

# The LLMC-Digital Newsletter

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## Usage Reports

As many of you already have been alerted via the listserv, the ability to track user usage has been restored to *LLMC-Digital* by our new host, National Business Systems (NBS). Usage patterns prior to 10/08 were maintained by our former host, the University of Michigan, which maintained LLMC stats reports on its site through the remainder of 2008. However those stats are now history. So your new stats profile will begin with this calendar year.

The new NBS usage report service works differently from its predecessor. It's based on IP authentication. This means that when you or other staff from your library use the URL given below to obtain access, the NBS server will recognize you and will deliver your library's stats without the need for you to provide a username and password as in the past. The URL for access to the system is <[http:// admin.llmcdigital.org/public/usagereport.aspx](http://admin.llmcdigital.org/public/usagereport.aspx)>. Just enter this URL from any computer covered by your library's IPs. For the record, a download feature will be added to the system very soon. We went ahead without it at this time since some subscribers needed access right now.

We hope that you will find the new system useful. We know that most of our subscribers don't expect the usage stats on *LLMC-Digital* to compare with those of, say WestLaw or Lexis. After all, we serve wider historical, preservation and space-recovery purposes. Many of the titles we mount weren't exactly flying off the shelves when you held them in paper. Nevertheless, it's always useful to keep track, and the fact that our stats are broken down by collection may provide guidance on where we should be making content additions in the future. Do let us know if you have ideas as to how we could make this tool a more sensitive and useful instrument going on.

## Valuing our “seat at the table”

When the LLMC community was debating establishing its digital service some six years ago, one of the arguments for why we would want to take the risk of starting our own digital publishing service is that, as the digital world evolved, we wanted a “seat at the table.” We wanted a voice in how digital services were shaped. We wanted assurance that important historical data wouldn't be left behind while the market “cherry-picked” only titles of high interest to the paying bar. We wanted the legal digital world to have a strong preservation component. And, in the fulfillment of those goals, we did not want to be wholly dependent upon the tender mercies of monopoly commercial publishers.

In the six years since launch, *LLMC-Digital* has proved its worth on all of the above fronts. At a fraction of the prices charged by its for-profit peers, it is helping the legal research libraries of the world to make a safe, orderly, and responsible transition from the era of print storage and delivery to a new era of digital delivery and safe, multi-format storage and preservation. With 35,000 volumes scanned to date, we are already filling the void that certainly would have developed in our absence. Furthermore, we are on the brink of a rapid escalation in the rate at which we will be scanning, delivering and preserving materials. The records and briefs projects for New York and California announced in recent newsletters are in process and will begin coming on stream this summer. These partnerships, which were only possible because we had “a seat at the table,” will soon be expanded and will result in the near term scanning of other large blocks of law and law-related materials.

That's the mega-picture, and we're proud of that. Yet there's more. Having a functioning digital publishing system also allows us to do some smaller, but just as fun things. Here are some examples:

### ---The Hot-Doc! Program

With the change to our new host, NBS, we acquired a new ability to move select items rapidly through the production process right

to online. A timely document can now be acquired, scanned, cataloged and mounted within four to five weeks. All of our members should be aware that this capacity is now available in cases where important documents should be made quickly accessible to our whole community. The first instance of our using this new capacity is the newly declassified *Army Field Manual* that President Obama recently designated as the standard for U.S. troops and others to use in hostile interrogations. With the valuable assistance of Dan Lavering, our colleague at the Army's JAG School Library, that document is now available on *LLMC-Digital* under the title: "US-Mil, Army Field Manual, 2006, Human Intel. Col. Ops."<sup>1</sup>

### ---The Houston Mutiny Collection

Many of our member libraries hold unique collections of great value that have far less impact than they could because they exist in only one copy at one location. One of the ideal uses for our shared digital publishing capacity is the scanning and dissemination of these valuable, but effectively buried, sources. One such collection has recently been made available to us courtesy of the staff of the South Texas College of Law Library. It is a unique microfilm collection on 16 reels covering the Houston Mutiny and Riot Records of 1917-18. The mutiny and riot occurred during one of the largest race riots in U.S. history, resulted in the largest murder trials ever held in this country, and culminated in 19 executions and 91 terms of imprisonment. All of this data will be digitized from the microfilm in the next several months. Then, of course, the documents will have to be cataloged. Even so, we plan to have the first materials mounted on our site by mid-

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<sup>1</sup> *Human Intelligence Collector Operations; U.S. Army Field Manual No. 2-22.3 (FM 34-52):* Wash., HQ, Dept. of the Army, 6 Sept. 2006. (This publication supersedes FM 34-52, 28 Sept. 1992, and ST 2-22.7, Tactical Human Intelligence and Counterintelligence Operations, April 2002.) The document was initially classified as "not for distribution," but was recently released. The copy scanned came from the Pentagon Library courtesy of the LC Federal Research Division.

summer. We hope that this first instance will serve as an example to inspire other libraries holdings similar unique collections to explore with us the digital sharing of their riches within our *LLMC-Digital* community.

### ---Swapping Tiffs with York University

Because a treasured segment of our membership is composed of Canadian law libraries, we have a commitment to scanning a large selection of Canadian titles. This serves the needs of our Canadian colleagues and also, not a small thing, enables many U.S. law libraries to whittle down their storage requirements for legal Canadiana. Although we have scanned a lot in this area, of course we always want to do more. Recently the opportunity arose to increase our offerings substantially for the Province of Ontario. York University Library has recently come into some funding that will enable it to do some significant scanning of Ontario materials. Knowing that we already have scanned a number of big Ontario titles, they approached us and asked if we couldn't form a partnership within which we would each target a part of the available historical corpus and then swap digital images to, in effect, double each others holdings.<sup>2</sup> The combined materials will appear on both *LLMC-Digital* and the York website, which functions in alliance with the Internet Archive. In our judgment, this is the sort of joint venture that enables the "work of the Lord" to be done that much more quickly. We invite other libraries that may be entering into local scanning programs to consider partnering with us in similar fashion.

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<sup>2</sup> A side advantage of this partnership is that both LLMC and York will play to their strengths. We have an unrivaled ability to attract donations of widely held Ontario titles that can be guillotined, with the paper blocks fed through high-speed scanners. York, on the other hand, has access to titles that were never widely distributed and therefore probably will not become available to LLMC through donation. Getting access to these later titles would be so difficult for LLMC that many would just never get scanned and mounted on our site. The partnership with York will enable us to offer a much richer Ontario collection than we ever could have managed on our own. That factor alone more than justifies any small advantage we might be giving up by surrendering exclusivity.

**Durham Statement on Law Reviews**

Last November, at the time of the Duke law building dedication, the directors of several law libraries held a day-long meeting. One product of that meeting was a call for all law schools to consider publishing their journals in electronic format instead of in the present paper-based model. The delegates noted that very few law journals receive enough in subscription income and □ royalties to cover their costs of operation; that significant costs for printing and mailing could be eliminated; and that all law libraries could reduce their costs for subscribing to, processing, and preserving the print journals. They also cited additional benefits such as more rapid dissemination of scholarship, improved access to journals that are not now published in open access formats, and reduced environmental impact. The Call to Action by the group urged all North American law schools to adopt electronic publication for their journals; coupled with a commitment to keep the electronic versions available in stable, open, digital formats. The delegates who signed the statement promised to consult with their own deans and to publicize the initiative in hope that more signatures could be obtained, so that that all law schools could be induced to move in the desired direction.

The Durham Statement has been the focus of lively debate on law librarians' list servs. Predictably, not everyone thinks that this is a good idea. Some feared that the articles would not be read by those people who have not acquired the knack of doing serious reading online. Responders noted that the electronic model includes the option of paper copies on demand for those preferring that medium. Another concern was that the economics of the digital publishing industry would result in the data being less accessible than it is under the paper-based model. The Durham Proposal addressed that concern with its call for open access. The main objection, however, came from those worried that the digital medium and digital networks are not yet sufficiently mature to ensure long term preservation of the materials. As one colleague put it: "I oppose the abandonment of print for legal scholarship and other legal records at this time. In the short history of computing, there has been no truly stable format for legal scholarship or

anything else. For a permanent (or at least permanent for the future that any of us now living can reasonably expect for ourselves and, let's say, one generation more) record, there still is no competitor to paper."

We at LLMC believe that we could be of real assistance in assuaging all of the above concerns, particularly the last one. Let's start out by conceding the point of the Durham Conference Delegates (DCD) that the present publication model for law school journals is at best massively wasteful and at worst economically unsustainable, especially under current financial conditions. Once we recognize that, it seems clear that a transition to digital publication is probably inevitable. The real question should be, do we stumble through the transition and execute it haphazardly and badly, or do we plan for the change and end up in a better place than we are now.

The ingredients for a North American solution to this problem are already at hand. Over 95% of those North American law schools that publish legal journals subscribe to *LLMC-Digital*. Given their overwhelming numbers within the LLMC membership, in reality they own the company. So they already possess the means of digital publication. All they need to do is use it.

One of the most groundbreaking features of the DCD call for publication in "stable, open, digital formats" for the distribution of law reviews is the "OPEN" part. The DCD are basically calling for the abandonment of the copyright format that has restricted distribution of this scholarship all through the print era and so far into the digital. If we could get all 220 North American schools to agree on removing the copyright barrier, then collectively we would all save enormously. With the copyright barrier removed, LLMC would be happy to distribute the data as an add-on to its present service; i.e., on an essentially free basis. That probably would ensure delivery to 90% of the actual readership.

Access for the remaining body of current patrons, and for a potentially growing addendum to that base, could be accommodated easily. It would be technically feasible to

segregate the law school journals into one corner of *LLMC-Digital* and, either sell access to that collection at a concessionary rate, or even provide the data free to non-*LLMC-Digital* subscribers.

Finally, as noted above, some of the most negative reactions to the Durham Proposal focused on the “stable” part of the equation. Some respondents just don’t trust the preservation remedies on offer. Their suspicions are partially justified. The Durham Proposal envisions distributed, local archiving; although it does mention the possibility of regional repositories. That is so last century! In the digital era “local” and “regional” are obsolete concepts. The preservation of the content of, say, *The Stanford Law Review*, is not just a California, or even only a WestPac, concern. Distributed responsibility depends for its efficacy on the weakest link in the chain. The preservation effort required here is a national concern. National concerns require a collective responsibility, and this is something that LLMC is already good at. It is of course assumed that each school would have a strong interest in preserving digital copies of its own materials. In the proposed model each of them could also count on the mirrored *LLMC-Digital* storage as an economical and responsible backup.

Of course, some of the Durham Proposal critics don’t trust any preservation method based solely on digital. Not a problem! Again, potential solutions already exist. Because it answers to librarians who truly believe in multi-format preservation, LLMC already preserves all of its primary data in analog format by “writing” it to archival-quality Silver Halide film. In addition, when it owns or controls it, LLMC also preserves the analog paper for the titles it scans in its dark-archive salt-mine facilities. If it were responsible for the electronic law reviews, it could also easily and economically print the texts to acid-free paper and permanently store the data in that format in its dark-archive facilities. In summary, the preservation expectations for the target content would be superior to what they are now.

There could be many reasons why it would be difficult in the short run to organize all of the North American law schools in a collective project such as that called for in the Durham Proposal. But, having everybody on board all at once isn’t a necessary condition for eventual success. There may be some schools adventurous and farsighted enough to go it alone at first. LLMC would be willing to work with any school or schools willing to give it a try.

One thing seems certain, and in these times most welcome. Any school that successfully makes the move envisioned will no doubt find that the annual internal cash savings will exceed by several times over the modest amount they pay for their annual *LLMC-Digital* subscription.

#### **Revision of the LLMC By-Laws**

LLMC has been serving our community for over thirty-three years. Perhaps surprisingly, it is still operating under the same corporate by-laws filed when it first incorporated as a non-profit corporation in the State of Hawaii. Not surprisingly, its actual operations are substantially different from those contemplated in the original by-laws. The reality is that our by-laws are seriously obsolete.

To remedy this situation a sub-committee of the Board of Directors has been at work over the past two years drafting a proposed revision. That preparation is now completed, and the Board is ready to submit a proposed revision of our by-laws to the membership for a mail vote in June. A special issue of this newsletter will be devoted to providing the text and background information prior to ballots being mailed to the directors<sup>3</sup> of each Charter Member subscribing institution. Balloting will be conducted under the weighted voting system adopted by the membership at the founding of *LLMC-Digital* at the 28<sup>th</sup> Annual LLMC Membership Meeting in 2003.

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<sup>3</sup> To help guard against the mail going astray, each director will be e-mailed at the time the ballots are mailed out to alert them that the mailing is in process. This explains our recent plea on the LLMC list serv for current e-mail addresses.

The Board hopes to have the entire process completed in time for announcement of the results before or at our July membership meeting in Washington D.C. during AALL.