

The Law Library of Congress and the Legal Profession*

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As an introduction to the issues facing the Law Library of Congress and the newly appointed Law Librarian, Professor Danner provides background on efforts to reorganize the Library of Congress and their effects on the Law Library, and on AALL involvement with the Law Library.

Kathleen Price's appointment as Law Librarian of Congress in May 1990 was the first new appointment of a law librarian at the Library of Congress in nearly twenty years, and the first since the ways in which all law libraries do business have been changed by the revolutions in information and communications technology and by the globalization of legal practice and information needs. The period since Carleton Kenyon's appointment as Law Librarian in 1971 also saw two major attempts to reorganize the Library of Congress, each of which began with an apparent misunderstanding of the unique and potential national role of the Law Library of Congress.

Each reorganization plan led to a renewal of interest by law librarians and the legal profession in the Law Library of Congress and its place in the national legal information network.

The history of the reactions of AALL and other organized groups within the legal profession to the possibility of reduced autonomy and organizational stature for the Law Library is instructive regarding both the extent of these groups' interest in the Law Library and their abilities to mobilize support for its continued status within the Library of Congress. The first of these reorganization attempts, in the late 1970s, led directly to AALL's ongoing interest in the Law Library and its place in a national legal information network.

In 1975, shortly after his appointment, Librarian of Congress Daniel Boorstin initiated studies to reorganize the structure of the Library. This

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was the first attempt at major reorganization at LC since the early 1940s, under Archibald MacLeish.¹ After two years, Boorstin's study group recommended no change in the existing organizational position of the Law Library, but recognized that the Law Library had a special status—it was unusual for so small a department (in terms of staffing) to have its head, the Law Librarian, report directly to the Librarian of Congress.²

After reviewing these recommendations, Boorstin himself proposed a different plan, which would have placed the Law Library within a new Department of Research Services. In the Boorstin plan, the Law Librarian would report to the Assistant Librarian for that Department, rather than directly to the Librarian of Congress.³ Programmatically, this change would have accomplished some of Boorstin's goals as Librarian of Congress: to integrate law and the social sciences, and to encourage interdisciplinary study.⁴

The Boorstin plan, with its apparent downgrading of the status of the Law Library, was immediately questioned by the American Bar Association through its Standing Committee on the Facilities of the Law Library of Congress.⁵ That Committee had been established in 1932 as a special committee to cooperate in efforts to expand the facilities of the Law Library, but it had been essentially inactive since the 1960s. As late as 1976, the Committee reported that its major need was to determine a program for the future.⁶ Now it had one.

Reactions to Boorstin's proposal for the Law Library—delivered both to the Library of Congress and to the Joint Congressional Committee on the Library—were such that, in 1978, it was announced that reorganization plans would proceed for all units of LC other than the Law Library, and that the role of the Law Library would be studied by an outside consultant. A contract for the study was let in September 1979 to Arthur D. Little, Inc., which issued its lengthy report, *Strengthening the Law Library of Congress*, in 1980.⁷ In reaching its conclusion on the organizational question, the Little report considered and rejected recommending the transformation of the Law Library into a separate and independent national law library along the lines of the National Library of Medicine.

1. ARTHUR D. LITTLE, INC., *STRENGTHENING THE LAW LIBRARY OF CONGRESS* 17 (1980).

2. *Id.*

3. *Id.* at 18.

4. *Id.* at 19.

5. *Report of the Standing Committee on Facilities of the Law Library of Congress*, 103 ABA ANN. REP. 282, 282 (1978).

6. *Report of the Standing Committee on Facilities of the Law Library of Congress*, 101 ABA ANN. REP. 297, 297 (1976).

7. ARTHUR D. LITTLE, INC., *supra* note 1, at 18.

The conclusion of the Little report was that the status quo—the continuance of the Law Library as a separate unit, reporting directly to the Librarian—was the best solution.⁸ The report noted, however, “The Law Library has had and is likely to continue to have a difficult time getting its own business done as part of the Library of Congress.”⁹

Part of what the Little study brought out was the disparity of opinion among law librarians, the legal profession, and other interested parties as to exactly what the business of the Law Library should be. The debate over Boorstin’s plan had awakened interest in the national law library concept, largely through the input of law librarians. Among the Law Library’s constituencies, law librarians were probably most aware of the strengths of the Law Library collections, particularly in foreign law, and best understood the difficulties that the Law Library of Congress had in playing the role for which it was needed: sharing its resources and the expertise of its foreign law specialists with the national legal community.

As a result of this interest in a national law library, in 1981 the ABA House of Delegates approved a recommendation from its Committee on the Facilities of the Law Library encouraging and supporting the creation of a national law library as an independent department of the Library of Congress.¹⁰ For the next several years, the Facilities Committee prepared draft legislation on a national law library, and its annual and midyear reports looked forward to incorporation of the national law library proposal in the ABA legislative program.¹¹ By 1984, however, the Committee again reported on its need to develop a statement of goals and objectives to determine a future course.¹²

The debate over the status of the Law Library of Congress and examination of the national law library idea, coupled with law librarians’ growing interest in network development, led to AALL’s direct involvement with the issue. In 1982, AALL President Leah Chanin appointed the Special Committee on a National Law Library,¹³ chaired by Roy Mersky, with Terry Martin and George Grossman as original members. For the next five years, the Special Committee did a tremendous

8. *Id.* at 209.

9. *Id.* at 201.

10. *Proceedings of the 1981 Midyear Meeting of the House of Delegates*, 106 ABA ANN. REP. 271, 284 (1981).

11. *See, e.g., Report of the Standing Committee on Facilities of the Law Library of Congress*, 107 ABA ANN. REP. 750, 751 (1982).

12. *Report of the Standing Committee on Facilities of the Law Library of Congress*, 109 ABA ANN. REP. 351, 351 (1984).

13. Grossman, *The Special Committee on a National Law Library: A History*, 77 LAW LIBR. J. 621, 621 (1984-85).

amount of work: gathering information, making contacts and coordinating efforts with the ABA and the AALS, focusing interest on the question of what the national law library concept meant in an age of electronic information formats and networking, and establishing and maintaining a liaison with the Librarian of Congress. A review of the historical issues and the possibilities for a national law library was prepared by the committee and published in *Law Library Journal* in 1985.¹⁴

In 1987, the Special Committee was transformed into a standing committee, the National Legal Resources Committee. Professor Mersky remained chair of that committee until 1988; from 1988-90, it was chaired by Kathie Price. Since becoming a standing committee, the NLRC's interests have broadened beyond the national law library idea, but the Committee has remained AALL's closest link with the Library of Congress. On several occasions, the Committee met at the Law Library with Law Library staff and with James Billington, who replaced Boorstin as Librarian of Congress in 1987.

Dr. Billington, much like Boorstin in 1975, took an immediate interest in restructuring the Library of Congress. To do this, he used several devices: an internal study group (the Management Planning (MAP) Committee); an outside consultant (Arthur Young and Company); and a National Advisory Committee (on which AALL was not represented, although the NLRC did meet with the MAP Committee). In November 1988, the MAP Committee presented its recommendations to Dr. Billington, including several specific recommendations regarding the Law Library. Among them were:

1. Completion of Class K and restructuring of the JX schedules
2. Developing fee-based services
3. Participation in formal and informal referral networks
4. Evaluation of foreign law collections
5. Forming a separate advisory body to review organizational options for the law library¹⁵

In December 1988, after Billington had presented the MAP Committee's recommendations and the recommendations of the Arthur Young consulting firm to the Library of Congress staff, the *Library of Congress Information Bulletin* described the proposed reorganization as a "radically different macro-organizational concept . . . from a hierarchical, regulated structure to a participative, flexible system."¹⁶ It was difficult,

14. See *National Law Library Symposium*, 77 LAW LIBR. J. 617-705 (1984-85).

15. *Library's MAP Committee Issues Its Recommendations*, 47 LIBR. CONGRESS INFO. BULL. 485, 492 (1988).

16. *Librarian Briefs Staff on Future Plans*, 47 LIBR. CONGRESS INFO. BULL. 506, 506 (1988).

however, for outside observers to determine from the initial plans what the new structure would look like.

Throughout the early part of 1989, transition planning continued in the Library, and a number of outside interested parties were provided the opportunity to comment on the plans. Although not officially a part of that process, the National Legal Resources Committee, augmented by President Margaret Leary, myself, and Executive Director Judy Genesen, met with Dr. Billington in April 1989 to present the NLRC report, "Setting the Legal Information Agenda for the Year 2000."¹⁷ It remained unclear how the transition plans would affect the Law Library, in part because Carleton Kenyon, who had been Law Librarian since 1971, had retired, and no permanent replacement had been named.

In June 1989, the Foreign Law Division Chiefs, concerned that the Librarian of Congress may have foreclosed the option of continuing the Law Library as a separate entity at the departmental level, wrote to the Chair of the Joint Committee on the Library and other congressional committee chairs, expressing their concern over the reorganization's effects on the Law Library's ability to fulfill its mission.¹⁸ In July, the Chiefs wrote to the NLRC, requesting that AALL support their efforts.¹⁹ On July 7, I signed a letter as AALL President to the Chair of the Joint Committee on the Library, noting AALL's concern about the organizational question, and citing the NLRC's conclusions about the current condition of the Law Library.²⁰

The ABA Committee on the Facilities of the Law Library also wrote to Billington, reminding him of the ABA resolutions supporting continued departmental status for the Law Library and the national law library concept.²¹ Resolutions supporting continued independent status were approved by the AALS Libraries Committee²² and by the ABA Section on Legal Education Law Libraries Committee.²³

17. *Setting the Legal Information Agenda for the Year 2000: Preliminary Report of the National Legal Resources Committee*, 81 *LAW LIBR. J.* 349 (1989).

18. Letter from Division Chiefs of the Law Library of Congress to Hon. Frank Annunzio, Chair, Joint Committee on the Library (June 21, 1989).

19. Letter from Division Chiefs of the Law Library of Congress to Kathleen Price, Chair, National Legal Resources Committee (July 6, 1989).

20. Letter from Richard A. Danner to Hon. Frank Annunzio (July 7, 1989).

21. Letter from Mary W. Oliver & Sidney S. Sacks to James Billington (July 12, 1989).

22. Memorandum from Anita L. Morse, Chair, AALS Committee on Libraries to AALS Executive Committee (Aug. 2, 1989).

23. Memorandum from Donald J. Dunn, Chair, ABA Section on Legal Education and Admission to the Bar Law Libraries Committee, to Norman Redlich, Chair, ABA Section on Legal Education and Admission to the Bar (Nov. 27, 1989).

Based on the sampling I have seen, these actions resulted in a fair number of interested individuals writing to Congress and to the Librarian of Congress about the Law Library's situation. What were the results?

The Chair of the Joint Committee on the Library wrote AALL to report that Dr. Billington had assured him that no final decision on the organizational placement of the Law Library had been made, and that a Law Library project team had been created to solicit the views of the Law Library staff about the status, mission, and functions of the Law Library.²⁴ In September, an article in the *Washington Post*, reporting on staff reaction within LC to the overall reorganization planning, noted that a "plan to blend the Law Library . . . into the [new] Collections Services [unit] has been tabled . . . [after] [f]our administrators of the law library wrote to . . . the chairman of the Joint Committee on the Library. . . ."²⁵

In the fall of 1989, a special project team for the Law Library was established to obtain the ideas of the Law Library staff. The team issued a report showing that the staff holds a lofty vision for the Law Library and its potential for service to Congress and the nation, and that the staff has a multitude of ideas for unlocking those resources. Acting Law Librarian Charles Doyle issued a statement of mission, clients, and services for the Law Library, which outlined the sorts of services that the Law Library could provide to outside clients.²⁶ (Throughout his tenure as acting law librarian, Doyle showed tremendous dedication to the Law Library and its interests, fought for additional staff and a larger budget, began to reinstitute a Friends of the Law Library group, and did a wonderful job in motivating the staff.)

In 1989-90, AALL continued to participate in changes at the Library of Congress. The NLRC met again at the Library in Fall 1989; at that time Kathie Price and I met with Winston Tabb, the acting Deputy Librarian of Congress about the status of the reorganization and the search for a new Law Librarian. We were asked to provide suggestions for the reformation of the Friends group. As AALL President, I was asked to write a letter to Congress supporting the Law Library's staff and budget initiatives for 1990-91, and to serve on the rating panel, which selected the finalists for the Law Librarian position. Kathie Price was appointed Law Librarian in May 1990, and took over her position the following August.

Where do we stand today? The real questions regarding the Law Library have to do with the future, and with what the Law Library needs

24. Letter from Frank Annunzio to Richard A. Danner (Aug. 1, 1989).

25. Trescott, *Upheaval at the Library of Congress*, Wash. Post, Sept. 27, 1989, at C1, col. 1, C10, col.3.

26. Charles R. Doyle, *Law Library of Congress Mission, Clients and Services* (Jan. 2, 1990).

to do to marshal resources to maintain its collections, train new staff members, develop products to unlock its resources to outside researchers, and to create contacts between its staff and the professional community of law librarians. It is unfortunate that national debate over the Law Library of Congress has often focused on the question of organizational status and reporting relationships and on the applicability of the 1832 law that established the law library as a separate department.²⁷ The dialogue among AALL, the legal profession, and the Library of Congress should be framed in terms of what the legal community can do to help the Law Library fulfill its mission. With a new Law Librarian in place, I am sure that when we ask that question in the future, we will get not only an answer, but probably a list.

27. Act of July 14, 1832, ch. 221, 4 Stat. 579 (codified at 2 U.S.C. § 132 (1988)).

