifying such contracts are set forth in the Appendices.

negotiate deviations from standard agency provisions in all agencies. The University has accordingly refused several research contracts.

In sum, the federal government is increasingly asserting an authority to require prepublication review of intellectual work by government employees, research universities and private citizens. As a result, the imposition of censorship has grown substantially beyond the boundaries of the traditional wartime national security exception to the ban on prior restraints that has long been a fundamental element of First Amendment doctrine.[29]

Increased Classification

President Reagan established the current system of security classification in 1982 by Executive Order 12356.[30] To grasp the import of this new system, one must first understand the security systems employed by previous administrations.

Although the security classification systems used during the Truman, Eisenhower, Nixon, Ford and Carter administrations differed in their

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29 The government's direct and indirect interference with the presentation of research papers at scientific conferences is apparently accomplished through claims of contract and export control authority (e.g., Society of Photo-Optical Instrumentation Engineers [1982], 150 papers withdrawn; International Conference on Permafrost [1983], 6 papers withdrawn). For information on additional incidents of prepublication review and contract secrecy see Wallerstein, supra, at 10-11. The overall environment in which restrictive information policies are developing has also caused an increasing amount of self-censorship among scientists. For example, the press has reported that "[a] growing number of scientific and engineering societies are banning foreigners from their meetings for fear of violating federal rules against exporting strategically important technical information." Washington Post, December 15, 1984. See generally "Export Controls," infra.

30 E.O. 12356, 47 Federal Register 14874 (April 2, 1982).

details, each contributed to a gradual trend toward government recognition of "the public's interest in the free circulation of knowledge by limiting classification authority, by defining precisely the purposes and limits of classification, and by providing procedures for declassification."[31]

The classification system designed by the Carter Administration[32] was the culmination of this trend. It required government officials "to balance the public's interest in access to government information with the need to protect certain national security information from disclosure."[33] It stipulated that even if information met one of the seven classification categories,[34] it was not to be classified unless "its unauthorized disclosure reasonably could be expected to cause at least identifiable damage to the national security."[35] [Emphasis added.] It provided for automatic declassification routinely after six years; only officials with "Top Secret" Security clearance could classify a document for more than

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31 Robert A. Rosenbaum, Morton J. Tenzer, Stephen H. Unger, William Van Alstyne, Jonathan Knight, "Academic Freedom and the Classified Information System", Science 219 (January 21, 1983): p.257.

32 E.O. 12065, 43 Federal Register 28949 (June 28, 1978).

33 E.O. 12065, Preamble.

34 The categories were: "a) military plans, weapons or operations; b) foreign government information; c) intelligence activities, sources or methods; d) foreign relations or foreign activities of the U.S.; e) scientific, technological or economic matters relating to national security; f) programs for safeguarding nuclear materials or facilities; or g) other categories of information which require protection against unauthorized disclosure."

35 E.O. 12065 Sec. 1-302.

"twenty years".[36] Finally, it established a presumption such that "[i]f there is a reasonable doubt which designation is appropriate, or whether the information should be classified at all, the less restrictive designation should be used, or the information should not be classified."[37] [Emphasis added.]

Executive Order 12356 reverses this trend toward openness by significantly altering or eliminating each of the earlier systems' major features. The new order eliminates the balancing test: no longer must classifiers weigh the public's need to know against the need for classification. In addition, the threshold standard for classification has been reduced. Heretofore, the classifier had to show "identifiable damage" to the national security.[38] The new executive order leaves much more room for discretion: it demands only that the classifier have a "reasonable expectation of damage" to the nation's security.[39] The new order also eliminates automatic declassification, requiring that information remain classified "as long as required by national security consideration."[40] Finally, the presumption in favor of openness is reversed. Now, "[i]f

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36 Ibid, Sec. 1; 1-4 Duration of Classification. Also, there is one exception to this rule: foreign-government information may be classified up to thirty years.

37 Ibid, Sec. 1; 1-1 Classification Designation, 1-101.

38 E.O. 12065, Sec. 1-302.

39 E.O. 12356, Preamble: "Information may not be classified under this Order unless its disclosure reasonably could be expected to cause damage to the national security."

40 Ibid, Sec. 1.4(a), Duration of Classification.

there is a reasonable doubt about the need to classify information, it shall be safeguarded as if it were classified...and [i]f there is a reasonable doubt about the appropriate level of classification it shall be safeguarded at the higher level of classification...."

Secondary features of the security classification system have also undergone revision and shifts in interpretation under Executive Order 12356. Under both the new and the old executive orders, basic scientific research information unrelated to national security is exempt from classification,[42] but the initial drafts of the new order did not include the basic research exemption.[43] In addition, the previous order expressly limited the government's interest in non-governmental sponsored basic research[44] -- a matter that the new order leaves to administrative discretion.

Under President Carter's Order, "[c]lassification may not be restored to documents already declassified and released to the public...".[45] But under the new order, declassified information may be reclassified if "the information requires protection in the interests of national security; and [if] the information may be reasonably recovered."[46] Acting under this

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41 Ibid, Sec. 1.1(c).

42 Both Orders state: "Basic scientific research information not clearly related to the national security may not be classified." E.O. 12065, Sec. 1-602; E.O. 12356, Sec. 1.6(b).

43 Rosenbaum, et.al., "Academic Freedom and the Classified Information System", p.258.

44 E.O. 12065, Sec. 1-603: "A product of non-government research and development that does not incorporate or reveal classified information to which the producer or developer was given prior access may not be classified under this Order until and unless the government acquires a proprietary interest in the product."

45 E.O. 12065, Sec. 1-607.

46 E.O. 12356, Sec. 1.6(c).

clause, the Reagan Administration unsuccessfully attempted in 1982 to recover documents previously released to a private researcher about electronic surveillance carried out by the CIA and NSA against anti-war activists in the 1970s. The documents had been provided to author James Bamford, under a Freedom of Information request made in 1979.[47] Executive order 12356 provides that "information may be classified or reclassified after an agency has received a request for it under the Freedom of Information Act or the Privacy Act...".[48] In contrast, the earlier order provided that "no document originated on or after the effective date of this Order may be classified after an agency has received a request for the document under the Freedom of Information Act..."[49]

Given the bent toward secrecy exhibited by the many changes in the security classification system, scholars now fear that "[a]cademic research not born classified may, under this order, die classified."[50] The new order gives unprecedented authority to government officials to intrude upon academic research by imposing classification restrictions on areas of research after projects have been undertaken in those areas. The new order appears to allow classification to be imposed at any stage of a research project and to be maintained for as long as government officials deem prudent. Thus, the Order could inhibit academic researchers from making long-term intellectual investments in non-classified projects with features

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47 "The Rise of Government Controls on Information, Debate and Association", Free Speech, (1984) an ACLU Public Policy Report, p.11. Bamford refused to return the information. No other action was taken.

48 E.O. 12356, Sec. 1.6(d).

49 E.O. 12065, Sec. 1-606.

50 Rosenbaum, et.al. "Academic Freedom and the Classified Information System", Supra, p.258.

that make them likely subjects for classification at a later date.[51]

Export Controls

Regulatory Scheme

In the area of export regulation, both military and civilian, statutory controls have been imposed over scientific communication related to basic research.[52] These controls affect basic research through their definition of the terms, "technological data" and "export". Information subject to export controls need not be classified, so long as it falls within the definition of "technological data" and is to be "exported".

The Export Administration Regulations (EAR), promulgated under the Export Administration Act of 1979, define "technological data" as "information of any kind that can be used, or adapted for use in the design, production, manufacture, utilization, or reconstruction of articles or materials. The data may take a tangible form, such as a model, prototype, blueprint, or an operating manual; or they may take an

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51 Testimony of Dr. F. Karl Willenbrock, Chairman of the IEEE Technology Transfer Committee, before the Subcommittee on Courts, Civil Liberties and the Administration of Justice, U.S. House of Representatives, "Civil Liberties and the National Security State," 98th Cong., 1st Sess., Nov. 3, 1983, p.12. See also Department of Defense Directive 5230.24, "Distribution Statements on Technical Documents" (DOD, Nov. 20, 1984). A likely example of after-the-fact classification of basic scientific research may be found in the area of laser optics, a field of great practical significance to the Reagan Administration's Strategic Defense Initiative.

52 Military Exports are regulated by The Arms Export Control Act, 22 U.S.C.A. Sec. 2751 et. seq.; Oct. 22, 1968 and The International Traffic in Arms Regulations, 22 CFR Sec. 121-130. Civilian Exports are regulated by The Export Administration Act, 50 App., Sec. 2401-2420, Pub. Law 96-72, Sept. 29, 1979 and The Export Administration Regulations, 15 CFR Sec. 368-399.

intangible form such as technical service."[53] Under the Arms Export Control Act of 1968, the International Traffic in Arms Regulations (ITAR) contain an even more expansive definition of technological data, including anything that "advances the state of the art."[54]

Both sets of regulations target areas of data through the use of lists. EAR creates the Commodity Control List.[55] ITAR creates the U.S. Munitions List.[56] The technological data related to any product that appears on either list are subject to export control. ITAR provides that information is "exported" whenever it is communicated overseas by "oral, visual or documentary means," including "visits abroad by American citizens."[57] Under EAR, export means "(i) an actual shipment or transmission of technical data out of the United States; or (ii) any release of technical data in the United States with the knowledge or intent that the data will be shipped or transmitted from the United States..." Data may be released for export through "(i) visual inspection by foreign nationals...; [or] (ii) oral exchanges of information in the United States or abroad of personal knowledge or technical experience acquired in the United States."[58]

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53 EAR 15 CFR Sec. 379.1(a).

54 ITAR 22 CFR Sec. 125.01(b): "any technology which advances the state of the art or establishes a new art in an area of significant military applicability in the United States...".

55 EAR Part 399, Commodity Control List and Related Matters.

56 ITAR 22 CFR Sec. 121.01.

57 ITAR 22 CFR Sec. 125.03.

58 EAR 15 CFR Sec. 379.1(b)(1)(2).

Application to Universities

Historically, university researchers have been covered by exemptions (or general licenses) available under each set of regulations. ITAR specifically exempts information "in published form" or "sold at newsstands."[59] EAR gives such data a general license and also specifically allows "correspondence, attendance at or participation in meetings" and "instruction in academic laboratories" to be included under a general license.[60] However, these activities are allowable only so long as they do not relate "directly and significantly to design, production, or utilization in industrial processes."[61] Until recently, routine academic activity has not been interpreted as being controllable under this clause.

In 1981, the Department of State sent a form letter to many universities inquiring into the study programs of certain Chinese foreign-exchange students.[62] The authorities cited for this action were the Arms Export Control Act and the Export Administration Act.[63] In refusing to provide the information requested, Harvard University General Counsel Daniel Steiner characterized the inquiry as "an interference into matters at the very heart of the academic enterprise." Other universities

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59 ITAR 22 CFR Sec. 125.11(a)(1). A widely cited federal court of appeals decision, United States vs. Edler Industries, Inc., 579 F.2d 516 (9th Cir. 1978), has interpreted ITAR to have no applicability to unclassified research activity at universities.

60 EAR 15 CFR Sec. 379.3.

61 EAR 15 CFR Sec. 379.3(2).

62 See Corson Report, pp.172-181.

63 Ibid, p.178.

took similar actions.[64]

The universities were not overreacting. Much of the requested information would have required close surveillance of student activities. The government wanted information on "professional trips" taken by students, "specific experiments" conducted on campus, and even information concerning "instruments or specialized equipment (e.g., lazer measuring devices, automated analytical equipment, and computers) that may be used during the course of the study program."[65] The State Department made a similar inquiry about a Polish scholar at Harvard in 1982.[66]

The debilitating effects on academic freedom of the new export regulations are dramatically illustrated by a course of study on "Metal Matrix Composites", offered by the UCLA Extension in June 1984, and restricted to "U.S. Citizens Only."[67] The restriction was required because the course material involved unclassified technical data appearing on the Munitions Control List (ITAR) and thus subject to export control.

Atomic Energy Research

The government also asserts broad authority to control scientific communication in the area of atomic energy research. The Atomic Energy Act regulates the "development, utilization and control of atomic energy for

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64 "University Refuses State Department Request", Harvard Crimson, Dec. 2, 1981. See also Corson Report, at pp.180-181. In the widely publicized Umnov case, for example, Stanford University and the National Academy of Sciences objected to State Department restrictions on university research activities by foreign scholars.

65 See copy of questionnaire, Appendix B.

66 In this instance, no form letter was involved. The information appeared to have been gathered in person and/or by telephone.

67 Wallerstein and McCray, "Update of the Corson Report, " p.9.

military and all other purposes."[68] In addition, a 1981 amendment to the Act authorizes the Secretary of Energy, with respect to atomic energy defense programs, to "prescribe such regulations...as may be necessary to prohibit the unauthorized dissemination of unclassified information."[69] [Emphasis added.] Although the Act also authorizes the creation of "a program for the dissemination of unclassified scientific and technical information...so as to encourage scientific and industrial progress"[70] [emphasis added], creation of such a program has been constrained by a Department of Energy regulation proposed in April 1983. The proposed regulation, "Identification and Protection of Unclassified Controlled Nuclear Information (UCNI)"[71], would require that all UCNI be treated as "proprietary business information" within the regulated organization.[72] Such organizations would have to take "reasonable and prudent" steps to protect UCNI from unauthorized disclosure. In addition, government contractors would have to assure that potential users have a "need to know", are U.S. citizens, or meet one of six other criteria.[73]

In commenting on the proposed regulations, Stanford University, joined by Harvard, suggested a redrafting of the rules because of the compliance difficulty that they would cause for research universities. The proposed rules would require a university to make "known and unclassified

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68 The Atomic Energy Act of 1954, 42 U.S.C.A., Sec. 2012(a).

69 Ibid, Sec. 2168(a)1. The A.E.C. was abolished and its powers transferred to D.O.E. in 1977.

70 Ibid, Sec. 2013(b).

71 UCNI, 10 CFR Part 1017, F.R. 13960 et. seq., April 1, 1983.

72 Ibid, 10 CFR Sec. 1017.4(a).

73 Ibid, 10 CFR, Sec. 1017.4(b): 1) Federal employee; 2) contractor; 3) Member of Congress; 4) Governor of a state; 5) state or local law enforcement officer; 6) possessor of a D.O.E. Access Permit.

information secret."[74] The Stanford comments pointed out that the proposed regulations would be so inclusive as to apply to materials used in "all those basic and advanced courses in fields of physics, electrical engineering, materials science and the like, that teach the basic information discovered and classified before the early 1950's and since declassified."[75] Most important, the commentators argued that restrictions requiring use of business standards in protecting proprietary material would interfere with basic research because of university policy that "such data be specifically identified in advance so that [it] can be certain its acceptance is consistent with...research guidelines."[76] Moreover, the regulations made no statement concerning new research-generated UCNI. Both Stanford and Harvard universities asserted that this ambiguity would conflict with their fundamental policy that "all new information developed in the course of research be publishable."[77]

On August 3, 1984 a new draft of the UCNI regulations was issued for public comment.[78] As a matter of principle, the universities continued to oppose federal restrictions on the dissemination of unclassified information, but noted that the new draft contained improvements over its predecessor. Specifically, Harvard's comments on the revised draft noted a "narrowed and better defined scope of application" of the proposed

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74 Comments of Stanford University, from the office of Gerald J. Lieberman, Vice Provost and Dean for Graduate Studies and Research, April 29, 1983, p.2.

75 Ibid, p.2.

76 Ibid, p.2.

77 Ibid, p.2.

78 UNCI, Proposed Rule; Notice of Public Hearing, 10 CFR Part 1017;49 F.R. 31236 (August 3, 1984).

regulations, as well as an exemption for basic scientific information.[79]

Current Policy Developments

The debate over federal restrictions on the free flow of information and ideas has recently intensified in the area of export control regulations.

In October 1983, the House of Representatives adopted an amendment to a bill extending the Export Administration Act which provided that:

> It is the policy of the United States to sustain vigorous scientific enterprise. To do so requires protecting the ability of scientists and other scholars to freely communicate their research findings by means of publication, teaching, conferences, and other forms of scholarly exchange.[80]

However, the Senate version of the extension bill substituted the words "involves sustaining" for "requires protecting". More important, the Senate version inserted the word "non-sensitive" before the words "research findings".[81] This key change substantially altered the meaning and intent of the entire paragraph. The Senate version would have created the very restriction on scholarly exchange that the House version was intended to

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79 Comments of Harvard University, John Shattuck, Vice President for Government, Community and Public Affairs. (August 31, 1984), p.1.

80 H.R. 3231.

81 Congressional Record, S 51722 (February 27, 1984).

avoid. The Export Administration bill died at the end of the 98th Congress in October 1984 because no agreement could be reached in a House-Senate Conference Committee over a wide variety of issues in the bill. In June 1985 the House and Senate finally reached agreement on the extension legislation. While the final version incorporates the original House declaration of policy "to sustain vigorous scientific enterprise...by means of publication, teaching, conferences and other forms of scholarly exchange,"[81A] other language broadly defining "technology"[81B] and "export"[81C] creates considerable ambiguity about the status of this policy declaration.

Another recent development involves the Military Critical Technologies List (MCTL), which has been revised and expanded. This list is similar to the Commodity Control List and the U.S. Munitions list in that it designates sensitive applied technologies that the Defense Department desires to control. The list itself is classified, but a directive describing it states that the list now "covers all newly created technical documents generated by [DoD]-funded research, development, test and evaluation programs."[82]

The MCTL is controversial for two reasons. First, it is statutorily incorporated into the Commodity Control List (CCL). Using the MCTL as a

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81A Congressional Record, June 25, 1985, at p.H4905, quoting Sec. 103(5)(12) of the Conference Report on S.883, "Export Administration Act of 1979 Extension."

81B Ibid, at p.4915, quoting Sec. 117(2)(4).

81C Ibid, at p.4915, quoting Sec. 117(5)(C).

82 Quoted in The Boston Globe, Nov. 4, 1984, p.9.

base, the Pentagon can propose changes in the CCL.[83] Second, the MCTL is reportedly over 700 pages long, and has been described by one DoD official as "really a list of modern technology"[84] and as a document that "could further complicate the use of these regulations as a means of trying to control scientific and technical communications."[85] The MCTL designates as "sensitive" technologies which the DoD desires to restrict.[85A]

In the field of export controls, the designation of information as "sensitive" arises in part from a "gray-area" identified by DoD officials "where controls on unclassified scientific information are warranted..."[86] This "gray area" approach, however, appears to have encountered opposition within the Defense Department itself. In testimony in May 1984 before the Subcommittee on Science, Research and Technology, Edith Martin, then Deputy Undersecretary of Defense for Research and Engineering, stated that DoD had decided "not to pursue the gray area concept because the option had proved to be more complicated than it had seemed."[87] She told the subcommittee

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83 See 50 App. U.S.C.A., Sec. 2404(a) 1,2,3,5.

84 "Administration Grapples With Export Controls", Science, 220 (June 1983): p.1023.

85 Testimony of George H. Dummer, Director, Office of Sponsored Programs, Massachusetts Institute of Technology, before a joint hearing of the Sub-Committee on Science, Research and Technology and Technology and Investigation and Oversight, Committee on Science and Technology, U.S. House of Representatives,"Scientific Communication and National Security," 98th Cong., 2nd Sess., May 24, 1984.

85A A recent example is DoD's reported interest in restricting information about "biotechnology products and manufacturing processes." New York Times, July 11, 1985, p.D1.

86 Wallerstein and McCray, "Update of the Corson Report, " pp.18-19. Also non-sensitive/sensitive research would be distinguished by four criteria laid out in the Corson Report, p.65.

87 "DoD Springs Surprise on Secrecy Rules", Science, Vol. (June 8, 1984): p.1081.

that "[i]t is the policy of this administration that the mechanism for control of fundamental research in science and engineering universities and federal laboratories is classification..."[88] This statement was repeated on October 1, 1984 in a memorandum signed by then Under Secretary of Defense for Research and Engineering Richard DeLauer, stating that "no controls other than classification may be imposed on fundamental research and its results when performed under a federally supported contract."[89] The DeLauer memorandum was attached as a cover to a draft national policy on scientific and technical information. Whether the position articulated in the DeLauer memorandum will be formally adopted by the Reagan Administration depends upon the Administration's final action on the draft national policy itself. In mid-1985 the matter was still unresolved.

Restrictions on Foreign Scholars

Under the Immigration and Nationality Act (known as "the McCarran Act"), foreign nationals can be denied entry into the United States because of their political and ideological beliefs.[90] The restrictive provisions of the McCarran Act apply to "aliens who...engage in activities which would be prejudicial to the public interest"; to "aliens who are members of the Communist Party" or "who advocate the economic, international and government doctrines of world communism"; and to "aliens who write or publish or cause to be written...printed matter...advocating or teaching... the economic, international and governmental doctrines of world

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88 Ibid, p. 1081.

89 Memorandum Concerning Publication of the Results of DoD Sponsored Fundamental Research, Reference DoD Directive 2040.2, October 1, 1984, p.1.

90 Immigration and Nationality Act, 8 U.S.C., Sec. 1101 et.seq. (1952).

communism."[91]

The leading Supreme Court decision interpreting the McCarran Act involved a Belgian journalist and Marxist theoretician, Ernest Mandel.[92] Although not a member of the Communist Party, Mandel described himself as "a revolutionary Marxist".[93] Despite this description on all his visa applications, Mandel had been admitted to the United States temporarily in 1962 and again in 1968 before his first entry denial.[94] In 1969, he was invited to speak at Stanford and he again applied for a six-day temporary visa.[95] The visa was denied on the grounds that his "1968 activities while in the United States went far beyond the stated purposes of his trip...represent[ing] a flagrant abuse of the opportunities afforded him to express his views in this country." Mandel and six U.S. citizens, all university professors, sued the United States.[96] The professors claimed that their First Amendment rights to hear and communicate with Mandel were being violated. A closely divided Court rejected the First Amendment claim.

The Mandel decision paved the way for a variety of entry denials or deportation proceedings against foreign born tenured professors at American universities. Recent examples include:

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91 Ibid, Sec. 1182 (4),(5),(6),(9),(11),(12),(27),(28),(C),(D), (G).

92 Kleindienst v. Mandel, 408 U.S. 753 (1972).

93 Ibid, at 756.

94 Ibid., at 756. At those times, he was admitted under the waiver provision in Sec. (d)3(a).

95 Ibid, p.757. He was also invited to Princeton, Amherst, Columbia, and Vassar after his scheduled visit became known. He then applied for a longer stay.

96 Ibid, p.759. The State Department conceded, however, that Mandel may not have been adequately informed of visa restrictions in 1968. See Ibid., at 773; also Whitney vs. California, 274 U.S. 357.

Dennis Brutus, a poet, writer and critic of apartheid, banned in South Africa for petitioning the South African Olympic Committee to allow black South Africans to compete on the national team. By attending a meeting of the South African Olympic Committee he violated the ban by being "with more than two people at a time." He was sentenced and served 18 months in prison. Brutus came to the United States in 1970 to accept a teaching position at Northwestern University. His visa expired in 1980. He was required to obtain a permanent visa from outside the U.S. but because he had let his British passport expire this was not possible. He requested asylum. At his asylum hearing in 1983, Immigration Department lawyers used classified documents to make their case, denying Brutus' attorneys access. Indirectly it was learned that he was considered deportable under Sec. 212(a)(28) because of membership in the South African "Colored Peoples Congress". He was ordered deported but on appeal won asylum in late 1983.[97]

Cosmo Pieterse, came to Ohio State University in 1970 and was tenured in 1976. In 1979 he went to London to meet with his publisher and when attempting to return in 1981 was denied re-entry. This denial was based on classified information. It is believed that Pieterse has been denied entry for being a "suspected Communist." He is still in London.[98]

Angel Rama, a native of Uruguay, made many trips to the U.S. before 1966. He was admitted on a regular visa until 1969 when he was apparently classified as a "subversive" and allowed to enter only on a waiver basis. In 1980 Rama earned tenure at the University of Maryland and applied for permanent resident status. The Immigration Department denied this request stating that the denial was based on "classified information...which [could] not be discussed...or made available..." Rama believed his denial was based on a series of articles he had written in the magazine Marcha, in which he reported on attempts by the CIA to infiltrate Latin American intelligence organizations. He was killed in a plane crash in Madrid before his case was resolved.[99]

In addition to these faculty members, a wide variety of foreign speakers invited to address university audiences in the United States have

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97 See "The Denial of Visas Under Sections 212(a)(27) and (28), The Ideological Exclusionary Clauses of the Immigration and Nationality Act", prepared for Representative Barney Frank (D-MA) by Emily McIntire, 1983 (unpublished manuscript) pp. 3-5.

98 Ibid., pp.7-9.

99 Ibid., pp.10-12.

been denied entry in recent years under the "prejudicial to the public interest" provision of the McCarran Act. Among these are Nobel prize-winning authors Gabriel Garcia Marquez and Czeslaw Milosz, as well as author Carlos Fuentes, playwright Dario Fo, actress Franca Rame, NATO Deputy Supreme Commander Nino Pasti and Hortensia Allende, widow of former Chilean President Salvador Allende.[100]

Conclusion

The free flow of ideas among scholars and their colleagues is essential to the fabric of academic life. Indeed, the engines of innovation which drive our economy and guarantee our security are themselves powered by open and unfettered exchanges of information. Government policy aimed at restricting such exchanges is ultimately self-defeating and should be reconsidered before it does irreparable damage to important national values.

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100 Steve Kemper, "Do Not Enter", The Boston Globe Magazine, February 17, 1985, p.10.

APPENDIX B

ALA & ARL RECOMMENDATIONS FOR HEA REAUTHORIZATION

The American Library Association and the Association of Research Libraries on April 29, 1985 made joint recommendations for reauthorization of the Higher Education Act to the House Postsecondary Education Subcommittee. The recommendations were submitted in draft legislative language with justifications as requested by the subcommittee, and are summarized below:

HEA II College & Research Library Assistance, & Library Training & Research

Authorization Levels. The recommendations follow levels in HR 5210, introduced by House Postsecondary Education Subcommittee Chairman Ford and ranking minority member Coleman in 1984.

	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
HEA II-A	$12,500,000	$13,750,000	$15,125,000	$16,637,500	$18,301,250
HEA II-B	5,000,000	5,500,000	6,050,000	6,655,000	7,320,500
HEA II-C	12,500,000	13,750,000	15,125,000	16,637,500	18,301,250
HEA II-D	5,000,000	5,500,000	6,050,000	6,655,000	7,320,500

II-A College Library Resources. By analyzing earlier congressional proposals and suggestions from the library community against NCES academic library statistics, ALA's Association of College and Research Libraries developed criteria to target II-A grants to the neediest academic libraries.

Funding would be available to those libraries which rank below the norm when scored for both "materials expenditures/FTE student" and "volumes held/FTE student". Libraries would be compared to like institutions according to the classifications designated by NCES.

Maintenance of effort in relation to materials expenditures must be assured as in current law. A graduated amount between $2,000 and $10,000 would be awarded to needy libraries annually, based on an institution's FTE enrollment range. Insufficient appropriations would result in fewer grants, not smaller grants.

Libraries would be expected to designate how they plan to use the funds on the grant application forms and to report on their use after the grant period in conjunction with their final financial reports. Definitions would be based whenever possible on those already in use by NCES. An evaluation would be conducted after two years to determine the effectiveness of the program.

II-B Library Training, Research, & Development. No major changes are recommended for the Library Career Training or Research and Demonstration sections. The unfunded Section 224 would be deleted since a revised and technologically-oriented version of Special Purpose Grants is proposed as a new part D.

II-C Strengthening Research Library Resources. No major changes are recommended.

II-D College Library Technology & Cooperation Grants. The current part D, National Periodical System, has never been funded. It would be deleted, and in its place would be a new part D for College Library Technology and Cooperation Grants. Competitive grants of at least $15,000 for up to three years would have a one-third matching requirement, and would be made to:

(1) Institutions of higher education which demonstrate a need for special assistance for the planning, development, acquisition, installation, maintenance, or replacement of technological equipment (including computer hardware and software) necessary to participate in networks for sharing of library resources.

(2) Combinations of higher education institutions which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment.

(3) Other public and private nonprofit organizations which provide library and information services to higher education institutions on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve their services to higher education institutions.

(4) Institutions of higher education conducting research or demonstration projects to meet special national or regional needs in utilizing technology to enhance library or information sciences.

The recommendation recognizes that capitalization costs have posed a significant barrier to the full utilization of technological developments by academic libraries. The goal of a nationwide network of information resources in support of scholarship would be strengthened by such a program.

The recommendation for a new II-D follows the part D College Library Technology and Cooperation Grants as proposed in HR 5210 by Reps. Ford and Coleman in 1984. HR 5210's II-D was based on a recommendation of an American Council on Education task force on HEA II. The ACE recommendation, in turn, was an updating of the currently unfunded Special Purpose Grants under II-B.

HEA VI International Education Programs

Foreign Periodicals. A new section, "Periodicals Published Outside the United States," is recommended for grants to established institutions of higher education or public or nonprofit private library institutions or consortia of such institutions for the following purposes:

(1) To acquire periodicals published outside the U.S. not commonly held by American academic libraries and of scholarly or research importance.

(2) To maintain current bibliographic information on periodicals thus acquired in machine-readable form and to enter such information into one or more of the widely available bibliographic data bases.

(3) To preserve such periodicals.

(4) To make such periodicals available to researchers and scholars.

Grant recipients should demonstrate relevant collection strengths and a commitment to share the resources of the collection. Nothing in the section would be considered to affect the copyright law. Authorization levels would be $1,000,000 for FY 1987, $1,100,000 for FY '88, $1,200,000 for FY '89, $1,300,000 for FY '90, and $1,400,000 for FY '91.

OFFICE OF MANAGEMENT STUDIES

ASSOCIATION OF RESEARCH LIBRARIES
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October 4, 1985

To: ARL Board of Directors

From: Office of Management Studies (OMS)

Re: Status of OMS Programs
May 1985 - September 1985

I. Separately Funded and Developmental Projects

A. Program to Support National and Regional Cooperative Collection Development: In June the Andrew W. Mellon Foundation funded a proposal to continue the work of Phases I and II of the North American Collections Inventory Project (NCIP). The $220,000 grant will support the development of training resources, a materials distribution center, and the support system needed to coordinate the participation of ARL libraries in NCIP.

Fifteen collection development librarians have been selected to participate in a workshop in early November. The workshop is intended to prepare a cadre of librarians to assist libraries in planning and carrying out the collection assessment for the Inventory. In addition, 40 Canadian librarians were trained during October. In the future the project will prepare descriptive and educational material for library users and public services staff. The project will also investigate and promote uses of the Inventory for cooperative programs in collection develpment and preservation. An NCIP newsletter will begin publication this fall and will be mailed to all member libraries.

B. Institute on Research Libraries for Library Science Faculty: A two-week Institute on Research Libraries for Library Science Faculty will be operated by ARL's Office of Management Studies in the Summer of 1986 with sponsorship of a grant of $45,857 from the Council on Library Resources.

This is the second such Institute to enrich library' educators' understanding of research library issues, operations, and needs. The first -- attended by 12 library educators -- was held in July 1984 at the University of North Carolina. The second institute, building on the pattern of the earlier event, will include seminars and a field experience in a major research library. The seminars will bring together research librarians, library directors, and university administrators with a select group of library educators to study the forces that characterize and influence the current and future state of research libraries. Participation will be limited to library school faculty members who are actively involved in teaching about or study of research libraries. Twelve individuals again will be selected in a nationwide nomination and screening process. The Office will be looking for a mix of experienced and newer faculty members, with consideration of teaching and research interests and commitment to courses that include a research library component. The seminars will be held on July 28 - August 8, 1986 on the M.I.T. campus in Cambridge, Massachusetts.

Each library school faculty member participating in the Institute will complete a week long field visit at an ARL member library prior to the seminars. These field visits are intended to provide an opportunity for faculty members to secure an indepth view of current operations and concerns of research libraries. The field visit is also an opportunity for research librarians to work with and influence those individuals who are preparing people to work in libraries in the future.

A description of the Institute will be sent to ARL Directors in October. The Office is prepared to work with member libraries in designing field visit experiences that are valuable for participants and have minimal impact on the day-to-day operation of this organization.

C. National Endowment for the Humanities/Preservation Planning Studies: Activities are proceeding as planned for the ten libraries selected to participate in the Preservation Planning Program as part of the two-year demonstration project funded by a $65,375 grant from The National Endowment for the Humanities. Two libraries - the State University of New York/ Stony Brook, and Colorado State have completed studies, and the final study report from Stony Brook is now available from the OMS. Five libraries (Center for Research Libraries, Northwestern University, the University of Oregon, the Smithsonian Institution, and the University of Tennessee, Knoxville) have begun studies drawing upon OMS resources. Three libraries (Iowa State University, University of Missouri/Columbia and Ohio State University are scheduled to start preservation studies before the end of the year.

II. Core OMS Programs Supported by Cost Recovery Efforts and the ARL Dues Allotment

A. Development of new projects or services:

- The first widely-available publication generated from the Automation Inventory database was issued in August 1985. It was based on responses from 92 ARL members and included information about automated functions and equipment. Expenditure information is being retained online at OMS, for use by ARL members. The database is being refined and updated, and the Office is contacting a number of libraries to clarify responses. In additions, a system for easily obtaining consistent information about vendors is being developed to integrate into the Comments section. Members of the ARL Committe on Management of Research Libraries Resources are reviewing this work.

  Searches of the database have been conducted in the areas of document delivery services, online catalogs, telefacsimile, integration of systems, costs, and scholar workstations. Among those requesting searches have been: the University of Michigan, U.C. San Diego, the Resources and Technical Services Division of ALA, the Fred Meyer Trust, the Council on Library Resources, the Lister Hill Center of National Library of Medicine, the National Association of College and University Business Officers, Harvard University and the University of Missouri.

- The first Analytical Skills Institute was held at the University of Pittsburgh on June 2-5, 1985 with 35 participants. The Institute was intended to enhance the problem solving, research study, and decision making skills of library managers. Topics studied included problem description, data gathering methods, data analysis, design of strategies, team building, and action planning. A feature of the Institute was a series of research projects conducted by participants using the University of Pittsburgh as a test site and covering topics such as: materials availability, staff attitudes, job content analysis, and cost/benefit study of a collection shift. Participants reported the Institute was highly successful in achieving established objectives. A second Analytical Skills Institute is scheduled for December 1-4, 1985 at the University of California, San Diego.

B. Academic Library Program: During this period nine self-studies were operational in the Office: five collection studies, two public services studies, and two academic library development studies.

C. Systems and Procedures Exchange Center: During this period, five kits were produced: Binding Operations (May), Photocopy Services (June), Organizing for Preservation (July-August), Gifts and Exchange Function (September), Unionization (October).

The center answered 70 search questions pertaining to the SPEC files. It also conductd two on-demand surveys and loaned 18 files. From May until September, the Center distributed 686 OMS Publications and 834 SPEC Kits in addition to subscriptions. Some 435 subscriptions to SPEC Kits were maintained.

SPEC subscriptions and back issues, as well as OMS publications, are now more readily available through library distribution services, subscription agencies, and vendors.

D. The Training and Staff Development Program: During this period the following training events were conducted:

- A sponsored Basic Management Skills Institute at the University of Houston on May 6-9, 1985 with 28 participants.
- A Sponsored Basic Management Skills Institute at Cornell University on June 17-20, 1985 with 20 participants.
- A sponsored Basic Management Skills Institute at Case Western Reserve on August 26-29, 1985 with 20 participants.
- A sponsored Basic Management Skills Institute at the University of Florida on September 17-20, 1985 with 35 participants.
- A sponsored Basic Management Skills Institute at the University of Florida on September 30-October 3, 1985 with 35 participants.

The 1986 schedule of Public Management Skills Institutes was announced and includes:

<u>Basic</u>

April 13-16, 1986	Louisville, Kentucky
November 18-21, 1986	Scottsdale, Arizona

<u>Advanced</u>

March 2-7, 1986	St. Louis, Missouri
September 28-October 3, 1986	Airlie, Virginia

<u>Analytical Skills</u>

June 3-6, 1986	Montreal, Canada
December 1-4, 1986	Seattle, Washington

A descriptive brochure focusing on the OMS schedule of training and development activities for 1986 will be distributed to ARL members in October.

III. OMS Staff Work with ARL Committees

A. ARL Committee on Management of Research Libraries: The committee reviewed OMS program activities at the May membership meeting.

B. ARL Collection Management Committee: The committee advised OMS staff in the development of the NCIP Phase III proposal submitted to the Andrew Mellon Foundation.

C. ARL Statistics Committee: Committee members and OMS staff are coordinating efforts to improve and update statistics-gathering, and are pooling knowledge regarding survey techniques.

Duane E. Webster

APPENDIX D

ARL ACTIVITIES AND STATUS REPORT

May - October 1985

October of 1985 marks the end of the second full year since ARL completed its planning process and adopted a five-year strategic plan for Association activities. During this period, staff has been extended and vacant positions filled with the expressed purpose of strengthening staff capability to implement activities in support of the achievement of the major objectives outlined in the plan. In addition, Committees have focused on the achievement of these objectives. A summary of progress on the ARL Plan of Action was mailed to the membership on October 11, and will be reviewed by the Board of Directors at its October meeting.

It is important to keep in mind that the ARL Plan of Action, like other strategic planning documents, is just what it says it is, a strategy for accomplishing organizational objectives. Specific actions to be taken were detailed at the outset in a five-year timetable; some of these have already been accomplished or are underway. Others have been restated as new avenues to accomplish objectives have opened up, and still others have been moved to later years to accommodate a logical progression or the capacity of Committees and staff to deal with them. On the whole, ARL is making progress on every objective, although not at the same rate in every case.

Office Activities

In February, the Board of Directors approved a proposal to upgrade the automated word-processing system in the ARL Office and to add in-house computing capability for the statistics program and other operations including electronic mail. During the Spring and Summer, specific plans were developed and equipment options were evaluated. Software development and testing and hardware installation is now underway. The new system will enable the Office to closely check the statistical reports of member libraries for inconsistencies so that reporting errors can be minimized. In addition, ARL will be capable of maintaining and manipulating information files such as the Microform Project and Recon Project databases on an integrated system, and accounting and inventory control will be fully automated in-house. The development of an automated in-house system for these operations has proved to be more complex and time-consuming than we originally thought it would be, but the results should repay the effort many times over in improved accuracy, efficiency, and productivity.

A compensation study for the ARL Office was begun in April. The staff completed new job descriptions to serve as a basis for the study, and a consulting firm, Cordom Associates, was engaged to do the study and to develop recommendations for a salary administration program for the Association. The consultant worked closely with the Executive Director and Deputy Executive Director, and the resulting recommendations will be considered by the Board of Directors in October.

At the same time, ARL staff has maintained a steady production flow in all major areas of responsibility. Legislative issues have been addressed, testimony prepared, witnesses briefed, and the ARL Legislative Network alerted to action as needed. Two Newsletters have been published since May, the proceedings of the May 1985 meeting are in the final stages of preparation for printing, and the final report on the ARL Recon planning study Plan for a North American Program for Coordinated Retrospective Conversion has been published. Progress continues on implementing a number of specific projects; more detailed reports on these follow.

Staff development activities for research librarians has been a major focus of the Office of Management Studies during the past six months, along with the North American Collections Inventory Project, preservation planning studies, and other ongoing programs.

The Executive Director visited five ARL universities during the last seven months: SUNY-Buffalo in April, Virginia in July, Missouri and Minnesota in September, and Wisconsin in October. During these visits, she had extensive and informative discussions with the directors and senior staff members in each library, discussed ARL programs and concerns with professional staff members, and, in two cases, met with senior members of the university's administration. Directors who are interested in scheduling such a visit to their campus should contact the Executive Director.

Projects and Programs

The CONSER A&I Project

This project is now in its final stage. During the past several months, the project directors and the project manager have given intensive attention to the establishment of maintenance procedures for updating title coverage information in the database and to the possibility of authentication of the project records so that they can be distributed through the LC MARC-S Distribution Service. In order to achieve these two important tasks at the highest possible level, it was determined that additional funding and a short extension of the project would be necessary. The F.W. Faxon Company contributed $5,000 to support these tasks, and the National Endowment for the Humanities agreed to match the Faxon grant and the previously-received grant from the Xerox Corporation with an award of $11,284. Julia Blixrud will continue to manage the project through the completion of authentication, the establishment of ongoing maintenance procedures, and further educational work with abstracting and indexing services. The project is now scheduled to be concluded during the first three months of 1986.

The ARL Recon Project

The ARL Recon Project was launched on July 1, 1985. Jutta Reed-Scott has been appointed Project Coordinator, and Jeffrey Heynen is Project Director. During the first three months, work has focused on resolving discussions relating to the implementation of the project and on initiating questions relating to specific projects. The planning study, including the guidelines for recon records were revised to reflect the discussions at the Membership Meeting in Cincinnati and the report was published in September. Presentations about the project were made at the ALA

Annual Conference and at the OCLC Users Council in September, and descriptive material has been distributed to all ARL libraries. Exploratory discussions have been held with twenty-six ARL libraries about possible cooperative projects, and projects have been initiated in technology, Slavic studies, religion, Latin American studies, and several other areas.

In addition, discussions were held with RLG and OCLC management to resolve issues relating to the distribution of records contributed by participant libraries, specifications for an automated clearinghouse of information on recon projects have been developed, and an evaluation process for selection of project participants has been drafted.

The Committee on Bibliographic Control is responsible for overseeing the ARL Recon Project. The Committee reviewed projects and discussed several implementation issues at its meeting on October 11. During the next six months, coordinated conversion of records in specific subject areas will begin.

The North American Collections Inventory Project (NCIP)

In June, the Andrew W. Mellon Foundation awarded ARL $220,000 to support the third phase of NCIP. Jeffrey Gardner, Associate Director of OMS, is the Project Director. During the three-year period of the grant, it is expected that the inventory will grow to include data from close to one hundred ARL libraries. As an initial step in preparing libraries to plan and carry out the collection assessments necessary for the inventory, 20 bibliographers are being trained to assist in the assessment process. This training is being carried out at three workshops, and will be completed by the end of November.

In addition, educational and training materials for both libraries and library users is being prepared, procedures for identifying specialized collections in non-ARL libraries are being developed, and strategies for coordinating collection development are being designed in collaboration with research librarians. Discussions have been initiated with RLG to explore whether the RLG On-Line Conspectus, the system on which the inventory information is maintained, can be made transportable. This will need to be accomplished for the Canadian NCIP, and is of interest to other groups comprised of ARL and non-ARL libraries as well.

Institute for Library Educators

Work is progressing on the second ARL Institute for Library Educators, to be held in Boston during the Summer of 1986. The four Boston-based ARL library directors have agreed to assist by making presentations about programs and problems in their libraries. This institute, like the first which was held in 1984 in Chapel Hill, will enable a selected group of library educators to explore current issues in research librarianship with a group of practitioners. These institutes, directed by Duane Webster, have been funded by a grant from CLR.

Statistics Program

The ARL Statistics and the ARL Salary Survey comprise an ongoing program of great importance to member institutions, as the attention given to the publication of these two reports by librarians, university administrators, and campus newspaper editors demonstrates. This program is the chief concern of the Statistics

Committee. Nicola Daval coordinates and manages this program, and Robert Molyneux and she provide professional staff support to the Committee.

During the past six months, in addition to preparing for the annual receipt, compilation, analysis, and publication of the Statistics and the Salary Survey, analysis of the 1984 supplemental statistics questionnaire has been completed and reviewed by the Committee, and a report prepared for the membership. Methods for improving the accuracy and consistency of the published data have been investigated, and a software package has been designed to run on ARL's Wang system to accomplish these improvements. Staff and the Committee continue to respond to numerous questions about the data and their interpretation; and to explore ways to improve the relevance of the kind of data collected about member libraries. A program about the statistics and related financial and economic issues for ARL libraries is being planned for the May 1986 meeting.

Several additional projects or proposals in support of the Association's objectives are in various stages of consideration or development. Some of these will undoubtedly be the subject of future semi-annual reports.

Federal Relations

Reauthorization of and appropriations for Titles II and VI of the Higher Education Act and for the National Endowment for the Humanities have been the chief legislative concern of ARL staff in the past six months. The latest issue of the ARL Newsletter (No. 127) contains an update on the status of HEA reauthorization hearings in both the House of Representatives and the Senate. Charles Churchwell testified for ARL at the House hearings, and John McDonald at the Senate hearings. Hearings on reauthorization of NEH were held in both Houses of Congress during June. A reauthorization bill has passed in the Senate, but the House has not yet taken action.

Final results of this year's appropriations process in Congress are still not certain as of this writing. The status of the FY 1986 appropriations for Title II and for NEH was summarized in the August 7 Legislative Update to ARL directors. Although a good deal of maneuvering took place during September after Congress reconvened, no library-related appropriations bills have yet been passed by both Houses.

In connection with reauthorization and appropriations, ARL staff has held discussions with Congressional staff members about the importance of ensuring that projects financed by federal funds should meet nationally accepted standards and/or guidelines whenever possible. We have stressed this point in connection with funding for both bibliographic control and preservation projects. The Senate Subcommittee report on the bill to reauthorize NEH responds to this concern with specific language.

In connection with reauthorization and appropriations hearings for Title II and for NEH, ARL staff met with Congressional staff members on draft legislative language, responded to questions about specific issues, acted as liaison with ACE, AAU, NASULGC, ALA and other interested groups, kept members of the Legislative Network informed about issues and alerted as to necessary contacts with members

of Congress and the best timing for these contacts, prepared testimony and letters of comment and briefed witnesses prior to their appearance at hearings. Jaia Barrett bears the major responsibility for these activities at the ARL Office.

Similar activities were carried out in connection with hearings on the nomination of a new Chairman for NEH, and for hearings held by an advisory committee to the Joint Committee on Printing (JCP) about providing access to federal information in electronic formats through the depository library system. Again, there are no final results to report as yet.

The proposed OMB circular on federal information resources management, a topic for discussion at the October ARL meeting, has been revised, but the revision has not yet been made public. OMB has not announced whether it will provide for a public comment period on the revised circular. This decision, as well as the publication of the revised text, should be forthcoming soon, now that James Miller has been confirmed as the new Director of OMB, although there may be a further delay until a new chief of the Office of Information and Regulatory Affairs has been named.

In the meantime, OMB spokesmen have reported that revisions have been made in the text of the circular in response to comments filed by the library and academic community. Further details on the reported revisions appeared in the most recent ARL Newsletter (No. 127). ARL commented extensively on the first draft, and we have distributed our comments to members of Congress and urged that they request OMB to allow public comment on the revision prior to final publication.

There are a wide variety of issues related to information policies and programs and to higher education in which ARL has an ongoing interest. We attempt to monitor most, if not all of them, and to inform the Board, the Legislative Network, and the Membership as a whole as issues surface, or the need for action arises. The Board of Directors will be considering the establishment of a Legislation Committee at its October meeting, in response to suggestions from some members that a committee could address long-range legislative policy issues and provide advice and guidance to the Association.

Conclusion

During my recent campus visits and on several other occasions during the past six months, a number of ARL directors have commented upon the extraordinary professionalism of the ARL staff as a whole and individually. Similar comments have been received from colleagues in the higher education and scholarly communities who have had occasion to have dealings with the ARL Office. I should like to take this opportunity to thank those of you who have talked with me, and to record my wholehearted concurrence. The Association is well-served by its staff, both the professionals and the support staff members. It is a great pleasure to be associated with them in our joint endeavors, which have been aptly characterized by a former staff member as "keeping the world safe for research libraries."

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ACCESS TO INFORMATION

A STATEMENT FROM THE ASSOCIATION OF RESEARCH LIBRARIES

The Association of Research Libraries reaffirms its commitment to the principle that unrestricted access to and dissemination of ideas are fundamental to a democratic society. The basic mission of ARL's member institutions—the major research libraries of the United States and Canada—is the acquisition, organization, preservation, and provision of access to information of all kinds and in all formats in support of scholarship and research. The Association recognizes that legitimate principles of national security and economic competition exist side-by-side with the principle of unrestricted access. It is our view, however, that the latter must take precedence unless a clear and public case can be made for restricting access in a specific instance or to a clearly defined body of information.

In February of 1985, the ARL Board of Directors endorsed the statement on "Scholarship, Research, and Access to Information" by the Council on Library Resources. This statement is appended hereto. ARL recommends careful attention to and the widest possible dissemination of this statement.

The issue of access to and dissemination of information collected or produced by the Federal Government is of particular concern to ARL. The philosophy underlying the Federal Government's responsibility to disseminate information about its activities was articulated succinctly in 1787 by James Wilson, a delegate to the Constitutional Convention, when he stated that "the people have a right to know what their agents are doing or have done ...."[1] A recent report of the Subcommittee on Economic Statistics of the Joint Economic Committee of the U.S. Congress reaffirms this philosophy by stating, "A wide distribution of appropriate, accurate, prompt, and comprehensive intelligence is absolutely essential to the efficient functioning of a free society."[2]

Further affirmation of this principle can be found in a statement by Rep. Glenn English:

> "... Informed public debate is the basis of our form of government and is the bedrock of the First Amendment to the Constitution. These values are reflected in numerous laws guaranteeing citizens a right of access to government information, such as the Freedom of Information Act, the Government in the Sunshine Act, and the law establishing the Federal Depository Library program."[3]

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ARL is very much concerned that recent actions of the Federal Government either diminish or ignore this fundamental philosophy. These actions have been publicized in the press and broadcast media. They include restrictions on the dissemination of information collected by federal agencies; the tendency to rely too heavily on commercial organizations to distribute government information; attempts to prevent open dissemination of the results of unclassified research at scientific meetings; and efforts to restrict participation by foreign scientists and scholars in research projects at American universities. All of these actions, as well as others not enumerated here, undermine the principle of open access.

ARL opposes such actions by the Federal Government and joins with colleagues from scientific and scholarly societies, with library and educational associations, and with journalists and individual researchers in working for unrestricted access to information, both in principle and in practice.

October 1985

References:

1. Statement made August 11, 1787, as recorded by James Madison. Debate on the Adoption of the Federal Constitution in the Convention Held at Philadelphia in 1787. Rev. and newly arranged by Jonathan Elliot. Philadelphia, J. B. Lippincott & Co., 1845.

2. The Coordination and Integration of Government Statistical Programs. Report of the Subcommitee on Economic Statistics of the Joint Economic Committee. 90th Cong. 1st sess., p 1.

3. Rep. Glenn English, Chairman, Subcommittee on Government Information, Justice and Agriculture, U.S. House of Representatives, in a letter to Douglas H. Ginsburg, Administrator for Information and Regulatory Affairs, Office of Management and Budget, May 15, 1985.

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SCHOLARSHIP, RESEARCH, AND ACCESS TO INFORMATION

A Statement from the Council on Library Resources

Those who are concerned with libraries and books have long recognized and often strongly asserted the need for unconstrained access to information as a condition essential to every democratic society. The computer, telecommunications, and text storage technologies that now play a prominent and at times dominant role in many aspects of library service and information systems have created a very different and complicated new environment. The established structure is changing and powerful economic forces are having a profound influence on all aspects of scholarly communication, libraries, and information services generally. While technology is powerful and brings a promise of unmatched opportunities, it is essential to remember that ready access to information is not automatically assured. That goal must be constantly and aggressively pursued. The statement that follows, from the Board of Directors of CLR, is simply a reassertion of an old principle, one that now seems to need special attention

For twenty-eight years the Board of the Council on Library Resources has concerned itself with the development and performance of academic and research libraries. In terms of collections and service obligations, those libraries have grown greatly during that time. Teachers, scholars, and research faculty are more dependent on them than ever before. During those same years, libraries have also become more complex organizations than they once were. Computer applications have transformed operations, opening the way to development of many specialized services and sophisticated methods of management and control. Economic realities have encouraged and telecommunications (linked with computing) have made possible new affiliations among libraries and, also, the rapid growth of businesses concentrating on the organization and distribution of information to customers of all kinds, worldwide.

These changing patterns of organization and recent technical innovations bring, along with promise, some potential problems affecting access to information that must be resolved if full benefits are to be realized. The first concerns certain restrictive practices of a few of the growing number of commercial and nonprofit database producers and suppliers, especially as they promote their products and services to the academic research community. Simply put, there are conditions for doing business in universities. For vendors of services and information to be useful, even acceptable, participants, those conditions need to be upheld and met. The need for high quality and reliability is obvious Even more important, research and scholarship require unconstrained access to information. Scholarship is personal, but its results are not private. To judge the validity of scholarly work, the records of past and present research must be open to scrutiny. This is the only way the intellectual audit trail that is at the heart of discovery can be maintained. Limited or conditional access to bibliographic records (or information about information in any form) is of particular concern. Universities, their members, and all of society must keep bibliographic channels open and accessible. In a real sense, the index to the accumulated record of mankind is the hallmark of a democratic and open society.

Second, ways must be found to assure continuing attention for those aspects of culture and learning that are important but, in a commercial sense, not necessarily in fashion. In financial terms, the capital investment and operating costs of new, technology-based information systems are great and funding plans of many kinds are necessary. But there is too often a tendency to assume exact correlation between the economic value of information and its intrinsic worth. Uncritical adherence to the concept of information as a commodity will distort the agendas of institutions and disciplines alike. In order that the concerns of libraries and the needs of scholars might be expressed and met, better ways must be found to build responsible partnerships among all elements of the system of scholarly communication—public and private, commercial and not-for-profit, personal and institutional. Public interest in the principle of open access must appropriately influence the structure of the information system and its components. It is certain that the information needs of society cannot be defined by the marketplace alone.

Finally, the new and deeper affiliations now taking shape among libraries and their parent institutions carry both responsibilities and dependencies that affect access Cooperative collecting and preservation activities, for example, imply an end to institutional parochialism because extended access is a corollary of cooperation. As individual libraries become, to varying degrees, components of "the nation's library," the nation's scholars become their users. That fact needs to be explicitly acknowledged

and accepted for, in the long term, if present trends continue, it will reshape the goals and methods of research libraries.

Even this incomplete list of matters needing attention if open access is to be achieved gives some hint of the difficulties ahead. There are no simple answers or absolute prescriptions. Success is not so much a matter of balancing interests and seeking an appropriate response as it is one of providing many responses that, in the final analysis, are themselves balanced and thus meet reasonable expectations. All information is not the same; the uncritical homogenization of the term is probably a source of much difficulty. Publishing, producing, and distributing information involves costs that must somehow be met. The value of information often changes with use, time, and form. Unconstrained access does not imply cost-free information any more than free information assures accessibility. The information society is in part a state of mind, characterized by shifting needs and methods. Increasingly, it is also becoming a set of established systems that bring risks of constraints along with promises of efficiency. For this very reason, there is a great need to establish the principles and set the conditions under which information will be made accessible It is the shaping of those principles, both the process and the substance, that is at the heart of our problem.

As did the development of moveable-type printing more than 500 years ago, today's computing, communications, and storage technologies can profoundly affect civilization by accelerating the rate of change and reducing the isolation of segments of society. Whether change will be improvement as well and whether further social integration will lead to a fuller sharing of the benefits of technical progress are matters for wide discussion and thoughtful action. Our universities, collectively, are an important forum for this discussion and, inescapably, they are leaders in setting the course for action as well. Libraries, as central components of universities traditionally charged with responsibility for accumulating, organizing, preserving, and promoting the use of the accumulated record, must rise to this challenge of unsurpassed importance.

For its part, the Council on Library Resources will keep this topic at the forefront of its program. With others who support the cause, we will work to make a powerful, unambiguous case underscoring the public's expectations for accessible and expansive information services and we will take all appropriate steps to help assure that libraries continue to fill their established role as the source for the full record of the past and as the indispensable base for information services in the future.

January 1985

Board of Directors, Council on Library Resources

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APPENDIX F

BYLAWS OF THE ASSOCIATION OF RESEARCH LIBRARIES
(As Amended October 1985)

ARTICLE I - Offices.

The principal office of the Association shall be located in the office of the Executive Director. The Association may have such other offices as the Board of Directors may determine, or as the affairs of the Association may require from time to time.

ARTICLE II - Membership.

Section 1 - Member Institutions:

Membership in the Association shall be on an institutional basis by invitation. Invitations to libraries shall be issued upon recommendation of the Board of Directors and approval of the membership.

Membership shall be open to major university libraries whose collections and services are broadly based and to certain other libraries whose collections are recognized as having national significance. Libraries must meet the criteria for membership as established under Article II, Section 2 of these Bylaws.

Major university libraries are considered to be those whose parent institutions broadly emphasize research and graduate instruction at the doctoral level and grant their own degrees, which support large, comprehensive research collections on a permanent basis, and which give evidence of an institutional capacity for and commitment to the advancement and transmittal of knowledge.

[Invitations to other libraries shall be issued at the initiative of the Board of Directors after approval of the membership.]

Section 2 - Qualifications for Membership:

Qualifications for membership are established by vote of the members and are reviewed from time to time. The regulations in effect at any given time are available on request from the office of the Association.

Section 3 - Termination of Membership:

Regulations for the termination of membership are established by vote of the members and are reviewed from time to time. The regulations in effect at any given time are available on request from the office of the Association.

Section 4 - Transfer of Membership:

Membership in the Association is not transferable or assignable.

ARTICLE III - Board of Directors.

Section 1 - Board of Directors:

There shall be a Board of Directors which shall manage the affairs of the Association. The number of Directors shall be not less than nine nor more than twelve. The President, Vice-President, and Immediate Past President of the Association shall be members of the Board. Directors shall be elected for terms of three years, three to be elected annually as provided in Article IV. Each Director shall be chosen from among the chief librarians representing member institutions of the Association. Each Director shall take office at the close of the Annual Meeting at which the Director is elected and shall serve until the end of the Annual Meeting held at the close of the individual's term of office. Notwithstanding any other provision contained in these Bylaws, an officer of the Association who is serving as a member of the Board of Directors may continue to serve as a member of the Board until the expiration of the officer's term despite the fact that the individual's normal, three-year term as Director may have expired. Any vacancy arising in the Board of Directors shall be filled by the Board of Directors, the appointee to serve until the next Annual Meeting, when a successor for the unexpired term shall be nominated and elected by the members of the Association.

Section 2 - Quorum and Action:

A majority of the members of the Board of Directors shall constitute a quorum. Action by the Board of Directors shall be by majority vote of the Directors present except that, as provided in Article V, section 4 of these Bylaws, election of the Vice-President shall be by the vote of an absolute majority of the total membership of the Board.

Section 3 - Notice of Meetings:

A regular meeting of the Board of Directors shall be held without other notice than this Bylaw, after the Annual Meeting of the Association, either on the same day thereof, or on the next succeeding day thereafter, at the time and place announced by the President at the Annual Meeting. The Board of Directors may provide by resolution the time and place for the holding of additional regular meetings of the Board of Directors without other notice than such resolution. Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors. Notice of any special meeting of the Board of Directors shall be given at least ten days previously thereto by written notice delivered personally or sent by mail or telegram to each Director's address as shown by the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Notice of a meeting need not be given to any Director who signs a waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice. The business to be transacted at, and the purpose of, any special meeting of the Board of Directors shall be specified in the notice or waiver of notice of such a meeting.

ARTICLE IV - Nomination and Elections of the Board of Directors.

Section 1 - Nominating Committee:

There shall be a nominating committee of three persons, one to be the Vice-President who shall serve as chair of the Nominating Committee, and two persons to be appointed annually by the President of the Association.

Section 2 - Nomination:

It shall be the duty of the Nominating Committee to select annually as many nominees for the Board of Directors as there are vacancies on the Board to fill. No Director, having served a full three-year term, may be nominated to a successive term. The consent of the candidates to serve, if elected, must be obtained before nominations are accepted. The report of the Nominating Committee shall be distributed to the members at least thirty days before the election.

Additional nominations may be made from the floor.

Section 3 - Elections of the Board:

Each member may vote for not more than three nominees, except for the election of a successor for an unexpired term.

The three candidates receiving the highest number of votes shall become members of the Board for three-year terms.

ARTICLE V - Officers.

Section 1 - Officers:

The officers of the Association shall be a President, a Vice-President, an Immediate Past President, and an Executive Director. The officers, except the Executive Director, shall serve for terms of one year each. The Vice-President shall automatically succeed to the Presidency at the end of the individual's term as Vice-President. The President shall preside at meetings of the Association and of the Board of Directors. The President shall perform all duties incident to the office and such other duties as may be prescribed by the Board of Directors. In the absence of the President or in event of the individual's inability or refusal to act, the Vice-President shall perform the duties of the President and, when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall perform such other duties as from time to time may be assigned by the President or by the Board of Directors. The officers shall have and may exercise all the powers of the Board of Directors between meetings of the Board, when necessary. Their action shall be subject to subsequent ratification by the Board of Directors.

Section 2 - Executive Director:

There shall be an Executive Director of the Association, appointed by the Board of Directors, who shall serve at its pleasure. The Executive Director shall serve as Director of the Association but shall not be a member of the Board of

Directors. The Executive Director shall also serve as Treasurer of the Association and shall be bonded.

Section 3 - Duties of the Executive Director:

The Executive Director shall be in charge of the principal office of the Association and its personnel; shall conduct the Association's administrative affairs; shall be responsible for the execution of all orders of the Board of Directors; shall prepare an annual budget and carry out the activities provided for in the budget as adopted by the Board of Directors; shall have charge and custody of and be responsible for all funds and securities of the Association; shall receive and give receipts for moneys due and payable to the Association from any source whatsoever and deposit all such moneys in the name of the Association in such depositories as shall be selected by the Board of Directors; shall see that all notices are duly given in accordance with these Bylaws or as required by law; shall keep a register of the post office address of each member which shall be furnished to the Executive Director by such member; shall keep all minutes, and issue minutes and reports as required by the Board of Directors; and shall perform such other duties as may be assigned by the Board of Directors.

Section 4 - Vice-President:

The Vice-President shall be chosen from among members of the Board of Directors. Notwithstanding Article III, Section 2 of these Bylaws, the Vice-President shall be elected by the vote of an absolute majority of the total membership of the Board. In the event that no one candidate for Vice-President receives an absolute majority in the first election, there shall be a run-off election between the two candidates receiving the highest number of votes, and that candidate receiving a majority in the run-off election shall be elected Vice-President. In the event the run-off election results in a tie, additional elections shall be conducted until one candidate receives a majority.

ARTICLE VI - Meetings.

Section 1 - Annual and Special Meetings:

There shall be an Annual Meeting of the Association at a time and place to be determined by the Board of Directors. The Association may meet at such other times and places as may be determined by the Board of Directors.

Section 2 - Notice of Meetings:

Written or printed notice stating the place, day and hour of any meeting of the Association shall be delivered, either personally or by mail, to each member entitled to vote at such meeting, not less than ten nor more than fifty days before the date of such meeting, except as otherwise required by law or by these Bylaws, by or at the direction of the Board of Directors, the President or the Executive Director. When a meeting is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and at the adjourned meeting any business which might have been transacted on the original date of the meeting may be transacted. In case of a special meeting or when required by law or by these Bylaws, the purpose or

purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed delivered when deposited in the United States mail addressed to the member at its address as it appears on the register of members, with postage thereon prepaid.

Section 3 - Quorum and Action:

A majority of the total membership shall constitute a quorum for the transaction of business, and an affirmative vote of a majority of the members voting, but not less than one-third of the total membership, shall be sufficient except as otherwise required by law or by these Bylaws.

Section 4 - Voting:

Each member shall be entitled to one vote on each matter submitted to a vote of the members. A member shall be represented in proxy by its chief librarian, or, in the director's absence, by its associate or one of its assistant librarians. Voting may be by proxy or by mail or by a combination thereof.

Section 5 - Parliamentary Procedures:

The conduct of meetings shall follow Robert's Rules of Order.

ARTICLE VII - Committees.

In addition to the Nominating Committee, such other standing and ad hoc committees as may be needed to carry out the business of the Association may be appointed by the Board of Directors.

ARTICLE VIII - Dues.

Section 1 - Fixing of Dues:

Membership dues shall be proposed by the Board of Directors and shall require approval by an affirmative vote of a majority of the total membership of the Association after due notice.

Section 2 - Forfeiture of Membership for Failure to Pay Dues:

A member failing to pay dues for two successive years shall automatically forfeit membership in the Association.

ARTICLE IX - Contracts, Checks, Deposits and Funds.

Section 1 - Contracts:

The Board of Directors may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

Section 2 - Checks, Drafts, etc.:

All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Executive Director and counter-signed by the President or Vice-President.

Section 3 - Deposits:

All funds of the Association shall be deposited from time to time to the credit of the Association in such depositories as the Board of Directors may select.

Section 4 - Gifts:

The Board of Directors may accept on behalf of the Association any grant, contribution, gift, bequest or device for the general purposes or for any special purpose of the Association.

ARTICLE X - Books and Records.

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, Board of Directors and committees having any of the authority of the Board of Directors, and shall keep at the principal office a register giving the names and addresses of the members entitled to vote. All books and records of the Association may be inspected by any members, or agents of members or attorney for any proper purpose at any reasonable time.

ARTICLE XI - Fiscal Year.

The fiscal year of the Association shall be the calendar year.

ARTICLE XII - Waiver of Notice.

Notice of meeting need not be given to any member who signs a waiver of notice, whether before or after the meeting. The attendance of or voting by any member at a meeting, without protesting, prior thereto or at its commencement, the lack of notice of such meeting, shall constitute a waiver of notice by such member.

ARTICLE XIII - Amendments.

Amendment of these Bylaws requires an affirmative vote of a majority of the total membership of the Association, at any meeting of the Association, provided that notice of such meeting and the proposed amendment has been given in writing at least thirty days in advance of the meeting by the Executive Director with the approval of the Board of Directors.

ARTICLE XIV - Dissolution.

Upon dissolution of the Association, the assets of the Association shall be applied and distributed as follows:

a. All liabilities and obligations of the Association shall be paid, satisfied, and discharged, or adequate provision shall be made therefor;

b. Assets held by the Association upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with such requirements;

c. Assets received and held by the Association subject to limitations permitting their use only for literary, educational, scientific, or similar purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more organizations exempt from income tax as organizations described in section 501(c)(3) of the Internal Revenue Code having as and pursuing purposes substantially similar to those of the Association, pursuant to a duly adopted plan of distribution;

d. Any remaining assets shall be distributed to one or more organizations exempt from income tax as organizations described in section 501(c)(3) of the Internal Revenue Code for any one or more literary, educational, or scientific purpose or purposes, or to the federal government, or to a state or local government, for a public purpose, pursuant to a duly adopted plan of distribution, or by a court to one or more such organizations to be used in such manner as in the judgment of the court will best accomplish the purposes for which the Association was organized.

Adopted January 28-29, 1962
Amended June 22, 1968
January 17, 1971
May 12-13, 1972
May 6, 1977
May 1982
October 1985

COUNCIL ON LIBRARY RESOURCES
1785 Massachusetts Avenue, NW • Washington, DC 20036 • Tel 202-483-7474

REPORT TO THE
ASSOCIATION OF RESEARCH LIBRARIES
OF THE
BIBLIOGRAPHIC SERVICE DEVELOPMENT
PROGRAM (BSDP)
OCTOBER 1985
WASHINGTON, D.C.

The Bibliographic Service Development Program (BSDP) of the Council on Library Resources (CLR) continues to work toward its goal of improving bibliographic services to all library users, with particular attention paid to the needs of those in the academic and research environments. This report is organized according to the major budget elements of the BSDP program. Additional information concerning any of the topics discussed is available from any CLR staff member, particularly Barbara Dean, program associate, or C. Lee Jones, program consultant.

STANDARDS AND GUIDES:

1. Approximately 50 authors have been testing the codes for manuscripts in electronic form developed in a joint project of the Council and the Association of American Publishers (AAP). These tests are being conducted during the normal preparation of manuscripts for publication. The first results of this test are only now being analyzed. Further revisions to the codes will be made in response to problems identified during the tests. A set of author guidelines, including appendices, also have been developed to assist users with code implmentation. A thorough review of the guidelines has been underway for several months. Based on that review, Aspen Systems, the contractor for the project, is developing a draft of the final edition of the guidelines. It is likely that the University of Chicago Press will produce and publish the official guidelines document.

At the moment, authors using the codes must consciously insert them into their manuscripts at appropriate points. But, the AAP is working to raise sufficient resources to develop special software that will imbed the codes in a word-processing system. This will serve as a demonstration for other word-processing producers and indicate how the codes can be integrated into existing products.

NISO is prepared to receive the proposed standards and begin the standard setting process as soon as the project is completed, anticipated in early 1986.

ACCESS TO BIBLIOGRAPHIC DATA:

1. CLR recently awarded a grant to the University of California, Berkeley to develop software that will link bibliographic records to the first lines of Italian lyric poetry. The project is part of an international effort to enter Italian lyric poetry of the Renaissance into a machine-readable database. Berkeley is working with Italy's Istituto di Studi

Rinascimentali of the University of Ferrara and the study unit, Europa delle Corti sponsored by the Council of Europe in Strasbourg. In the first phase of the Berkeley project, they will create, as pilot projects, three databases, one containing the texts of poems, a second for the bibliographic records describing the publications in which the poems appear (this database will be linked to the first) and, third, a database containing the music.

2. Planning continues for a meeting to examine the consequences and opportunities presented by distributed processing in its several forms.

3. The BSDP Program Comittee has also discussed the need for preservation information in the bibliographic record and work continues in this area

4. As in the past, the issues raised by the possible exchange of bibliographic records among the several largest databases continue to attract attention and show modest signs of progress in the near future.

LINK BIBLIOGRAPHIC DATABASES:

1. The participants in the Linked Systems Project (LSP) are slowly phasing themselves into an operational state. At the moment, LC builds a queue of authority records generated at LC and RLG retrieves the entire queue as it is able to process the records. Until RLG completes its authority generation software and places it in operation, LC will not be able to receive RLIN authority records routinely online. Both OCLC and WLN are currently testing various segments of their link software with LC. It is expected that WLN and OCLC will be able to draw records out of the LC queue by the end of the year and should also be able to contribute records to LC.

Once the authority phase of the project is complete, work will resume on identifying the next link aplications to be developed. This planning is expected to be concluded by late 1986.

Two committees are being established in conjunction with the Linked Systems Project. One of them is the LSP Technical Committee which has begun formal meetings. Members include the four project participants, LC, OCLC, WLN and RLG, as well as the National Library of Canada, the National Library of Medicine, Geac, NOTIS, and the Triangle Research Library Network. The role of this committee is to assure consistent implementations of the existing protocols and any enhancements that may be indicated by operating experience.

The second committee being created is the LSP Policy Comittee. It will provide policy direction for the linking activity itself and will be concerned with costs, accounting, and other administrative issues. Initially, its members will be the chief executive officers of the first four participants. Their first meeting will take place in early December after which other staff may be added to the initial group.

2. NISO held a meeting during the ALA annual meeting for representatives of all organizations interested in the LSP protocols. It was a follow-up meeting to that held at the Library of Congress in January 1985.

SUBJECT AUTHORITY STRUCTURE AND SUBJECT ACCESS:

1. An interim report concerning the OCLC/Forest Press project has been received. The purpose of the project is to examine how the Dewey Decimal Classification System might be used to enhance subject access in an online catalog environment. Tests of the concept have been conducted at the University of Illinois, the Library of Congress, the New York State Library, and the Public Library of Columbus and Franklin County. The project is scheduled for completion this Fall.

2. The Council, in conjunction with OCLC, is organizing a meeting to examine the results of the project and to explore the role of classification in subject searching generally.

CONSER:

1. Data collection and entry for titles covered by 85 A&I services has been completed in the CONSER A&I project. Over 111,000 index notes have been added to more than 50,000 unique CONSER records. Additional work is being done to complete the project by the end of the year.

BIBLIOGRAPHIC PRODUCTS AND SERVICES:

1. The proceedings of the Conference on Online Catalog Screen Displays, held in March at the Lakeway Conference Center outside Austin, Texas, are nearing completion. They should be available for sale from the Council in the near future.

2. The BSDP Program Committee along with CLR staff continue to evaluate the program.

APPENDIX H

ATTENDANCE AT 107th MEMBERSHIP MEETING
Washington, D.C.

October 23-24, 1985

University of Alabama Libraries
Douglas E. Jones

University of Alberta Library
Not Represented

University of Arizona Library
W. David Laird

Arizona State University Library
Donald Riggs

Boston Public Library
Arthur Curley

Boston University Library
John Laucus

Brigham Young University Library
Not Represented

University of British Columbia Library
Not Represented

Brown University Library
Merrily Taylor

University of California, Berkeley Library
Joseph Rosenthal

University of California, Davis Library
Marilyn Sharrow

University of California, Irvine Library
Calvin J. Boyer

University of California, Los Angeles Library
Russell Shank

University of California, Riverside Library
John Tanno

University of California, San Diego Library
Dorothy Gregor

University of California, Santa Barbara Library
Joseph A. Boissé

Canada Inst. for Scientific & Technical Info.
Not Represented

Case Western Reserve University Libraries
James E. Bobick

Center for Research Libraries
Not Represented

University of Chicago Library
Howard Dillon

University of Cincinnati Libraries
Charles B. Osburn

University of Colorado Library
Clyde Walton

Colorado State University Library
Joan Chambers

Columbia University Libraries
Patricia Battin

University of Connecticut Library
John P. McDonald

Cornell University Libraries
Not Represented

Dartmouth College Libraries
Margaret A. Otto

University of Delaware Library
Susan Brynteson

Duke University Libraries
Jerry D. Campbell

Emory University Library
Herbert F. Johnson

University of Florida Libraries
Dale Canelas

Florida State University Library
Charles E. Miller

Georgetown University Library
Joseph E. Jeffs

University of Georgia Libraries
David F. Bishop

Georgia Institute of Technology Library
Miriam Drake

University of Guelph Library
Not Represented

Harvard University Library
Y.T. Feng

University of Hawaii Library
John R. Haak

University of Houston Libraries
Robin Downes

Howard University Libraries
Not Represented

University of Illinois Library
Hugh C. Atkinson

Indiana University Libraries
Elaine F. Sloan

University of Iowa Libraries
Dale M. Bentz

Iowa State University Library
Warren B. Kuhn

Johns Hopkins University Library
Susan K. Martin

University of Kansas Library
Clinton Howard

University of Kentucky Libraries
Paul A. Willis

Kent State University Libraries
Don Tolliver

Laval University Library
Celine R. Cartier

Library of Congress
William Welsh

Linda Hall Library
Not Represented

Louisiana State University Library
Sharon Hogan

McGill University Library
Not Represented

McMaster University Library
Graham R. Hill

University of Manitoba Libraries
Not Represented

University of Maryland Library
H. Joanne Harrar

University of Massachusetts Libraries
Richard J. Talbot

Massachusetts Inst. of Technology Librs.
Jay K. Lucker

University of Miami Library
Frank Rodgers

University of Michigan Library
Richard M. Dougherty

Michigan State University Library
Richard E. Chapin

University of Minnesota Libraries
Eldred Smith

University of Missouri Library
Thomas W. Shaughnessy

National Agricultural Library
Joseph H. Howard

National Library of Canada
Marianne Scott

National Library of Medicine
Not Represented

University of Nebraska-Lincoln Libraries
Kent Hendrickson

Newberry Library
Not Represented

University of New Mexico Library
Paul Vassallo

New York Public Library
David H. Stam

New York State Library
Jerome Yavarkowsky

New York University Libraries
Nancy Kranich

University of North Carolina Libraries
James F. Govan

North Carolina State University Library
I.T. Littleton

Northwestern University Libraries
John P. McGowan

University of Notre Dame Libraries
Robert C. Miller

Ohio State University Libraries
William J. Studer

University of Oklahoma Library
Not Represented

Oklahoma State University Library
Roscoe Rouse

University of Oregon Library
George W. Shipman

University of Pennsylvania Libraries
Richard De Gennaro

Pennsylvania State University Library
Stuart Forth

University of Pittsburgh Libraries
Anne Woodsworth

Princeton University Library
Donald Koepp

Purdue University Library
Joseph M. Dagnese

Queen's University Library
Not Represented

Rice University Library
Samuel Carrington

University of Rochester Libraries
James F. Wyatt

Rutgers University Library
Ralph E. McCoy

University of Saskatchewan Library
Not Represented

Smithsonian Institution Libraries
Robert Maloy

University of South Carolina Library
Kenneth E. Toombs

University of Southern California Library
Charles R. Ritcheson

Southern Illinois University Library
Kenneth G. Peterson

Stanford University Libraries
David C. Weber

State Univ. of New York at Albany Libraries
Not Represented

State Univ. of New York at Buffalo Libraries
Barbara Von Wahlde

State Univ. of New York at Stony Brook Library
Esther J. Walls

Syracuse University Libraries
Metod M. Milac

Temple University Library
James Myers

University of Tennessee Libraries
Donald R. Hunt

University of Texas Libraries
Harold W. Billings

Texas A & M University Library
Not Represented

University of Toronto Libraries
Maureen Hutchinson

Tulane University Library
Philip E. Leinbach

University of Utah Libraries
Roger K. Hanson

Vanderbilt University Library
Malcolm Getz

Virginia Polytechnic Inst. & State Univ.
Paul Gherman

University of Virginia Libraries
Ray Frantz, Jr.

University of Washington Library
Merle N. Boylan

Washington State University Library
Not Represented

Washington University Libraries
Charles Churchwell

University of Waterloo Library
Not Represented

Wayne State University Libraries
Peter Spyers-Duran

University of Western Ontario Library
Not Represented

University of Wisconsin Libraries
D. Kaye Gapen

Yale University Libraries
Millicent Abell

York University Libraries
Ellen Hoffmann

ATTENDANCE BY THE MEMBERSHIP - NAME INDEX

Abell, Millicent D.	Yale University Libraries
Atkinson, Hugh C.	University of Illinois Library
Battin, Patricia	Columbia University Libraries
Bentz, Dale M.	University of Iowa Libraries
Billings, Harold W.	University of Texas Libraries
Bishop, David F.	University of Georgia Libraries
Bobick, James E.	Case Western Reserve University Libraries
Boissé, Joseph A.	University of California, Santa Barbara Library
Boyer, Calvin J.	University of California, Irvine Library
Boylan, Merle N.	University of Washington Library
Brynteson, Susan	University of Delaware Library
Campbell, Jerry D.	Duke University Libraries
Canelas, Dale	University of Florida Libraries
Cartier, Celine R.	Laval University Library
Carrington, Samuel	Rice University Library
Chambers, Joan	Colorado State University Library
Chapin, Richard E.	Michigan State University Library
Churchwell, Charles	Washington University Libraries
Curley, Arthur	Boston Public Library
Dagnese, Joseph M.	Purdue University Library
De Gennaro, Richard	University of Pennsylvania Libraries
Dillon, Howard	University of Chicago Library
Dougherty, Richard M.	University of Michigan Library
Downes, Robin	University of Houston Libraries
Drake, Miriam	Georgia Institute of Technology
Feng, Y.T.	Harvard University Library
Forth, Stuart	Pennsylvania State University Library
Frantz, Ray	University of Virginia Libraries
Gapen, D. Kaye	University of Wisconsin Libraries
Getz, Malcolm	Vanderbilt University Library
Gherman, Paul	Virginia Polytechnic Inst. and State University
Govan, James F.	University of North Carolina Libraries
Gregor, Dorothy	University of California, San Diego
Haak, John R.	University of Hawaii Library
Hanson, Roger K.	University of Utah Libraries
Harrar, H. Joanne	University of Maryland Library
Hendrickson, Kent	University of Nebraska-Lincoln
Hill, Graham R.	McMaster University Library
Hoffmann, Ellen	York University Libraries
Hogan, Sharon	Louisiana State University Library

Howard, Clinton	University of Kansas Library
Howard, Joseph H.	National Agricultural Library
Hunt, Donald R.	University of Tennessee Libraries
Hutchinson, Maureen	University of Toronto Libraries
Jeffs, Joseph E.	Georgetown University Library
Johnson, Herbert F.	Emory University Library
Jones, Douglas E.	University of Alabama Libraries
Koepp, Donald	Princeton University Library
Kranich, Nancy	New York University Libraries
Kuhn, Warren B.	Iowa State University Library
Laird, W. David	University of Arizona Library
Laucas, John	Boston University Library
Leinbach, Philip E.	Tulane University Library
Littleton, I.T.	North Carolina State University Library
Lucker, Jay K.	Massachusetts Inst. of Technology Libraries
McCoy, Ralph E.	Rutgers University Library
McDonald, John P.	University of Connecticut Library
McGowan, John P.	Northwestern University Libraries
Maloy, Robert	Smithsonian Institution Libraries
Martin, Susan K.	Johns Hopkins University Library
Milac, Metod, M.	Syracuse University Libraries
Miller, Charles, E.	Florida State University Library
Miller, Robert C.	University of Notre Dame Libraries
Myers, James	Temple University Library
Osburn, Charles B.	University of Cincinnati Libraries
Otto, Margaret A.	Dartmouth College Libraries
Peterson, Kenneth G.	Southern Illinois University Library
Riggs, Donald	Arizona State University Library
Ritcheson, Charles R.	University of Southern California Library
Rodgers, Frank	University of Miami Library
Rosenthal, Joseph	University of California, Berkeley Library
Rouse, Roscoe	Oklahoma State University Library
Scott, Marianne	National Library of Canada
Shank, Russell	University of California, Los Angeles Library
Sharrow, Marilyn	University of California Library, Davis
Shaughnessy, Thomas W.	University of Missouri Library
Shipman, George W.	University of Oregon Library
Sloan, Elaine F.	Indiana University Libraries
Smith, Eldred	University of Minnesota Libraries
Spyers-Duran, Peter	Wayne State University Libraries
Stam, David H.	New York Public Library
Studer, William J.	Ohio State University Libraries

Talbot, Richard J.	University of Massachusetts Libraries
Tanno, John	University of California Riverside, Library
Taylor, Marrily	Brown University Library
Tolliver, Don	Kent State University Libraries
Toombs, Kenneth E.	University of South Carolina Libraries
Vassallo, Paul	University of New Mexico Library
Walls, Esther, J.	State University of New York at Stony Brook Library
Walton, Clyde	University of Colorado Library
Weber, David C.	Stanford University Libraries
Welsh, William	Library of Congress
Willis, Paul A.	University of Kentucky Libraries
Woodsworth, Anne	University of Pittsburgh Libraries
Wyatt, James F.	University of Rochester Libraries
Yavarkowsky, Jerome	New York State Library

ARL Staff

Shirley Echelman, Executive Director
Duane E. Webster, Deputy Executive Director and
Director, Office of Management Studies
Jaia Barrett, Program Officer
Julia Blixrud, CONSER A&I Project Coordinator
Nicola Daval, Information Officer
Jeffrey J. Gardner, Associate Director, Office of Management Studies
Jeffrey Heynen, Program Officer
Susan Jurow, Training Specialist, Office of Management Studies
Alex Lichtenstein, Administrative Assistant
Margaret McConnell, Secretary
Jutta Reed-Scott, Collections Development Specialist,
Office of Management Studies and ARL Recon Project Coordinator
Maxine K. Sitts, Information Services Specialist,
Office of Management Studies

Guests

Armstrong, Scott	The Washington Post (Speaker)
Avallone, Susan	Library Journal
Avram, Henriette	Library of Congress
Brown, Rowland	OCLC, Inc.
Coughlin, Ellen	The Chronicle of Higher Education
Ekman, Richard	National Endowment for the Humanties, Research Division
Finzi, John	Library of Congress
Fry, Ray M.	U.S. Department of Education
Haas, Warren	Council on Library Resources
Heanue, Anne	American Library Association
LaPidus, Jules	Council of Graduate Schools in the U.S.
Lardner, George	The Washington Post
Lynch, Beverly	Association of College & Research Libraries
Mann, Bruce	Assistant Information Commissioner of Canada (Speaker)
Marcum, Deanna	Council on Library Resources
McCoy, Richard W.	Research Libraries Group
Morton, Herbert	American Council of Learned Societies, Office of Scholarly Communication
Nelson, Anna	George Washington University (Speaker)
Shattuck, John	Harvard University (Speaker)
Sprehe, Timothy	Office of Management and Budget (Speaker)
Sweet, Paul	University of California, Federal Relations Office
Vaughn, John	Association of American Universities

APPENDIX I

ASSOCIATION OF RESEARCH LIBRARIES
OFFICERS, BOARD OF DIRECTORS, COMMITTEES AND TASK FORCES

OCTOBER 1985

ARL OFFICERS AND BOARD FOR 1984-85

Richard J. Talbot, President
Anne Woodsworth, Vice President & President-Elect
Eldred Smith, Past-President

Hugh Atkinson	(Oct. 1985)
Patricia Battin	(Oct. 1985)
Richard E. Chapin	(Oct. 1987)
Graham R. Hill	(Oct. 1986)
Herbert F. Johnson	(Oct. 1986)
W. David Laird	(Oct. 1986)
Charles E. Miller	(Oct. 1988)
Joseph Rosenthal	(Oct. 1987)
Paul Vassallo	(Oct. 1985)

ADVISORY COMMITTEES

Center for Chinese Research Materials

Samuel Chu, Ohio State University
Thomas Kennedy, Washington, State University
Thomas Kuo, University of Pittsburgh
Douglas McInnes (1985)
Eugene Wu, Harvard University, Chair

Staff: Pingfeng Chi

ARL Microform Project Cataloging Program

Linda Hamilton, Research Publications, Inc.
Roger Hanson, RLAC
Mary Ellen Jacob, OCLC, Inc.
Martin Joachim, ALA/RLMS
Patricia McClung, RLG alternate
Anita Werling, University Microfilms, Inc.
Research Libraries Group *
Library of Congress *

Staff: Jeffrey Heynen

* Representative to be appointed

CONSER A & I Coverage Project

Linda Bartley, Library of Congress
Brett Butler, In-Four
Thomas Delsey, National Library of Canada
Mary Ellen Jacob, OCLC, Inc.
Jay K. Lucker
Robert S. Tannehill, Jr., Chemical Abstracts Service

Staff: Julia Blixrud

National Collections Inventory Project

David Farrell, Indiana University
Leslie Hume, Research Libraries Group
Paul Mosher, Stanford University
Susan Nutter, Massachusetts Institute of Technology
Elaine F. Sloan
David H. Stam

Staff: Jeffrey Gardner

STANDING COMMITTEES AND TASK FORCE

Committee on Nominations

ARL Vice President, Chair

Committee on the Management of Research Library Resources

Richard De Gennaro (1985)
Ellen Hoffmann (1987)
Herbert F. Johnson (ex officio as Chair of Committee on ARL Statistics)
Sul H. Lee (1986)
Jay K. Lucker (1987)
Susan K. Martin (1986)
Joan Chambers, Chair (1986)

Staff: Duane Webster

Committee on ARL Statistics

Calvin J. Boyer (1985)
Richard M. Dougherty (1987)
Gordon Fretwell, University of Massachusetts (Consultant)
Robert Lee (1985)
Kendon Stubbs, University of Virginia (Consultant)
Herbert F. Johnson, Chair (1987)

Staff: Nicola Daval

Coordinating Committee on Collections and Access

Dale Bentz	(1985)
Susan Brynteson	(1985)
Robert Miller	(ex officio as Chair of the Committee on Collection Development)
David Weber	(ex officio as Chair of the Committee on Preservation of Research Library Materials)
Joseph Rosenthal	(ex officio as Chair of the Committee on Bibliographic Control)
Elaine Sloan, Chair	(1986)

Staff: Jaia Barrett

Committee on Bibliographic Control

Henriette Avram, Library of Congress Liaison
David Bishop (1985)
Robin Downes (1987)
Sharon Hogan (1987)
C. Lee Jones, Council on Library Resources (observer)
Martin Runkle (1985)
Marianne Scott (1985)
Joseph Rosenthal, Chair (1987)

Staff: Jeffrey Heynen
Jutta Reed-Scott

Committee on Collection Development

Joseph Boissé (1986)
Joseph Dagnese (1985)
Robin Downes (1985)
John Finzi, Library of Congress Liaison
Charles Miller (1986)
Marianne Scott (1985)
Robert Miller, Chair (1986)

Staff: Jeffrey Gardner

Committee on Preservation of Research Library Materials

Harold W. Billings (1985)
John Laucus (1986)
Deanna Marcum, Council on Library Resources (observer)
Kenneth G. Peterson (1987)
Peter Sparks, Library of Congress Liaison
David Stam (1985)
William J. Studer (1987)
David C. Weber, Chair (1986)

Staff: Jeffrey Heynen

Membership Committee on Nonuniversity Libraries

Robert Maloy (1985)
Donald Riggs (1986)
Marilyn Sharrow, Chair (1985)

Task Force on Scholarly Communication (1987)

Hugh C. Atkinson
Stuart Forth
D. Kaye Gapen
Martin Runkle
George Shipman
William Studer
Charles Osburn, Chair

Staff: Nicola Daval

REPRESENTATIVES

ALA Interlibrary Loan Committee ..... Joan Chambers
ALA Statistics Coordinating Committee ..... Nicola Daval
National Information Standards Organization (NISO) ..... Joanne Harrar
NISO Standards Voting Representative ..... Shirley Echelman
CONSER Advisory Group ..... Jeffrey Heynen
Eighteenth-Century Short Title Catalogue ..... Ray Frantz
LC Cataloging-in-Publication Advisory Group ..... George Gibbs, UCLA
LC Network Advisory Committee ..... William Studer
Society of American Archivists ..... Herbert Finch, Cornell
Universal Serials & Book Exchange ..... Joanne Harrar
National Institute of Conservators ..... David Stam
IFLA Voting Representative ..... Shirley Echelman
RLG Conspectus Development Task Force ..... David Farrell, Indiana

APPENDIX J

MEMBERSHIP LIST
OCTOBER 1985

University of Alabama Libraries
P.O. Box S
University, Alabama 35486
Douglas E. Jones, Interim Dean
of Univ. Librs.
(205) 348-7561

University of Alberta Library
Edmonton, Alberta, Canada T6G 2J8
Peter Freeman, Librarian
(403) 432-3790

University of Arizona Library
Tucson, Arizona 85721
W. David Laird, Librarian
(602) 621-2101

Arizona State University Library
Tempe, Arizona 85281
Donald Riggs, Librarian
(602) 965-3417

Boston Public Library
Copley Square
Boston, Massachusetts 02117
Arthur Curley, Librarian
(617) 536-5400

Boston University Library
Boston, Massachusetts 02215
John Laucus, Director
(617) 353-3710

Brigham Young University Library
324 Lee Library
Provo, Utah 84602
Sterling J. Albrecht, Univ. Libn.
(801) 378-2905

University of British Columbia Library
Vancouver, B.C., Canada V6T 1W5
Douglas McInnes, Librarian
(604) 228-2298

Brown University Library
Providence, Rhode Island 02912
Merrily Taylor, Librarian
(401) 863-2162

University of California Library, Berkeley
Berkeley, California 94720
Joseph Rosenthal, Univ. Librarian
(415) 642-3773

University of California Library, Davis
Davis, California 95616
Marilyn Sharrow, Univ. Librarian
(916) 752-2110

University of California, Irvine
The University Library
P.O. Box 19557
Irvine, California 92713
Calvin J. Boyer, University Librarian
(714) 856-5212

University of California Library, Los Angeles
Los Angeles, California 90024
Russell Shank, Librarian
(213) 825-1201

University of California Library, Riverside
P.O. Box 5900
Riverside, California 92517
John Tanno, Acting Univ. Librarian
(714) 787-3221

University of California, San Diego
The University Library
La Jolla, California 92037
Dorothy Gregor, Univ. Librarian
(619) 452-3061

University of California, Santa Barbara
The University Library
Santa Barbara, California 93106
Joseph A. Boissé, Librarian
(805) 961-3256

Canada Institute for Scientific
& Technical Information
National Research Council of Canada
Ottawa, Canada K1A OS2
Elmer V. Smith, Director
(613) 993-2341

Case Western Reserve University Libraries
Cleveland, Ohio 44106
Susan Coté, Director
(216) 368-2990

Center for Research Libraries
6050 South Kenwood Avenue
Chicago, Illinois 60637
Donald B. Simpson, Director
(312) 955-1545

University of Chicago Library
Chicago, Illinois 60637
Martin D. Runkle, Director
(312) 962-8744

University of Cincinnati Libraries
Cincinnati, Ohio 45221
Charles B. Osburn, Vice Provost
for Univ. Libraries
(513) 475-2218

University of Colorado Library
Boulder, Colorado 80309
Clyde Walton, Director
(303) 492-7511

Colorado State University Library
Fort Collins, Colorado 80521
Joan Chambers, Director
(303) 491-5911

Columbia University Libraries
New York, New York 10027
Patricia Battin, Vice President
& University Librarian
(212) 280-2247

University of Connecticut Library
Storrs, Connecticut 06268
John P. McDonald, Director
(203) 486-2219

Cornell University Libraries
Ithaca, New York 14850
J. Gormly Miller, Act. Univ. Libn.
(607) 256-3689

Dartmouth College Libraries
Hanover, New Hampshire 03755
Margaret A. Otto, Librarian
(603) 646-2235

University of Delaware Library
Newark, Delaware 19717-5267
Susan Brynteson, Director
(302) 451-2231

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Jerry Campbell, Univ. Libn.
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Herbert F. Johnson, Director
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Dale Canelas, Director
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Tallahassee, Florida 32306
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Price Gilbert Memorial Library
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Miriam Drake, Director
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Warren B. Kuhn, Dean of Lib. Services
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Don Tolliver, Director
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Québec, Canada G1K 7P4
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Graham R. Hill, University Librarian
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Joseph H. Howard, Director
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Ottawa, Ont., Canada K1A 0N4
Marianne Scott, National Librarian
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National Library of Medicine
Bethesda, Maryland 20894
Donald A. Lindberg, Director
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Kent Hendrickson, Dean of Librs.
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The Newberry Library
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Chicago, Illinois 60610
Joel L. Samuels, Dir. of Lib. Sers.
(312) 943-9090

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General Library
Albuquerque, New Mexico 87131
Paul Vassallo, Dean of Lib. Sers.
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(212) 930-0708

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New York, New York 10018
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Research Libraries
(212) 930-0708

New York State Library
Cultural Education Center
Empire State Plaza
Albany, New York 12234
Joseph F. Shubert, State Librarian
(518) 474-5930

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James F. Govan, University Librarian
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Raleigh, North Carolina 27650
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Houston, Texas 77251-1892
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Nancy A. Brown, Univ. Libn. and Director of Libraries
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Washington, D.C. 20560
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University of South Carolina Libraries
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Kenneth E. Toombs, Director of Libs.
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Los Angeles, California 90007
Charles R. Ritcheson, Librarian
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Paul Gherman, Director of Librs.
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Maureen Pastine, Director of Libraries
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