4-9-2010

Panel Report: Legal Manuscript Studies in the Digital Age

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Abstract

Following the model established by the previous year's Symposium, the 2nd Annual Lawrence J. Schoenberg Symposium on Manuscript Studies in the Digital Age concluded with a panel discussion. The overarching topic of the panel was open access and the digitization of medieval legal documents. The panel comprised a group of scholars with diverse specializations, including medieval legal history, medieval charters, information science, papyrology, and epigraphy.

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Participants:

Hugh Cayless, New York University & Advanced Papyrological Information System
Simon Corcoran, University College London & Projet Volterra
Kenneth Pennington, Catholic University of America
Georg Vogeler, Ludwig-Maximiliams-Universität, Munich & Charters Encoding
      Initiative
Timothy Stinson (moderator), North Carolina State University

Topics and Format of Discussion:

The following list of questions was used to guide discussion between the panelists and the audience. After brief introductions by each panelist describing their projects, the moderator posed questions in turn to each panelist. The panelist's response was followed by discussion from the audience and the other members of the panel. Each topic was considered in light of issues of open access.

Digital Conversion
Many of the benefits of digitizing primary materials – including an increased number of individuals with access, the ability to access materials from geographically remote locations, and the potential of digitization to contribute to the preservation of our cultural heritage – are widely known and discussed. Beyond these basic benefits made available when we digitize most any cultural items, what do we gain when we digitize legal

manuscripts? Are there any benefits associated particularly with these books? What, if anything, is peculiar to their digitization?

An overarching topic of our panel discussion is open access and the digitization of medieval manuscripts. Could you first offer a brief overview of what open access means to you – what it is and who the players and sides in the issue are – in order to provide a framework for our discussion today? Then we can follow this with a discussion of how open access relates to the theme of this year's Schoenberg Symposium. Is there a reason that medieval legal documents in particular should be provided under an open access model, or are the arguments for or against such access the same as for access to other digitized manuscript materials?

Copyright & Permissions
It goes without saying that medieval manuscripts and their texts are – or some would say should be – centuries beyond the reach of copyright law; indeed, the very idea of copyright developed hundreds of years after these books were created. Yet in digitizing works of law from the medieval era, we often encounter the laws of today in the form of copyright restrictions on the images of these books and contracts that define permissions and conditions of use and access. How do today's laws shape the study of medieval law? What are the reasons for copyright protection on images of medieval books, and is such protection warranted?

Dissemination
The web has emerged as our primary means for disseminating digitized manuscripts and encoded versions of the texts that they contain, in many cases replacing earlier means of disseminating these texts, including printed codices and CDs/DVDs. What is the future of the codex in the study of medieval legal documents? What, if anything, do we lose in a move to the web as our primary means of disseminating scholarship, primary texts, and facsimiles of manuscripts?

Curation
In many cases, the digital surrogates of medieval manuscripts with which we work are more fragile than the physical artifacts that they represent. We all know that parchment can be in very sound condition after 500 years, but the future and longevity of digital media are not yet so certain. Many interconnected decisions have important implications for curation, including software, markup language, physical storage media (e.g., hard drives or data tapes), the structure and organization of institutional repositories, and the policies and personnel of the institutions that host such repositories. What are the chief challenges and opportunities that we face at the moment, and how promising (or bleak) is the outlook? What implications does open access have for curation and dissemination of data?

Pedagogy & Research
How are digital surrogates of medieval legal documents changing how you teach and research? Also, how does open access relate to your teaching and research agenda?

<u>Markup</u>
What special issues, if any, exist with marking up medieval legal texts? What implications does markup have for curation and dissemination of these texts? In what ways do our decisions regarding how – and how extensively – to mark up texts relate to our pedagogical and research goals?

Discussion
Each topic generated numerous engaged responses from both the panelists and audience members. As a result, there was insufficient time to cover some of the above topics in depth, but there was considerable discussion of others. A summary of the highlights follows:

<u>Digital Conversion</u>
We began with a definition of open access for audience members unfamiliar with the concept. All of the panelists and most, if not all, of the audience members who responded to this topic expressed a strong opinion that creating an archive of digitized medieval legal documents that is not open access greatly limits the utility of the project. Although valid reasons for charging for access emerged, including the sustainability of libraries and the digital projects themselves, almost everyone present seemed to view maintaining open access a priority as we work to find solutions to these problems.

<u>Copyright & Permissions</u>
Although medieval documents are of course not themselves subject to copyright law, images of them are, and scholars and publishers typically must pay lending institutions for the right to reproduce them. Following the discussion of open access, participants continued to stress the need to limit such copyright restrictions. The problem is that maintaining collections of either physical or digital materials is not free, nor is the work that it takes to create an archive, and such fees have traditionally been a source of revenue for cash-strapped libraries and projects. Some suggested that perhaps funding agencies, including government agencies, should increase their commitment to making these institutions and projects sustainable, thereby limiting the need for copyright restrictions, i.e., that maintenance should be a valid reason to apply for funding along with innovation and initiating new projects.

Copyright of scholarly publications was also discussed, and some participants argued that scholars should not restrict their own work via copyright law; some favored using Creative Commons agreements, while others favored entirely unrestricted publication (see the related report on this topic prepared by Hugh Cayless for the Symposium's digital proceedings).

<u>Dissemination</u>
In keeping with the larger theme of the Symposium, the focus of discussions was on the use of electronic media, and particularly the web, to disseminate facsimiles of medieval legal manuscripts as well as scholarship associated with it. No one identified advantages of the codex over electronic media for the dissemination of either such facsimiles or associated scholarship, and it was pointed out that some forms of medieval documents –

e.g., charters and documents that often occur as single leaves – have historically been underrepresented in print scholarship, but can be better accounted for and represented using the web.

Curation

Although there were few proponents of print in terms of its utility for the dissemination of scholarship, it remains true that it is a relatively stable medium in terms of curation. The panelists agree that long-term strategies for digital media are not yet in place in most institutions – and indeed that we do not know the life spans of some physical media used to store data.

Pedagogy & Research

We saw several examples of web-based teaching. Digital facsimiles offer obvious advantages when teaching students about texts that occur on rare, expensive, and sometimes fragile materials (e.g. papyrus, fragile paper or parchment manuscripts). Open access was once again stressed in this context, as without it we risk access to these materials becoming (or remaining) something available only to students at well-funded schools. There was also discussion of problems faced by independent scholars who sometimes are unable to buy access to digitized materials that are priced only for purchase by institutions.

Summary

The potential for digital media to vitalize and even revolutionize the study of medieval legal documents was widely agreed upon, and indeed the projects in which our panelists are involved demonstrate that such progress is already well underway. Although some challenges that threaten the extent to which such potential can be realized more fully are technological in nature – e.g. the development of storage media that have the sort of permanence of ink on parchment – most of those that emerged as especially pressing are not technological. Copyright restrictions and insufficient funding (which are of course interrelated) emerged as the biggest impediments to progress, and scholars need to work together with lending institutions, funding agencies, and institutions of higher education to develop solutions that are mutually beneficial for all involved.