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## Proposal for a National Digital Library

The big buzz in library circles this past month was the conference convened at Harvard on Oct. 1 to discuss the possibility of creating a National Digital Library (NDL). The purpose of the conference was concisely enunciated by its convener, Robert Darnton, Director of the Harvard University Library, in an opening address that drew attention even in the wider community.<sup>1</sup>

Darnton has already established himself as a major dissenter from the dominant response of the academic community relative to the digitization of our national print heritage: “Leave it to Google!”<sup>2</sup> He has also been a principal critic of the trend developing over

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<sup>1</sup> “Can We Create a National Digital Library?” NYRB, 28 Oct. 2010; <<http://www.nybooks.com/articles/archives/2010/oct/28/can-we-create-national-digital-library/>>

<sup>2</sup> “Who Will Digitize the World’s Books?” NYRB, 14 Aug. 2008; <<http://www.nybooks.com/articles/archives/2008/aug/14/who-will-digitize-the-worlds-books/>> In this article Darnton argues that the agreements that Google has struck with eighteen or so large research libraries are flawed at their core because Google has structured the relationships so that: *Only Google can aggregate collections of different libraries in order to create the larger digital database that is the most valuable part of the consortium project.... Google has strictly limited the “computational potential” of digitized books, that is, the possibility of their being used for various kinds of digital analysis. It appears that Google is striving to become the main dispenser of algorithmic power over digital books..... By monopolizing much of the computational potential of such books, Google is positioning it-self as the operating system of the digital document world... In short, mass digitization projects should be designed in ways that are not dependent on market-based corporations or on government subsidies, but can nevertheless profit from forms of support from either kind of institution.*

the past decades toward the privatization of the public domain.<sup>3</sup>

In his conference opener Darnton sought to put the quest for an NDL in the context of over two hundred years of American history:

*The ambition behind this project goes back to the founding of this country. Thomas Jefferson formulated it succinctly: ‘Knowledge is the common property of mankind.’ He was right — in principle. But in practice, most of humanity has been cut off from the accumulated wisdom of the ages. In Jefferson’s day, only a tiny elite had access to the world of learning. Today, thanks to the Internet, we can open up that world to all of our fellow citizens. We have the technical means to make Jefferson’s dream come true... The NDL would make the cultural patrimony of this country freely available to all of its citizens. It would be the digital equivalent of the Library of Congress, but instead of being confined to Capitol Hill, it would exist everywhere, bringing millions of books and other digitized material within clicking distance of public libraries, high schools, junior colleges, universities, retirement communities, and any person with access to the Internet.*

Darnton goes on to argue that, not only is an NDL desirable, it is absolutely essential to

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<sup>3</sup> “Google and the Future of Books,” NYRB, <<http://www.nybooks.com/articles/archives/2009/feb/12/google-the-future-of-books>> Darnton describes how the commercialization of scholarly journals presages what is likely to happen in the wider literature. *If we permit the commercialization of the content of our libraries, there is no getting around a fundamental contradiction. To digitize collections and sell the product in ways that fail to guarantee wide access would be to repeat the mistake that was made when publishers exploited the market for scholarly journals, but on a much greater scale, for it would turn the Internet into an instrument for privatizing knowledge that belongs in the public sphere.*

counter the strong trends operating to privatize and commercialize the public domain:

*"...the danger of restricting access to knowledge is as great today as it was two hundred years ago... As Lewis Hyde put it in his recent book, Common as Air, an enclosure movement is threatening to destroy our cultural commons, the world of knowledge that belongs to us all."*

In Darnton's view, the desirability of, and necessity for, an NDL are indisputable. The only open question in his mind is its feasibility. As to that question, he is a total optimist:

*Is the idea of such a library utopian in a negative sense—that is, unrealistic, quixotic? I would answer No, for the following reasons:*

- *Google, in digitizing large numbers of books and making many of them available online, has demonstrated its feasibility. True, Google is a commercial operation, which puts corporate profit ahead of the public good, but it is also a success story with a lesson to be learned: we can mobilize the technology and master the logistics that are necessary to digitize the holdings of our research libraries on an enormous scale.*
- *A coalition of libraries could be created to provide most of the books readers would want.*
- *A coalition of foundations, universities, and other nonprofit organizations could be formed to cover the costs.*
- *A central organization could be designed to handle the problems of coordination, processing, and preservation.*

*I don't want to minimize those problems, but I think we should approach them with a can-do spirit. After all, we have acquired a great deal of experience with digitization. Every research library has developed digital projects, some of them on a very large scale. And libraries have cooperated with one another and with outside agencies in all sorts of initiatives that could be useful and instructive in the creation of a National Digital Library.*

*Think of HathiTrust, the Internet Archive, the Knowledge Commons Initiative, the California Digital Library, the Digital Library Federation, the National Digital Information Infrastructure and Preservation Program, and other nonprofit enterprises. They have opened many routes toward what could be a common goal. I hope that we can arrive at a consensus about the general nature of that goal; and whatever our differences, I don't think we should be deterred by misplaced worries about feasibility. We have enough expertise and experience to get the job done.*

Darnton concludes by noting that virtually all other developed countries are creating national digital libraries:

*The Dutch are now digitizing every Dutch book, pamphlet, and newspaper produced from 1470 to the present. President Sarkozy of France announced last November that he would make \$750 million available to digitize the nation's cultural "patrimony." And the Japanese Diet voted 12.6 billion yen for a two-year crash program to digitize their entire national library. If the Netherlands, France, and Japan can do it, why can't the United States?*

*I propose that we dismiss the notion that a National Digital Library of America is far-fetched, and that we concentrate instead on what we can learn from others... (with) the general goal of providing the American people with the kind of library they deserve, the kind that meets the needs of the twenty-first century. We can equip the smallest junior college in Alabama and the remotest high school in North Dakota with the greatest library the world has ever known. We can open that library to the rest of the world, exercising a kind of "soft power" that will increase respect for the United States worldwide. By creating a National Digital Library, we can make our fellow citizens active members of an international Republic of Letters, and we can strengthen the bonds of citizenship at home. We can find the money and the skill, but can we find the will?*

### A Possible Role for LLMC-Digital?

Inspirational stuff that speech from Darnton. It sure makes one want to join the team. And perhaps, to use Darnton's term, for *LLMC-Digital* to do so wouldn't be so "far-fetched." After all, if you go through the four criteria he outlines above, *LLMC-Digital* seems to meet all of them in some serious degree:

- How about Darnton's call to learn from Google in digitizing large numbers of books and making them available online? We've been doing that in respectable quantities for years.<sup>4</sup>
- He suggests creating a coalition of libraries that could provide most of the books readers would want? That's our MO! We function only because our member libraries make their collections available for scanning by gift or loan. Furthermore, our just initiated coalition with the Center for Research Libraries has enlisted a large number of new allies into the effort, and brought us access to new lodes of rich materials for digitization.<sup>5</sup>
- Darnton suggests forming a coalition of foundations, universities, and other non-profit organizations to cover the costs. Once again, that's us; although to be fair only our immediate members have been covering costs so far. While LLMC has not received funding from foundations and other non-profit organizations, nobody doubts that, should they be willing, they would be welcomed.

<sup>4</sup> As for learning from Google, we've been paying plenty of attention. We've even entered into partnership with Google on a joint NY Records and Briefs project under terms with which even Dr. Darnton would probably agree. Furthermore, it's possible that Google will learn something from us. One of the unexpected fruits of our partnership with Google is that it may finally abandon its, to put it kindly, unscholarly current practice of skipping all volumes in a series that have foldouts. If they do, it demonstrably will be due to our politely stubborn insistence that they find a way to include the essential exhibits that occur in the records and briefs literature.

<sup>5</sup> See p. 4 of this report for a short description of the first fruits gleaned from the CRL collaboration.

• Finally, Darnton calls for a central organization to handle the problems of coordination, processing, and preservation. We learned how to do that during the long film era and carried over those techniques to our digital operations. Moreover, even at the risk of sounding smug, it is probably important to note that we did so while maintaining traditional librarian values of collection integrity, full bibliographic access, and near-fanatic dedication to all aspects of preservation.

So, across the board, and in no small measure, *LLMC-Digital* rings Darnton's bells. Yet few can have failed to notice that it didn't make his list of notable potential players. That's probably not because we don't do enough or don't cover sufficiently important subject areas. We're doing plenty, and law and governance are vital fields.

The real problem is probably our current business model. We support our operations wholly through contributions from our member libraries. They subsidize us to fulfill functions that they value highly: collection enlargement, data enhancement by digitization, space recovery, and patrimony preservation. To date, in order to enforce this flow of contributions, LLMC has avoided the "freeloader" problem by restricting access to those whose "subscriptions" are current. That is the core reason why we fear to provide our materials free to the world. But that is also the primary reason why few can imagine us as an effective potential partner in a National Digital Library.

However, even good business models must evolve to take advantage of changed conditions or new opportunities. Ours is a reputedly clever profession. With a dash of imagination and some innovative design we should be able to find a way to tweak our business model to fit within Darnton's vision for "a coalition of foundations, universities, and other non-profit organizations to cover the costs." With adequate safeguards in place, our member libraries might decide that, so long as their primary goals were being met, it would make no difference if the rest of

the world was being supplied our data on a pro bono basis. It might even do a bit to burnish the image of the legal profession; give it a little “soft power” in its relations with the wider society.

Replacing the lash of being “cut off” with the lure of common purpose could prove attractive for other reasons. It arguably might also prove more efficient in the funding area. If foundations and other nonprofits saw that the LLMC and CRL communities were “doing the right thing” by furthering a national goal, they might be much more willing to provide the matching funds that would enable us to reach our primary internal goals that much faster. It could be that what we have here is the potential for a real win/win. Certainly the opportunity provided by this serious North America-wide<sup>6</sup> discussion toward creating a National Digital Library should give us plenty of motivation to explore the possibilities.

#### Status Report on the Haiti Project

Our last report described how we planned to spend the summer months receiving and scanning the over 200 titles sent out to Hawaii by Columbia Law Library and an additional over 75 titles sent out by the University of Michigan Law Library.<sup>7</sup> Almost all of the scanning work on the materials provided by those two institutions has now been done. The books are being returned, and the images are moving up the processing line through proofing, cataloging and eventual appearance on line. Meanwhile the scanning of some of the more physically problematic titles among the 217 titles on offer from the Law Library of Congress continues in D.C.

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<sup>6</sup> The wider term is used advisedly, since it highlights that the member rolls of LLMC and CRL include strong Canadian contingents. The hunger for an NDJ is just as strong in Canada as in the U.S. It could turn out that the LLMC/CRL alliance would prove a natural bridge helping both nations achieve their complementary goals cooperatively.

<sup>7</sup> Librarians will understand that, when dealing with titles in large quantities, it helps to be a bit vague; hence our use of the word “over.” As things sort out, more often than not we find that we are dealing with more titles than we expected.

Here in Kaneohe, we have now moved on to other major potential donors. Of course, as we progress further through the list of sponsor libraries, it is expected that the number of unique new titles discovered will diminish. Nevertheless, we continue to be amazed at the diversity we are finding among the collections of our sponsor libraries. In the case of the Haiti project, even after having exhausted the resources of the Columbia, LC, and Michigan law libraries, we still find ourselves asking Harvard Law Library to loan 45 unique new titles, and the Univ. of Florida for another 40. Nor are we just canvassing the “big boys.” A number of libraries with smaller collections in this subject area have volunteered to be sponsors and turn out to have titles that are unique. As one example, the Max Planck Institute Library in Hamburg has unearthed an edition of the 1826 Haiti Civil Code for which we have not yet located a copy anywhere in North America.

The result of all this good work is that the Haiti Legal Patrimony Collection is developing into a much richer resource than we ever contemplated when we took on the project. The number of target titles has grown from what we anticipated would be about 500-550 to a current total of 689. It seems more than likely that, by the time we wind this up, we will exceed 700 titles in the collection.

In summary, at this point we have scanned over 53% of the target titles for this collection, comprising over (the totals change daily) 368 titles and 609 volumes.<sup>8</sup> Meanwhile, the cataloging moves apace. Over 48 cataloged titles are online on *LLMC-Digital*, and that

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<sup>8</sup> If the average volume count per title remains consistent with the current average, it appears that the total collection will number ca. 1,150 volumes. Reminder: A spreadsheet tracking the development of the Haiti collection is posted on “LLMC Central” [www.llmc.com](http://www.llmc.com) and updated regularly. There, temporarily, are also listed the names of those generous colleagues who have donated monetarily to assist in underwriting some of the unusual expenses occurred in this effort. As we approach the end of the year others may want to review their annual giving and consider “adopting a title” to help along in the effort.

number will likely double next month. This, and the pace of activity on receiving loans from our remaining sponsor libraries, gives us assurance that we can meet our goal of having the critical mass of this collection in place in time to make it available to the people of Haiti by the anniversary of the quake.

#### First Fruits from CRL Partnership

As our new partnership with the Center for Research libraries evolves, guidance in its strategic directions will come from the Global Resources Steering Committee, comprised of three librarians from each organization.<sup>9</sup> The Steering Committee conducted its first meeting in a conference call held on Oct. 7. The first order of business was to elect a chair (Judith Wright), and to plot methodology for its ongoing deliberations. More electronic conferences are in the offing, and the Committee is considering an analog meeting next year; possibly coordinated with the AALL convention in Philadelphia.

There is no doubt that all of us will benefit as the Committee devises ways to leverage the strengths and resources of the LLMC and CRL library communities. Exploiting those opportunities will naturally involve a substantial amount of bibliographic prep work, and the Committee recognizes that an important part of its mandate will be to enlist and guide the subject-area and technical talents of our combined memberships in ways that can bring promising projects to bibliographic readiness for scanning. The sky's the limit on where we all may go with this.

In the near term, however, the Committee endorsed "going for some "low-lying fruit"; i.e., finding some "shovel ready" projects within the CRL home collections that could bring immediate benefit to member libraries

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<sup>9</sup> See the June 15, 2010 issue of this newsletter, p.2, for a description of the Steering Committee's charge and a list of its full membership. Reminder: the LLMC representatives are colleagues Judith Gaskell, Librarian to the U.S. Supreme Court, Judith Wright, Director of the University of Chicago Law Library, and Anne Matthewman, Director at Dalhousie University Law Library. Each and all would value your input on possible collection development targets for the new partnership.

in both organizations, but that also would be bibliographically easy to execute.

The first of these near-term projects will be legal treatises. A CRL bibliography already exists describing all of the historical legal treatises, some 700 titles, in CRL's large treatise collection in Chicago. The Committee endorsed having all of those titles scanned in the immediate future. This will create for the use of the many LLMC and CRL members who could not afford it, a workable substitute for the commercial "Making of Modern Law" project. All of the CRL legal treatises (an estimated 1,200 volumes) will be scanned by January. Following cataloging they will be made available to *LLMC-Digital* subscribers during 2011.

Another near term project endorsed by the Committee in response to pleas from CRL members, but welcome also to an important constituency of LLMC members, is the scanning of the Canadian federal and provincial legislative gazettes. CRL holds an almost complete collection of these materials in Chicago, and LLMC has the contacts that will enable us to fill any gaps. The CRL Canadian books will be sent to Hawaii for high-speed scanning early in 2011. Given the relatively small cataloging requirements for these multi-volume titles, all of these Canadian materials also will go online during 2011.