



THINGS IN COMMON

CHALLENGES OF THE 19TH AND 21ST CENTURY LIBRARIANS

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IN THE WAKE OF THE 104th annual convention of law librarians in Philadelphia (held in July 2010), what could be more appropriate and befitting than to revisit John William Wallace's welcome address to the Congress of Librarians in Philadelphia in 1876? (The address is republished in its entirety below at pages 201-209.) Wallace, the president of Philadelphia Historical Society, had served as the seventh reporter of decisions for the U.S. Supreme Court from 1863 to 1875, and in 1841 had been appointed Librarian for the Law Association of Philadelphia.

It is astounding that the issues posed by Wallace 135 years ago bear a striking similarity to those facing the 21st century law librarian and resonate in so many ways. Wallace pondered the future of libraries and ruminated over problems associated with the increase in print information which included space management, collection arrangement, discovery, retrieval, and preservation. He surmised that the exponential nature of the growth of books and pamphlets was a result of the proliferation of knowledge and technological advances in printing, and then proposed the application of science (technology) to solve these problems. How books would be cata-

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*"Finally – when the library edifice stands in broad extent erect,
and its million books are arranged in order on its shelves –
after this comes a problem greater than all. How, most easily –
how, most economically – how to be most useful . . ."*

logged, housed, and retrieved as they increased in number was a source of great consternation then and to a certain degree remains a challenge to 21st-century librarians who grapple with issues arising from the proliferation of information not only in print but also in digital formats.

Rapid advances in technology have changed the way users view and access information.¹ Information is now increasingly available in digital formats and accessed by users through mobile devices such as eReaders, iPads, and mobile phones. There has been a deluge of electronically available materials with widespread digitization efforts like those initiated by Google, for example, which has made vast numbers of non-copyrighted books available freely on the internet. Efforts by private enterprise like Google are just the beginning and non-profits are also jumping on the digitization bandwagon. There is currently a national conversation centered on how to provide broad electronic access to United States primary legal materials.² Contributing to this ever-expanding digital landscape is the steady growth of open access digital repositories in higher education, which are being established in part to counter the commercialization and prohibitive cost of scholarly works.³ So what do libraries do with these digital

¹ John Palfrey in his book "Born Digital" describes the habits of digital natives born after 1980 when social digital technologies made an appearance. Digital natives manage their identities in a "shifting hybrid environment" (online and offline). John Palfrey and Urs Gasser, *Born Digital: Understanding the First Generation of Digital Natives* (2008).

² Law.Gov is an initiative proposing that a depository of primary legal materials of the United States be made available freely to all. A series of conversations revolving around privacy, authentication, copyright, and dissemination commenced with a workshop at Stanford Law School and ended in June 2010 with a workshop at Harvard Law School. <http://resource.org/law.gov/index.html>.

³ For example, Harvard's DASH (Digital Access to Scholarship at Harvard) provides open access to the scholarly works of Harvard faculty. Other institutions like Yale Law School continue to aggressively expand their repository offerings hosted on platforms such as Digital Commons. The Durham statement issued by the Directors of twelve law libraries, including Yale, Harvard, Duke, and Columbia, recommends that law schools switch from print to electronic publication of journals and make them available in stable and enduring electronic platforms. <http://cyber.law.harvard.edu/publications/durhamstatement>.

works now also available in print? Will they be able to regain and repurpose erstwhile shrinking space or are they taking a highly risky move if they choose to rely on digital platforms without tangible back-ups? These questions and issues relating to the retention of materials in print formats will only increase as libraries struggle to decide what can be eliminated due to the shift to digital formats.⁴

One other pressing concern about this digital shift is that multiple organizations sometimes work separately to accomplish the same purposes of preserving, archiving, and disseminating print and born digital materials, raising problems with duplication, overlap, and unnecessary expenses. Recognizing that digitization and archival efforts are cumbersome and expensive, and require high-level technological expertise, many institutions have established collaborative partnerships to pursue the collective purpose of opening up their collections and sharing them with users worldwide. One example is the Hathi Trust, a collective digital repository that started in 2008 as a partnership of 13 universities of the Committee on Institutional Cooperation, the University of California System, and the University of Virginia. To date, there are over 7 million digitized volumes with 24 percent in the public domain.⁵

Preservation concerns with the instability of digital formats have figured prominently in the growth of library organizations committed to the preservation of electronic and born digital materials — these include, for example, the Legal Information Preservation Alliance, the Chesapeake Project, and the Law Library Microforms Consortium amongst others.⁶ Libraries have also embarked on col-

⁴ For an in-depth report on the retention of print materials in an increasingly digital era, see Roger C. Schonfeld and Ross Housewright *What to Withdraw? Print Collections Management in the Wake of Digitization* (2009) www.ithaka.org/ithaka-s-r/research/what-to-withdraw/.

⁵ For detailed and current statistical information on the Hathi Trust, see www.hathitrust.org/statistics_info.

⁶ LIPA in its mission statement notes that: “Both government and private businesses and institutions have eagerly adopted digital publishing and record-keeping both as ways to save money, time, and space and to promote efficiency and control. In their haste to abandon what they perceive as cumbersome paper records and methods of dissemination, they have too often failed to take into account the

laborative ventures with private enterprise to preserve rare and valuable materials for posterity. The Lillian Goldman Law Library recently concluded a digitization venture with Gale, the *Making of Modern Law: Primary Sources, 1620-1926*, which launched officially in June 2010. The database of primary sources contains early U.S. state codes, state constitutional conventions, city charters, and early American law dictionaries, all for the most part not previously available in digital form. The downside, however, of collaborations with private enterprise is that the final product is often offered at a cost and is not freely accessible.

With shrinking budgets, libraries are seeking out collaborative opportunities more than ever. Collaboration has even extended to shared collection development. Recently Columbia and Cornell announced a partnership (2CUL – pronounced “too cool” and derived from the acronyms of both universities) in collaborative collection development, acquisitions, and processing, funded by a grant from the Andrew W. Mellon Foundation.⁷ In September 2010, both institutions embarked on the first phase of their collaborative partnership, announcing an agreement to collaboratively support Slavic and East European collection development creating a more enriched collection.⁸

This collaboration has extended beyond building a significantly larger and richer collection into the arena of developing professional reference assistance in the use of the collections. Consequently, the Slavic and East European Librarian resident at Columbia would be

long-term preservation of their electronic publications and archives.” www.aallnet.org/committee/lipa/mission.asp. The Chesapeake Project, a collaboration of Georgetown Law Library, Maryland State Law Library, Virginia State Law Library, and Harvard Law library, similarly proposes to “successfully develop and implement a program to stabilize, preserve, and ensure permanent access to critical born-digital and digitized legal materials on the World Wide Web.” <http://cdm266901.cdmhost.com/cdm4/about.php#mission>.

⁷ For more information on this collaborative partnership visit <http://2cul.org/>.

⁸ Columbia University Libraries Announces Slavic and East European Collection Development Agreement with Cornell University Library, <http://communications.library.cornell.edu/news/100916/slavic>.

available to Cornell users by email, telephone, and video conferencing and would also visit the Cornell campus for instruction and face-to-face instruction and consultation. The 2CUL partnership is the future of collaborative ventures between libraries, especially in an era of reduced budgets and resources. Libraries can partner to enhance and strengthen their collections and also share their most valuable institutional assets like the expertise of their professional staff.

Print is increasingly viewed as a last bastion but it appears that hard cover books are still favored by many.⁹ As it becomes obvious that print materials will not fade away overnight, libraries are still faced with space quandaries, having to decide what is worth retaining for posterity and how select materials should be stored and retrieved quickly for library users. Similarly in 1876, Wallace, astounded by the continuing growth of print and the problems of storage and retrieval, proposed the use of science to facilitate the retrieval of books, describing in great detail the possible adoption of pneumatic tubes by libraries.¹⁰ In this regard Wallace had perhaps prophetically alluded to today's automated storage and retrieval systems. Many libraries continue to use offsite storage facilities to house infrequently used but valuable materials with sophisticated systems in place to facilitate quick delivery of books when demanded by patrons. Automated storage and retrieval systems are now appearing in large research libraries, enabling users to request offsite materials which are stored in specially barcoded bins and retrieved almost instantaneously by robotic cranes. In addition, collaborative storage sharing and print storage management are viewed favorably as means of coordinating the retention of print resources and avoiding unnecessary duplication of resources. Libraries are entering into

⁹ Amazon reported that its sale of e-books exceeded those of traditional hard back volumes in the three months leading up to 2010. However, according to the American Publishing Association, industry-wide sales of print books have risen by 22 percent. Clair Cain Miller, E-Books top Hard Covers at Amazon, www.nytimes.com/2010/07/20/technology/20kindle.html.

¹⁰ John William Wallace, *An Address of Welcome from the Librarians of Philadelphia to the Congress of Librarians of the United States*, 14 Green Bag 2d 201, 207 (2011) (reprint of 1876 pamphlet)

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agreements as to who retains what in print. In effect there is a concerted effort by libraries to define the collections of the 21st century library.

In the midst of all these advances and changes, librarians remain an invaluable and indispensable resource in the increasingly complex and technologically advanced legal information environment, navigating users through an often overwhelming labyrinth of print and digital resources. This statement resonates with the words of John Wallace in 1876:

. . . a good librarian has ever been a valuable minister to letters. He has always stood between the world of authors and the world of readers, introducing the habitants of one sphere to the habitants of the other . . . But in this day and for the future he is called to new offices and to higher distinctions. His profession belongs to the SCIENCES. He requires some fine faculties of mind. He takes his rank with philosophers.¹¹



¹¹ Id. at 208-09.