



Implications of Federal Programs for College Libraries

EDMON LOW

TO CONSIDER THE IMPLICATIONS of any legislation is essentially to attempt to assess the probable future impact of such on a given subject or activity—in this case, on college libraries. To do this well, in view of all the ramifications and complexities usually inherent in even the simplest of acts, an exceedingly clear crystal ball is needed—an article in very great demand and one in particularly short supply. Consequently, in hindsight our best efforts often can be seen to have produced mediocre results, frequently to our later embarrassment or regret.

Several elements enter into the effect of an act, each of which is difficult to assess during time of enactment. To begin with, legislation, like war, always begins in the minds of men—it does not just happen. The individual who conceives an act always has what is to him a fairly clear idea of its implications, although even his own view of these may well be limited or even mistaken due to his background, experience, and knowledge (or lack of same) of the subject under consideration.¹

Again, language is an imperfect vehicle of communication since words or phrases which a writer uses and which may seem perfectly clear to him often prove to be quite unclear to others. The different possible meanings of terms, particularly in their application to certain situations, are seemingly endless. This may be illustrated by reference to certain provisions of the Higher Education Act of 1965, the implications of which were apparently not foreseen during passage of the Act. For instance, Section IIA provides that in distributing of money to libraries for acquisition of library materials, emphasis shall be given to those libraries participating in cooperative programs. But what constitutes a cooperative program? Interlibrary loan arrange-

Edmon Low is Professor, Department of Library Science, University of Michigan, Ann Arbor.

ments, in which most college libraries already participate, are certainly examples of cooperative effort and, if this is accepted as a valid definition of a cooperative program, then practically all college libraries could qualify for consideration. Again, how much attention and effort constitute emphasis? These were questions which had to be answered in some way before allotments of money could be made. *How* they were answered determined finally the implication of the words for this particular time and situation. Obviously, these decisions, and the consequent implications, can be changed at any time by the administering agency unless further clarifying legislation is enacted.

It is primarily for the determination of implications of a bill as noted above that hearings are held. It is here that not only the fairness of the various provisions is considered in relation to individuals or activities affected, but also the implications contained that do not readily meet the eye or have not even been thought of by the sponsors up to this time are examined. Thus in the Postal Rate Bill considered in the fall of 1967,² there was a proposed revision for fourth class mail which changed the rate from 8 cents per pound to 16 cents for any package up to two pounds. This is obviously no increase if the package weighs just two pounds. But a producer of and dealer in records by mail of religious tracts and songs in Texas pointed out that practically all his mailings were of single records—each of which were less than one pound—and consequently the proposed figure represented a 100 percent rate increase for him; an increase neither anticipated nor intended by the framers of the legislation. Public hearings held regularly by all standing committees of both the House and Senate, by examining and permitting others interested to examine and point out implications in proposed legislation, are therefore some of the most important safeguards against imprudent legislation. The immense value of the hearings is often recognized only by those who work regularly with the Congress.

When a committee has held hearings and recommends passage of a bill to its house, it prepares a report to accompany the bill in which it sets forth the purpose (i.e., the implication) of the bill as the committee sees it. This, known as the legislative history of a bill, is often consulted later by the administering agency or by the courts to determine what the intent of Congress was in creating this legislation. Thus, in the report accompanying the Copyright Revision Bill (H.R. 2512) in 1967, the Committee on the Judiciary in connection with the troublesome problem of stating clearly in law for the first time the

Implications of Federal Programs

judicial concept of fair use says "Section 107, as revised by the Committee, is intended to restate the present judicial doctrine of fair use, not to change, narrow, or enlarge it in any way."³ They were thus trying to explain as clearly as they could the intended implications of these provisions.

Until recently, passage of legislation authorizing expenditures or grants of money for various items such as acquisition of library materials, scholarships, institutes, or research was followed rather immediately by appropriation of actual money by the Congress in the authorized amounts; and therefore, the implication of the act, so far as amount of money determined same, could be estimated immediately. This is no longer true; for instance, the above items in the Higher Education Act were funded, i.e., money appropriated, for only about 50 percent of the authorized amounts for the fiscal year 1968-1969. Authorization, however, does presumably indicate the *intent* of Congress to provide these amounts in future years *if* necessary money is available, and are helpful in deducing the long range implications of the Act.

Certain provisions of bills are often couched in general terms and further refinement and details left to the administering agency. These are then spelled out in regulations and guidelines which may of course be changed from time to time as the judgment of the agency and its advisory committees dictate. Thus, the Higher Education Act of 1965 provided a basic grant of up to \$5,000 to each library for acquisition of materials if certain minimal requirements were met, leaving the remainder to be distributed at the discretion of the Commissioner of Education. Therefore a significant part of the implication of this provision lies with the administering agency, and the implication changes as the regulations and guidelines are changed.

Finally, the implications of an act may not be fully realized until parts are interpreted by a court, perhaps many years after its passage. For instance, the Copyright Act of 1909 stated the rights of performance of a work in relation to copyright. In June 1968, the U.S. Supreme Court was asked to determine whether the picking up of broadcasts by antennae of CATV stations and distributing same by wire to individual homes constituted a "performance" under the 1909 Act as claimed by some broadcasting companies. Two lower courts had ruled it did, but the Supreme Court ruled it did not.⁴ The point here is that, almost sixty years after passage of the Act, courts were deciding on implications for certain situations which were almost certainly not

imagined by the framers of the Act, and thus the full implications of any Act may be years in being recognized.

The above discussion of the various elements which contribute to and finally determine the implications of legislation emphasizes the difficulty of assessment and the need of the crystal ball mentioned in the first paragraph. Since it seems desirable at times to do this, however imperfect this assessment may be, the following remarks are submitted.

The 90th Congress, Second Session in 1968 passed 389 public laws. Of these, perhaps forty, or around 10 percent, had some implications for libraries. These included action in such areas as copyright extension, foreign aid, vocational education, Arts and Humanities Foundation, Appalachian Regional Development, obscenity and censorship, and appropriations for library activities under various acts. As this is probably a typical year it is easy to see there are many existing laws with implications for libraries. In light of the space available in this article, only a few of these enacted in recent years which relate particularly to college libraries will be discussed but it is hoped even this brief treatment will be informative.

The Higher Education Facilities Act of 1963 was a significant milestone in college library history. Its significance was not only that it provided money on a matching basis for the construction of library buildings for the first time but probably more important, although the long range implications of this are not yet clear, it made grants available to both publicly and privately supported institutions of higher education. It thus successfully bridged, for the time being at least, the gap created by the church-state issue and paved the way for the passage in 1965 of the Higher Education Act and the Elementary and Secondary Education Act, both of which contained provisions for libraries in both types of schools. This is an area in which court challenges could come in the future which would determine more definitely the final implications of these Acts. This is a good example also of the fact that legislation may well have implications not only for areas for which it was written but also for other future, and past, legislation for related areas.

The possibilities of this Higher Education Facilities Act are great, and limited primarily by the amount of money authorized and appropriated for it. For 1968-69, Congress authorized \$1,456,000,000 but only appropriated \$475,000,000. Although this total includes funds for different kinds of college and university buildings, a goodly portion

Implications of Federal Programs

of such funds in the past have been devoted by the governing boards of higher educational institutions to libraries; the result being that in these four years of operation of the Act hundreds of library buildings have been or are being constructed throughout the country—a most convincing testimony to the belief of college and university administrations in the worth of libraries in comparison to other units in their institutions.

Another implication for the future of legislation such as this is its encouragement of increased local support through matching provisions. There seems to be no argument as effective with state legislatures for appropriations, with voters for bond issues, or with private donors as the prospect of receiving federal money to match that advanced by themselves. Thus this Act, and others which followed, have brought forth additional local support far beyond that which came from the federal government. During the first year of this Act, grants were limited to buildings for special purposes—libraries, natural sciences, mathematics, and foreign languages—which again emphasized the importance of libraries.

Shortly thereafter came the Higher Education Act of 1965 with great importance for college libraries, the total implications of which as yet are not completely clear. However, its provisions in Title II for aid in acquisition of materials, for fellowships and scholarships for the training of librarians, for library institutes, for research in the library field, and for the program of world wide acquisition and cataloging of books by the Library of Congress, plus some provision for acquisition of audio-visual materials in Title VI, probably will make it the most important of the legislation enacted to date for college libraries.

For the fiscal year 1968-69, \$42,800,000 was authorized and \$41,750,000 appropriated, with \$25,000,000 of this going for acquisition of books and materials for college and university libraries. Some 2,000 libraries participated in this program in the year 1967-68 which indicates its widespread impact. The implications of this program for the future may well be more important than its impact to date if the Viet Nam War should end and more money would become available for domestic programs. Hopefully, also, Title IIC which provides money for the national program for acquisition and cataloging of books by the Library of Congress, which has profound implications not only for research libraries but for smaller college libraries as well, will continue to be expanded each year to meet needs in this area.

The Library Services and Construction Act in 1966 included in Title

III the provision of funds for encouragement of inter-library cooperation, i.e., cooperation between all libraries in a state in the listing and sharing of resources, reference service, and general operating knowledge. Although little money has been made available for this as yet (for 1968-69, \$10,000,000 was authorized but only \$2,281,000 appropriated) it was the intent of Congress when passed, and apparently still is, to make this one of the very significant acts affecting libraries through strong financial support and through encouraging participation on the part of a wide spectrum of libraries of various types throughout the country.

The Depository Library Act of 1962 came into being a half dozen years ago, the first major revision of this legislation in forty years. It almost doubled the number of possible depositories, created regional depositories, and made provision for collection of documents printed outside the Government Printing Office by the Superintendent of Documents and distribution to depository libraries who requested the same. This non-GPO material, it may be noted, now numerically constitutes more than one-half of the total documents printed.

During the hearings on this, the value of the depository privilege was sharply attacked and some persons since have questioned the validity of this procedure and suggested other measures. Many librarians, however, including this writer, believe documents are a great treasure house of information and should be made freely available. This Act, if these assumptions are correct, has important implications for the future if satisfactory arrangements can be made for securing a larger percentage of this non-GPO material and distributing it in compliance with the law.

The Vocational Education Act passed five years ago and since amended several times, is particularly important to junior and community colleges which have a vocational education program, as most of them do. Under this Act funds are available for purchase and maintenance of library materials used in instruction in this field. The implications here are particularly important because there is much interest in the Congress and in state legislatures in vocational education and an even larger amount of money can be expected to flow into this area whenever primary attention can again be given to domestic programs.

The Networks for Knowledge represents a grand concept of a national linkage of resources throughout the country into which most sizable libraries would be integrated. Only a small appropriation was

Implications of Federal Programs

provided as planning money at this time and its implication would appear to be chiefly that of indicating the interest of Congress and its willingness to at least consider this very fundamental problem of documentation control.

The Acts cited above are probably those with the most significant implications for college libraries; however, others such as the National Foundation on the Arts and the Humanities Act, the Allied Health Professions Personnel Training Act of 1966, and the Intergovernmental Cooperation Act of 1968 are examples of the broad range of legislation of interest today to libraries in institutions of higher education.

A fact often overlooked by those not familiar with the legislative scene is the implications of legislation proposed but not yet passed, or of that only in the "talking" stage which has for the most part not jelled as yet into proposed bills. This proposed legislation not only has influence on acts already on the books—for example, on appropriations being made for them, on their administration, and on possible amendments to them—but particularly justifies attention because it is in this "talking" stage where recognition of implications can result in immediate changes if needed; a task much more difficult once it becomes enacted into law.

As this is being written, the first session of the 91st Congress is convening. As all pending legislation dies at the end of the second session of a Congress, legislation proposed in the last session must be reintroduced as new bills in this session. Among those to be reintroduced will likely be the Copyright Revision Bill which has particular implications for college and university libraries in reference to provisions for photocopying, display and transmission of materials. This is very important to those with interlibrary loan operations (almost all) and to various cooperative efforts among libraries. Because of the rapid advance of the so-called "newer technology," including the computer, it is probable that there will be frequent revisions of this law in the future, all of which will have implications for libraries.

In the "talking" stage and quite likely to come in the reasonably near future is a proposal for "block grants" of money to institutions of higher education; in fact, some bills were introduced in the past Congress for this purpose.⁵ The idea here is to grant a block of money to an institution for operating expenses with no strings attached, as opposed to "categorical" grants for such things as libraries, fellowships, buildings, or graduate education.

Many college presidents have felt, possibly with some justification,

that categorical grants unduly limited the power a president should have in determining what parts of his institution needed particular emphasis, and that he should have a "block" of money to distribute as he sees fit. The National Association of Land Grant Colleges and State Universities and the American Council on Education, both organizations of institutions represented by their presidents in meetings, as well as several other higher education organizations have gone on record in favor of this approach.⁶ The implications of such legislation for libraries, when and if introduced, if designed to take the place of categorical grants as now seems intended, are obvious. In fact, it was lack of attention to and consideration of libraries by college presidents which led to categorical legislation in the first place. Although it must in fairness be said that consideration for libraries has noticeably increased during the past decade, it is still difficult for many administrations under the strong pressure for salary increases, and for other desirable items, to devote sufficient support to libraries without the incentive of categorical aid.

It should be said that implications of federal programs for college libraries to date indicate some hazards as well as some obvious benefits. Granting of money always involves some controls—otherwise it would be irresponsible use of public funds. Indeed, the *selection* of the area, such as libraries, limits the spending to that function, and is a form of control in itself. Of course, an institution or library does not have to take the money but, practically, if money is available an effort is usually made if possible to adjust programs to take advantage of it, whether or not the adjustment is really wise. Thus, when in Title IIA of the Higher Education Act the Congress directed the Commissioner of Education to give first consideration in the category of special grants to applications from libraries showing evidence of cooperative effort, hundreds of libraries hastily began forming consortiums or arranging some semblance of cooperation, whether a desirable arrangement or not, in order to qualify for funds.

Also, where grants are made on the basis of judgment by the administering agency, with or without the aid of consultants, as contrasted to ones derived by a mathematical formula, there is always the probability that some libraries received grants while, if the truth could be known, other more deserving libraries were passed over. Whether or not this is the case, a library not receiving a grant, or as large a grant as another comparable one, or a library school not receiving as many scholarships and fellowships as another, may raise doubts, which

Implications of Federal Programs

are completely unjustified, about the competency of its staff in the minds of the administration and real injury may result.

These results are not the fault of any one—certainly the administrative agencies make every effort to be as fair as possible—but there are disadvantages built into many federal grant programs. The advantages, however, of many added modern buildings, of increased local support, of national as well as local acquisition of materials, of training of librarians, of provision for research, and of centering attention of many on the potential future of libraries and their services—all during a few short years—must greatly outweigh any disadvantages experienced during this period.

The implication of federal programs then is bound up in the above—the demonstrated effectiveness of the continuation of federal and local support, the fact that some experimentation in the broader reaches of bibliographical control can best be done on a national basis and, above all, that librarians can dream and plan and, if their dreams are good and their plans sound, can have faith that a helpful Congress which has time and again shown its belief in libraries will not fail them in time of need. That, above all, is the implication of federal programs for libraries.

References

1. For a full discussion of the inception and history of a bill see: Low, Edmon. "The Impact of Federal Legislation on Academic Libraries." In Winifred Ladley, ed., *Federal Legislation for Libraries* (Allerton Park Institute No. 13). Urbana, University of Illinois Graduate School of Library Science, 1967, pp. 33-40.
2. U.S. Congress. Senate. Committee on Post Office and Civil Service. *Hearings on H.R. 7977, October 16-30, 1967*, pp. 418-431.
3. U.S. Congress. House of Representatives. Committee on the Judiciary. *Report No. 38, 90th Congress, 1st Session, Copyright Law Revision. Report to Accompany H.R. 2512, March 8, 1967*, p. 32.
4. U.S. Supreme Court. *Fortnightly Corporation vs. United Artists Television*. Opinion no. 618, June 17, 1968.
5. For a good discussion of these see: American Council on Education Commission of Federal Relations. *General Federal Support for Higher Education: An Analysis of Five Formulas*. August 1968.
6. "AAHE and 6 Other Organizations Endorse General Aid to Colleges." *College and University Bulletin*, 21:1, Dec. 1, 1968.