

The Role of Commercial Publishers in Preservation*

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Ms. Axtmann reviews successful law-related preservation efforts by commercial publishers and extracts from these experiences lessons that can guide librarians and publishers in future endeavors.

¶1 In 1988, many of us at this conference participated in a multiday workshop sponsored by AALL's National Legal Resources Committee titled "Setting the Legal Information Agenda for the Year 2000." In 1988 that seemed so far in the future that we would never get there, and now here we are several years *past* that date. One of the major topics covered in that meeting was preservation. That part of the workshop was conducted by Diana Vincent-Daviss, whom many of us remember as being instrumental in our collective preservation efforts, especially as chair of the AALL Special Committee on Preservation. As I reviewed the report of and proceedings from that workshop,¹ I was struck by a few things that are still worth mentioning today.

¶2 First, commercial publishers have played a huge role in preserving legal information, but then as now marketability and profitability motivate many of the commercial ventures. Second, the successful preservation projects, those that existed in 1988 and those that were initiated in the years since, have been ones where the commercial publishers listened to their customers and worked with them to develop the list of titles to be preserved, the preservation format and specifications, and the design of the resource. It's particularly important in the electronic environment that the design of the resource is suitable to what users need and want. Third, the technologies have changed since 1988, but we haven't made much progress on a national preservation agenda. We're still arguing about what to preserve and in what formats. And more important, we're still scattering our efforts in a variety of directions.

¶3 I prepared a handout for this conference titled "Mostly Commercial Projects Contributing to the Preservation of Legal Information." As you can tell from its

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1. See M. Kathleen Price, *Setting the Legal Information Agenda for the Year 2000: Preliminary Report of the National Legal Resources Committee*, 81 LAW LIBR. J. 349 (1989); SETTING THE LEGAL INFORMATION AGENDA FOR THE YEAR 2000: BASED ON A WORKSHOP OF THE AMERICAN ASSOCIATION OF LAW LIBRARIES NATIONAL LEGAL RESOURCES COMMITTEE, WASHINGTON, D.C., OCTOBER 23–26, 1988 (M. Kathleen Price & Margaret Maes Axtmann eds., 1993).

title, I did find it hard to limit the list strictly to private sector or profit-making ventures, straying a bit from my assignment in an attempt to be a little more inclusive. Still, the list is not exhaustive, and it probably would be impossible to create a complete list without a more precise definition of terms and of the scope of what we mean by commercial preservation and by legal information. Nevertheless, the list of preservation projects is long, longer than I would have thought I could compile, especially when one considers nonprofit cooperative ventures like the Law Library Microform Consortium. Before going further, I would like to review some of the organizations and commercial projects that are included on the list.

¶4 **Congressional Information Service (CIS).** Congressional Information Service is now called LexisNexis Academic & Library Solutions, but I will always think of it as CIS. Among the long list of microfiche projects that CIS has undertaken over the years, several are of particular interest to us:

- CIS microfiche library—U.S. House and Senate committee hearings and prints, reports, documents, and special publications, 1970–2000
- U.S. Serial Set, 1789–1969
- Congressional bills, resolutions, and laws
- *Congressional Record* and its predecessors, 1789–1994
- United States Supreme Court records and briefs
- United States Supreme Court oral arguments
- *United States Reports*
- *Federal Register*
- *Code of Federal Regulations*
- United States Executive Branch documents, 1789–1932
- State constitutional conventions

These are all microform collections, but CIS also produced the Congressional Masterfile products on CD-ROM and the Web-based Congressional Universe.

¶5 **University Publications of America.** UPA is also part of the LexisNexis family, and it publishes a variety of jurisprudence materials in print and microform.

- American legal manuscripts from the Harvard Law School Library
- *Landmark Briefs and Arguments of the Supreme Court of the United States: Constitutional Law*
- *Early American Indian Documents: Treaties and Laws, 1607–1789*
- other documents and records in labor, political and social history, immigration, and Native American studies

¶6 **William S. Hein & Co. (including Dennis & Co. and Fred B. Rothman & Co.).** The following selective list of Hein projects does not include international materials:

- Reprinting and microfilming of legal classics
- Microfilming of law journals

- Other microfilm projects: *AALS Law Books Recommended*, American Law Institute collection, *Code of Federal Regulations*, *Congressional Record*, federal executive agency decisions, federal legislative histories, *Federal Register*, National Conference of Commissioners on Uniform State Laws archive publications, state attorney general reports, state session laws, and state superseded statutes and codes
- HeinOnline—digital imaging of law journals and the *Federal Register*

¶7 **Law Library Microform Consortium (LLMC).** This is a nonprofit library cooperative, but the scope of the operation merits discussion in a commercial context. The following is a selective list of the microfiche collections of interest to legal researchers and historians:

- Federal materials from all three branches
- State reports and pre-National Report System reports
- Legislative, executive, and judicial materials from U.S. territories
- *Common Law Abroad*
- Civil law collection
- Canon law collection
- Native American collection
- Yale Law Library Blackstone collection
- U.S. military law documents

LLMC-Digital is a planned, phased digitization of the microfiche collections.

¶8 **Primary Source Microfilm** (formerly Research Publications, now part of the Thomson/Gale Group). PSM's products, many filmed in cooperation with the Harvard Law School Library, include thousands of legal treatise titles in the following major product groups:

- Eighteenth-century Law
- Nineteenth-century Legal Treatises
- Twentieth-century Legal Treatises

¶9 **Westlaw/LexisNexis.** The Westlaw and LexisNexis databases are huge contributions, but what do they mean for permanent public access to legal materials?

- Online text-based preservation of primary and secondary materials
- Westlaw now offers West Reporter Images in PDF format

¶10 **Readex.** Readex is the Academic and Research Library Division of Newsbank, Inc. They were early producers of government publications on microcard, now an obsolete format, but they also have many microfiche collections and are moving into the digital environment.

- United Nations Documents on microfiche
- U.S. Congressional Serial Set—digital edition, 1817–1980, with American State Papers, 1789–1838

¶11 **H. W. Wilson Co.** The *Index to Legal Periodicals* full-text online project will begin with 182 journals from 1994 forward.

¶12 **Research Libraries Group (RLG).** The Digital Collections Project includes Marriage, Women, and the Law, 1815–1914.

¶13 **OCLC** has a partnership with the Government Printing Office and depository libraries to archive a Federal Depository Library Program electronic collection.

¶14 RLG and OCLC are examples of cooperative projects, though they are not strictly commercial. RLG's digital collection project was mentioned yesterday. Its Studies in Scarlet was an international project that created the electronic collection "Marriage, Women, and the Law." I've included this because we learned a lot of lessons from this project about the viability of this method of preservation and about the commercial viability of such a project.

¶15 There are a number of other commercial microform publishers that have come and gone over the years—Information Handling Services, Microform, Inc., and Trans-Media are a few. Information Handling Services and Capitol Services were earlier producers of some of the microfilm titles that are now filmed and distributed by CIS: *Congressional Record* and its predecessor editions, *Federal Register*, *Code of Federal Regulations*, United States Supreme Court records and briefs, *Statutes at Large*, and *United States Reports*. IHS still exists as a company, but it produces technical and business information for energy and engineering companies.

¶16 Microform, Inc. produced records and briefs for the U.S. Circuit Courts of Appeals in the 1980s and 1990s under at least three different company names that I know about. I don't think they are currently in operation, and I'm not aware of any other systematic reproduction of records and briefs from the circuit courts. I would love to be proven wrong on that issue.

¶17 Trans-Media was formerly a part of the Oceana group, and now its products are sold through Hudson House. Oceana seems to be out of the microform business, and as far as I know Trans-Media isn't producing any new microform titles. Scholarly Resources has a handful of collections that could be within the scope of our interest, including such examples as the *Plymouth Court Records 1683–1859*, the ACLU case files, and the transcript of the trial of Malcolm X. Chadwyck-Healey and UMI, which are both now divisions of ProQuest, produce electronic and microform titles that are of interest to us, but I don't think these kinds of collections are pertinent to our discussion today.

¶18 What does this list of projects and titles mean for the future of commercial preservation projects? I'll go back to the three points I made at the beginning. First, commercial publishers have played a huge role in preserving legal information. Naturally they have to be concerned with the marketability and profitability of any venture they undertake. But I think the success of many of the projects noted on the handout should indicate that there is at least a market, even if the capital investment takes a long time to be returned.

¶19 Second, the major preservation-related projects that have been viable and successful over the years have some common themes. The most successful commercial projects are really partnerships with libraries, that is, publishers listening to their customers and working directly with them. Such partnerships often mean that libraries contribute the materials from their collection to be filmed or scanned, and many of us have participated in those kinds of partnerships. But they can also mean that libraries and publishers work together to develop lists of titles to be preserved, the preservation format and specifications, and the design of the resource. The nonprofit library cooperative model, LLMC, while not a commercial venture, has the same elements of libraries sharing their collections and expertise with publishers and producers of commercially viable preservation collections.

¶20 And finally, we've seen the development of many new technologies in the last twenty years, and this has changed the outlook for preservation efforts. As law librarians, however, we have not made enough progress on a national preservation agenda. We need to agree on *what* to preserve and *how* to preserve it. Both are essential components of a national preservation agenda.

¶21 We have unfinished business. I think there is a strong case to be made for library and commercial sector partnerships, both with our traditional partners and with newcomers to the field. We need to be concerned about the issues of permanence, authentication, and free public access. Nonetheless, we need to pursue these commercial partnerships. As we work together to develop our preservation agenda, I hope we will keep our minds open to the role that the commercial sector can play in helping to preserve legal information in the twenty-first century and that we will keep them involved in our planning and implementation.