

# The LLMC-Digital Newsletter

## 35th Anniversary Issue

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### Thirty-Five Years and Counting

LLMC was formally incorporated as a non-profit corporation in the State of Hawaii on Oct. 15, 1976. So, although we have been celebrating all year long, this is the actual month of our 35<sup>th</sup> birthday! The formal incorporation papers filed 35 years ago joined together the law libraries of Wayne State University and the University of Hawaii in a rather audacious venture. The two law libraries had taken on the challenge of raising \$120K in start-up loans to get this project going.<sup>1</sup> Their hope was that they could eventually attract enough libraries into a consortium to make the project viable. There were times when the founders had to wonder what they had got themselves into. But eventually their colleagues came

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<sup>1</sup> Asking for \$120K in 1976 was the equivalent of asking for ca. \$468K today – a serious hunk of change. And recruiting partners to start up a weird scheme involving microfiching law books, with the untested business plan of supporting the enterprise going forward by selling copies to sister libraries, was a bit of a stretch. So we needed a gimmick to get the attention of potential donors. What worked was to offer a two-bites-on-the-apple charitable giving “opportunity.” We promised to repay the startup money as our revenues permitted by giving it to any second charity of the donors’ choice. A bit hokey, but it worked. Half of the money was raised by Wayne State from donors in Detroit, law firms and auto companies. The rest came from charitable sources in Hawaii, principally the Chin Ho Foundation. Wonder of wonders, within eight years the money actually was paid back, to the benefit of other charities. For example, all of the repaid Ho Foundation money went to help restart Chinese law school libraries after the Cultural Revolution by stocking them with basic law titles on microfiche. It doesn’t sound very hi-tech today, but at the time the project was billed as “bringing them into the 20<sup>th</sup> century.”

through, and today the Consortium, having now gone digital, is supported by over 600 libraries, and has over 35-million pages in over 80K volumes online. Our main impulse on this happy occasion is to thank everybody, many still with us but some “in the cloud,” who have helped to make this project such an excellent adventure.

### Records and Briefs, LLMC & Google

Those readers who have followed us over the last few years know that we have been engaged in a large digitization partnership with Google. This work has focused on scanning and bringing online some of the huge backfile of federal and state courts records and briefs (R&B) held by member libraries.<sup>2</sup>

Our partnership with Google started on a trial basis in 2009 with a focus on the R&B for New York. In total the NY R&B, for both the NY Court of Appeals, and also for the four Appellate Divisions, number approximately 90K volumes; with about half, the early years, in hard copy and the remainder on microfilm and then microfiche. Our initial focus was on the paper records, but about a year into the trial Google also agreed to test the feasibility of capturing that quarter or so of the corpus that was held on microfilm. We’re now at the end of the trial phase, and can report both good news and bad news.

The good news is that about 25% of the paper for NY, over 12,800 vols., has now been scanned and is starting to appear on *LLMC-Digital* in serious quantity. About 12,500 case records for the Court of Appeals are now available for inspection. A big reason why the

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<sup>2</sup> The actual quantity of these R&B materials is still subject to estimate. LLMC has been canvassing the holdings of individual libraries for years, going well back into the film era, as various projects have been proposed and then reluctantly abandoned. Our best guess is that the volume count for this class of material countrywide, excluding duplicates, falls somewhere between 600-700K volumes. Therefore, in addition to the obvious benefits of having the material universally available and searchable, there is a heavy space-recovery factor involved in the reformatting equation.

scanning project took so long to start showing significant product is that Google had great difficulty incorporating this type of document into its existing scanning operations. These had been designed principally for handling single-volume treatises. A lot of wheels had to be reinvented, and some processes, such as marrying the metadata to the images during production couldn't be repurposed as well as hoped. The most significant metadata for this class of material, of course, are the case citations. As procedures were finally worked out, the citations are now being added to the Google images by LLMC personnel in Hawaii. Therefore, the speed with which this last process can be accomplished will be the governor determining how fast additional materials will actually appear online. Nevertheless, we anticipate that all of the over 12,800 volumes already scanned will go up over the next ten months. Meanwhile, Google is committed to finish the scanning of the rest of the paper as quickly as it can. So we can take real comfort in the fact that the paper-focused portion of the NY R&B project will be completed.<sup>3</sup>

The bad news, however, is that Google has recently undertaken a major reevaluation of its

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<sup>3</sup> We've been told that Google found our R&B to be the most difficult material they ever took on. On a very basic level, apart from the normal aging problems associated with acidic, pulp-based paper, the early NY material was stored in some pretty substandard conditions over the years. It sounds like a movie, but most of them were actually stored for years in a former horse & carriage garage. This made for a dust and grit problem that gummed up the rollers on Google's high-speed scanners at an alarmingly frequent rate. The biggest problem, however, was the high proportion of foldouts and other exhibits contained in the R&B. Somewhat surprisingly, until they met us, Google had blithely skipped over any volumes in a scanning project that happened to have foldouts. Needless to say, as your representative, we could hardly agree to that. After all, the exhibits in a set of R&B, say in a zoning dispute, are there for a serious purpose. They are often the intellectual heart of the case. So we hung tough and, although it took almost a year, Google was able to reengineer their processes so that they now handle foldouts routinely. In the wider scheme of things, that accomplishment alone may well rank as the most significant output from our joint project.

priorities and has decided that doing additional legal R&B is not among them. So the LLMC/Google R&B partnership will wind up after the scanning of the NY paper stock has been completed. This means that the online version of our NY Court of Appeals run will stop, at least for now, at ca. 1959, while those for the four Appellate Divisions will do so at ca. 1940. LLMC is now exploring other alternatives and seeking other partners for the digitization of the roughly half of the NY R&B corpus that is held in microfilm and microfiche. It also means that the digitization of the R&B for other states, once a happy prospect, will now be put on hold until LLMC and others can find alternative schemes and funding. Meanwhile, LLMC will be devoting its current efforts in the R&B area to the goal of winding up the NY-focused partnership with Google as cleanly as possible.<sup>4</sup>

#### **Inner Temple Library Manuscripts**

The manuscripts in the Inner Temple Library comprise the largest collection in any of the Inns of Court libraries, and one of the richest collections of English manuscripts outside of the British National Archives. They range from the early twelfth to the early twentieth century and are rich in material of legal, historical and literary interest. Numbering over 9,000 separate items, the collection is a legal historian's nirvana. Making it accessible to the wider world would be an enormous service to scholarship. However, doing the scanning from the original manuscripts would be a project of huge scale, perhaps impossible expense, and, due to the fragility of most of the documents, probably not permissible.

Fortunately, the entire collection was filmed by a commercial firm in 1976. Their exclusive license having expired in the last decade, and the Inner Temple Library having a clean, good condition copy of the 256 reels of film, the Inner Temple Library Committee recently

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<sup>4</sup> For the record, the winding up of the NY-focused LLMC/Google partnership will have no effect on the totally separate California R&B project, which is based on a partnership between LLMC and the LA Law Library. That project is doing very well indeed, having just passed the benchmark of 2-million online pages in 26,847 volumes.

approved in principle LLMC's using this film for a major digitization project. On the technical side, the quality of the filmed images is, as these things go, "quite good." So costs would fall within normal ranges for a microfilm digitization project. As fortunately, the material is excellently indexed. The images have been arranged on the microfilm reels in concordance with an exceedingly thorough and scholarly, 3-vol. printed catalog authored by J. Conway Davies, and printed for the Inn by Oxford University Press in 1972.

LLMC has now made a commitment to undertake this groundbreaking project in earnest, and we will do our best to raise the funds necessary to bring it to completion. In the meantime, with the approbation of the Inner Temple Library, we are taking some of the preliminary steps needed to set the project in motion. While we hope to raise the bulk of the funds necessary for completion from outside sources, we have invested some of our own money to do test digitization of some 25 of the total 256 reels. That sampling work, which will help us to firm up projected project costs, is underway at NBS.<sup>5</sup> We expect to have all of the sample digitization for the Inner Temple project done within the next month or so. Assuming acceptable quality, that collection of sample images will be displayed on *LLMC-Digital* in a month or two, both to give scholars a taste of what they can expect when the entire collection materializes, and also as a visual aid for the project's fundraising.<sup>6</sup>

The entire Inner Temple Manuscript project is quite massive and may well take several years

<sup>5</sup> We waxed enthusiastic over their quality digitization work in our last newsletter's description of the film digitization done for our Haiti Collection. See Issue 48, pp. 3-4.

<sup>6</sup> Attached at the end of this newsletter is an exhibit with short descriptions of the content that will be found on the 25 sample reels, the contents of which will be mounted on LLMC-Digital near the turn of the year. In addition, we are happy to announce that the trustees of the J. C. Davies Will Trust have graciously allowed us to mount online Dr. Davies' 3-volume (ca. 1,600p) printed guide to the entire collection. That should be available for viewing in late November or early December.

to bring to fruition. But it will be a total joy to see it unfolding. Meanwhile, we hope that all of our readers will go out of their way to bring its existence to the notice of potentially interested scholars, both in their own institutions and elsewhere.

#### LLMC's Native American Collection

One of our ongoing projects that has been showing substantial progress lately is the digitization of the titles included in LLMC's microfiche *Native American Collection*. Colleagues who have been with LLMC for many years will remember that the microfiche *Native American Collection* was one of our most popular items. Many of our member libraries already own that massive set of over 1,600 titles, contained on 6,669 fiche.<sup>7</sup> Some scholars have been prodding us regularly to finish making this enormous collection available in searchable form. In response we've been chipping away at making that happen.

To date we have scanned all of the more obvious Department of the Interior sourced or sponsored titles: *Interior Bd. of Indian Appeals*, 1970-2011; *Indian Claims Commission Dec.*, 1948-78; *Alaska Native Claims Appeals Bd. Dec.*, 1975-82; *Solicitor's Indian Dec.*, 1917-74; *Index to Indian Dec.*, 1972-; *Indian Land Cessions*, by Royce, 1v, 1899; *Indian Affairs, Law & Treaties*, by Kappler, 7v, 1904; and, of course, *Dec. of the Dept. of Interior*, 1883-1995. All of these titles, ca. 550,000 pp., can be found on *LLMC-Digital* by using the title-search function for titles starting with the leader <US - Exec., Int.D., >.

After we got past the obvious, and generally large Dept. Interior titles, we noticed that the great bulk of the remaining ca. 1,550 titles were individually small, and would be much more discoverable online if they could be digitized and mounted as blocks in something like the same generic groupings in which they were offered in the fiche version; e.g., "Basic Legal Documents," "Treaties with Federal and State Governments," etc. So that became our new prioritization guideline.

<sup>7</sup> The microfiche collection was described in great detail in a printed catalog, which is now archived on LLMC-Central at the following URL: <[http://www.llmc.com/Historical\\_NatAmer.asp](http://www.llmc.com/Historical_NatAmer.asp)>

The first large generic collection listed in the print fiche catalog, "Basic Legal Documents" (pp.1-13), contains 399 separate constitutions and charters for Native American tribes and communities. To move this large block of material online, we partnered with the Library of Congress, which scanned some 385 of these titles held in their collections. That material has now all been cataloged and mounted on *LLMC-Digital*, where all of these closely related titles are grouped alphabetically under the generic leader <NatAm - >. We are now in the process of locating and digitizing the 14 titles needed to complete this comprehensive collection of seminal documents.

The next two major categories of titles from the *Native American Collection* targeted for mass digitization are the unique "Treaties with Federal and State Governments" section (print cat. pp. 125-19, 122 titles) and the "General Treatises" section (pp. 51-58, 172 titles). We expect that both of these two blocks of titles will have made it onto *LLMC-Digital* sometime in 2012. At that point we will have migrated more than 700 titles, or over 40% of the 1,659 titles in the fiche collection, onto our digital site. Going forward, we would welcome suggestions from those of our members with special interest in this subject area as to which remaining classes of material from the fiche catalog they would like us to target next for digitization and migration.

#### **Early Court Records of South Carolina**

It's perhaps a bit ironic that in the same newsletter issue in which we announce the abeyance of the LLMC/Google records and briefs project, we are announcing the launch of yet another project relating to court briefs and records. But this new project is a different sort of animal; much less organized than traditional records and briefs series, although at least as historically valuable.

In the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, the federal and state courts had not yet adopted the now-familiar practice of methodical distribution of the records and briefs for cases heard in their jurisdictions. The few collections of such materials that did exist were the product of enterprise and solicitude by individual lawyers and law firms. The principal purpose of these collectors was, of course,

self-serving. They hoped to be able to mine the collections for exemplary (read plagiarizing) use in future litigation. Whatever the motive, from a legal scholars vantage, the unplanned consequence was that, by means of these small private collections, an invaluable insight into the workings and evolution of the law, and of the wider society generally, during those formative years of the post-Civil-War era, was created and preserved. This is just one example of how the basic sinews of real history survive.

In the nature of things, many of these private collections perished. No one knows how much was lost to fire and flood, or just plain stupid carelessness. On a more cheerful note, some of the collections were bequeathed, or otherwise worked their way via intriguing paths, into the archives of willing law libraries. One of the best such collections in the United States is maintained in the rare book room of the Coleman Karesh Law Library of the Univ. of So. Carolina. Their collection holds a wealth of early court trial records and legal briefs from the post-Civil-War-era, 1858-1916, comprising the equivalent of about 300 standard 650-page law volumes.

We are delighted to announce that our colleagues in South Carolina have now offered to share this treasure trove of legal history with the rest of the profession via *LLMC-Digital*. The project will be launched in November when the first batch of materials will be FedEx-ed from Columbia, SC, to Kaneohe, HI, where the step-and-repeat scanning will take place. Due to the fragile nature of the materials, scanning will proceed slowly, but we fully expect to have all of the South Carolina early court records and briefs online sometime in 2012-13. Meanwhile, a detailed table of contents for all of the materials has been prepared by the staff of the Law Library. That TOC will be annotated to the scanning and posted online as a citation-based guide to the digital collection.

On behalf of all of LLMC-Digital's member libraries we would like to extend our thanks to Duncan Alford and the other staff of the Coleman Karesh Law Library for their collegial effort in making this trove of historic documents accessible to the rest of us.

**Law Reviews, Storing Our Future.**

As we navigate further into the uncharted waters of the digital era, we discover repeatedly that received wisdom dies regularly. Who would have thought that law school libraries would blithely dump their law-related U.S. GovDocs collections in deference to digital? But that phenomenon is now well along. Another class of materials now in the discard lane is law reviews. This class of literature might have a decent claim, at least in law school libraries, to the *de facto* rank of "primary material." Think of it - if the law school libraries don't see any need to preserve the law reviews, who will? Nevertheless, it is quite clear that law review collections in print, all across North America, are disappearing. Just about everybody, including Harvard, is tossing their paper. Why not? After all, if LLMC is committed to offering all of the non-copyright imprints on *LLMC-Digital*, and *Hein-on-Line* is offering just about everything post-1923, why save the print?

We at LLMC believe that there are at least two answers to that question. The first, most basic, answer is that "going digital" does not yet equal preservation. Neither *LLMC-Digital* nor *Hein-On-Line*, nor any other online service, can guarantee that the digital formats that we now deploy have preservation value. After all, LLMC is only 35 years old, and it has reformatted the bulk of its offerings TWICE within that short lifetime. Nobody can guarantee that we won't at some point need the paper versions of our literature to make yet another technical migration. For that reason LLMC is committed to archiving a paper copy of all of its scanned titles in its dark archive in salt mines in Kansas. We don't predict that the need will definitely arise. But we have found an inexpensive insurance policy against that possibility, and we are prudently using it.

Now to law reviews. It is common knowledge that a majority of law schools libraries are weeding to *Hein-on-Line* with this class of material. What is now happening is that most of them are just dumperstoring their hardcopy in the hope that someone else will take care of the preservation function. This appears to be a situation made-to-order for LLMC as the common agent of its members. We know how

to store paper dirt cheap, and it's obviously going to be our job to store a paper copy of all law reviews as insurance that they will be available if and when they are needed.

Of course, some of the volumes will be needed relatively soon when, unless Congress screws up once again, the copyright expiration period begins to expire methodically year by year. Once that process resumes, LLMC is committed to restarting its practice of offering each year as it falls out of copyright. We will need a reliable supply of hardcopy to fulfill that pledge to our members.

Given all of the above, we have decided to be preemptive, taking steps to ensure that a future paper stock of now-in-copyright law reviews will be available when lapsing copyright permits scanning. To that end we have accepted the entire in-copyright "law review" collection of the University of Hawaii Law School Library. These books will be stored in our salt-mine dark archives as fodder for the days when we will need them to update year-by-year our present offerings.

While the UH Law Library collection is quite complete for the years 1923 forward, we know that it has some gaps. We are working with the Center for Research Libraries on a North American preservation-copy registration system that, among other things, will identify and advertise those gaps. Member libraries should be aware that in a year or so we will be soliciting hardcopy gaps fill-ins to ensure that we have assembled a complete backup "law review" collection. The basic message is that LLMC is committed to ensuring that we can provide digital copies of all law reviews through the end of the print era as those items become copyright free.

As for law review issues now being released only in digital format, for now they are the assigned responsibility of the Legal Information Preservation Alliance (LIPA), to which many of our members pay dues. We urge those dual members to manage LIPA's affairs to ensure that law reviews published in digital format will be maintained to a standard of preservation security at least equal to that LLMC is providing for the print.