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From the Editors

Dear GD-SIS members,

As we enter the home stretch of winter, I’m excited to be bringing you this issue which is full of great content from our members. Michele Pope & Carla Pritchett report from the October 2019 FDLP Conference, where preservation of the public record on social media continues to be a pressing issue. Melissa Brand contributes to the legislative bibliographies series a retrospective of enacted laws introduced by late Senator Richard Lugar, and SCALL announces the latest edition of Locating the Law.

As always thanks to everyone who got involved with the creation of this issue!

Sincerely,

Rebecca Kunkel
Since the last issue of Jurisdocs the membership has been busy. The conference in Washington DC in July, the beginning of the fall (and now the spring) semester, arrival of new associates in the firms, the fall Federal Depository meeting, and more!

This issue has articles from our two grant recipients for the Fall FDLP meeting. Regretfully we had NO grant applicants for the annual meeting in Washington DC and NO applicants for the Leadership Academy. Both of the grants were advertised via AALL My Communities.

The section supports professional development and it is concerning that the grant money goes unused, especially the student grant named for our fellow librarian Veronica Maclay. Please consider applying for grants that will be available for the upcoming annual meeting in New Orleans (and beyond). If you know of any students interested in government documents, please encourage them to apply as well.

One of the highlights for the Government Publishing Office this winter was the confirmation and swearing in of Hugh Nathaniel Halpern as the Director of the Government Publishing Office.

Soon, the nominations committee will be looking for members to run for office. I hope that you will thoughtfully consider.

Look for more information about our sponsored program for New Orleans and our breakfast meeting...off site in my communities and the next issue of Jursidocs.

“You are never too old to set another goal or to dream a new dream” - C.S. Lewis
An Interpretation of the Vision Statement of the Federal Depository Library Program

This fall I received a grant from the American Association of Law Libraries Government Documents Special Interest Section to attend the Federal Depository Library conference in Arlington, VA. The conference was an opportunity to learn, reconnect with friends and to be inspired. I felt a strong sense of community, especially with librarians who work with legal materials as I do. Our work environments are similar, and we all follow guidelines and laws set forth in the Legal Requirements and Program Regulations of the Federal Depository Library Program (FDLP). There is a “let the force be with you” type of energy between us. Our bond is not just in our similar work environments, or other duties legally prescribed, such as collection development decisions, facilities and collection maintenance, and public services, but that we share a sense of responsibility toward our government’s accountability to its citizenry.

Collectively, we share the same mission of the FDLP to “provide free, ready, and permanent public access to Federal Government information.” The FDLP Values statement dictates that we provide access “to anyone from anywhere,” and legally to the “general public” regardless of “residency status limitations.” The FDLP Mission statement to provide free access is not a modern invention. In 1813, thirty years after the end of the American Revolution, Congress passed a joint resolution ordering that for every congress, the journals and documents be distributed to the library of the United States, and every state legislature, college, university and historical society, as were acts. Similarly, the FDLP Vision statement to provide Government information “in order to create an informed citizenry and an improved quality of life” has historical roots in the development of an American republic. The concept of an informed citizenry developed in England over centuries of repressive autocratic rule (Brown, 1996). This essay will give a brief history of the development of an ‘informed citizenry’ and conclude with its significance today as it relates to Presidential documents.

An understanding of ‘informed citizenry’ begins with an understanding of citizenship. The meaning of citizenship has varied over time, either more or less inclusive of others, but the basic attributes are that citizenship brings people together as members of a group, is generally defined by a relationship with a state or political entity, and grants certain rights, privileges and duties of civic or political involvement. Citizenship has been described as both passive and active; the entitlement of rights, and the duties of civic and political involvement; the status of citizenship, and the practice of it (Heater, 2004; Oldfield, 1990).
Citizenship originated in Ancient Greece in the 8th century BC in settlements where the socio-economic system was based on slave labor. Citizens were male landowners with privileges of equality and participation in government at the expense of slaves who farmed the land, providing their owners with food, a comfortable income, leisure, and the time necessary to become a military elite who in turn subjugated the enslaved. In the 4th century BC, Aristotle wrote two texts about citizenship which was characterized by political and judicial participation and civic virtues (including self-control, wisdom, courage, patriotism, and the capacity for judgement) allowing the citizen to rule well and be ruled. To develop these values, Aristotle supported a system of public education. He favored a mixture of rule by oligarchy, and some aristocracy and democracy (Heater, 2004).

The origins of American concepts of citizenship developed in England over three hundred years beginning in the middle ages. In the feudal system of that time period, there were no fixed laws defining citizenship, but rather levels of ranks of people with varying rights and privileges (Kettner, 1978). Under the English monarchy, the hierarchy of ruling classes was based on heredity, which justified political superiority or inferiority, and gave those born into a particular class certain rights and liberties equated with citizenship. In the 16th century, the invention of printing introduced the idea of literacy. While the ruling classes viewed themselves as an empowered educated class, a new expectation of learning took hold among the laity, fed by the renaissance culture and the momentum of the Protestant Reformation (Brown, 1996).

Learning gave rise to discussion and dissenting views which the monarchy rejected and tried to eradicate with laws to abolish diversity of opinions. Negative opinions of how the monarchy ruled were suppressed and took many forms: those who spoke out were accused of treason and executed; the reading or translation of the bible was forbidden to prevent learning and worship; licensure and censorship of printed matter limited distribution; the closure of all coffee houses prevented public assembly and freedom of expression; book burning stopped the spread of ideas that could lead to revolt; and the government’s exclusive patent to report the news spread misinformation and ensured censorship. But during the reign of Queen Elizabeth I, the guidance of educated citizens was accepted in her Privy Council, setting a precedent for the ruling elites, who were considered citizens with some political leverage and felt they should be able to share their opinions and give guidance in political matters. The preacher and printer, Robert Crowley, argued that because good governance depends on information, men who were literate and learned should speak out publicly (Brown, 1996).

In the 17th century, the Stuart monarchy would again suppress dissension, but the Puritan movement that pushed for reforms in the established Church of England, encouraged the laity to learn and to take action, and found allies in secular critics of the regime, giving rise to the development of an informed citizenry in secular politics. The popularity of the freedom to express opinions, ideas and beliefs and the expansion of an informed citizenry became acceptable. The poet and scholar John Milton published Areopagitica; A Speech of Mr. John Milton for the Liberty of Unlicensed Printing, to the Parliament of England, which argued for freedom of speech and press. The philosopher Thomas Hobbes argued that a free flow of ideas to common people was a necessary antidote to demagoguery. In 1680, during a lapse of the Licensing Act which controlled distribution of printed matter, the House of Commons for the first time published the
FDLP Conference Report (cont’d)

Votes of the House of Commons. The proceedings sold thousands of weekly copies. With the government acceptance of the impossibility of controlling all religious and political thought and free speech, the efficacy of censorship was undermined at the end of the 17th century. Government still regulated publications with laws against libel and blasphemy, but information was more open and diverse. The influence of an informed citizenry spread into professional and common ranks as entrance into the gentry became flexible; common people in various stations found a need to be educated as they aspired to be a part of an upper class (Brown, 1996).

During the 18th century in the American colonies, the idea of an informed citizenry that encompassed the wider public began to spread. The need to attract settlers produced generous naturalization policies, promising the same rights as Englishman (Kettner, 1978), and economic and political interests supported tolerance of religious beliefs. To be considered an informed citizen in England, one needed to own land which was reserved for gentry and nobility. In America, landownership among common people uninterested in becoming gentry was widespread; yeoman and tradesmen who were the majority of voters, were considered gentlemen worthy of political engagement. Even those without land, but who paid taxes were considered as having the right to political opinion. Writings at the time began to include the consideration of every individual, even of lower rank. The acceptance of a broader public needing to be informed, raised an interest in the rights of free speech, free press and education. Newspapers, pamphlets, religious charity schools, private or state funded schools, and as Benjamin Franklin suggested, public libraries were cheap vehicles for helping the poorer classes to be educated and informed (Brown, 1996).

In the discussions of its value, an informed citizenry was considered necessary for evaluating public policy, and maintaining the well-being of the country and the freedom of its people, which were ideas in direct opposition to England’s reality of subjects indoctrinated into religious and political conformity. The turning point came in America during the late 18th century, when the English parliament levied taxes and administrative policies affecting American colonists. The need to rally broad public support for protests necessitated an assembly of all classes of free men which became a formidable opposition to the royal administration. It was vitally important for political leverage that the broader public be informed. This was the model of protest for the resistance movement that led to the American Revolution (Brown, 1996).

You might still be wondering what the FDLP has to do with an informed citizenry and improved quality of life. Preventing learning, keeping government opaque, and suppressing dissenting opinion was how monarchs stayed in power. I think the meaning behind the FDLP vision statement has its roots in the history of the American Revolution, that the public has a right to be informed of what their government does; that the public may participate in political affairs; that the public will provide government oversight; and that the public may protest against government infringement upon their rights. It may be why congressional publications continue to this day to be available in print while so many FDLP publications have migrated online, that is, to continue a guiding principle of the American politic, whose tradition began in 1813, that to protect our sovereignty and civil rights, government must be transparent.

In reflection of government transparency today, the 2019 FDL conference session, “Do Tweets Document the Constitutional Duties of the President? Social Media and the Presidential Records Act,” provided
relevant information. Although there are laws to preserve presidential records, there are limits to their enforcement. There are essentially two laws that govern the preservation of presidential records, the Federal Records Act (FRA), and the Presidential Records Act (PRA). Both acts place the responsibility of preserving presidential documents under the National Archives and Records Administration (NARA), but they have different systems for acquiring presidential records. NARA is responsible for managing the records of the U.S. government, and issues regulations that govern the creation and management of federal records including any agencies in the executive, judicial or congressional branches. The FRA provides for the publishing of presidential records through NARA’s Office of the Federal Register, such as papers and speeches of the president that are issued by the White House Office of the Press Secretary. But because social media such as tweets are not compiled by the White House Press Secretary, they don’t fall under the authority of the FRA to be collected and preserved by the Office of the Federal Register.

The PRA deals specifically with records created by the president and components of the White House that advise on presidential duties. Prior to the PRA, records were owned by the president. There was no legal authority for the U.S. government to take possession, although presidents would often deed their records to NARA. Created after reforms due to litigation over Nixon’s papers, the PRA created ‘presidential records’ that are the property of the government and that come to NARA at the end of an administration. However the responsibility for managing presidential records are on the incumbent president, meaning the president has to manage those records as they create them. There is no intermediary between those currently producing documents and those preserving them. Since NARA is a subordinate agency, it can advise, but can’t tell the Office of the President what to do. Traditionally, the Office of the President has discarded very little, usually documents without historical or administrative value. Although the archivist of the United States must view documents before they are discarded, the Office of the President retains sole responsibility for the decision implemented on a daily bases and which is made by the White House Office of Records Management and the White House Counsel, who decides whether records are subject to the PRA or the FRA. Records subject to the FRA are available through FOIA requests without delay.

NPR recently reported that the Presidential and Federal Records Amendments of 2014 expanded the PRA to include electronic content, but it offers no way to check or enforce the executive office if it doesn’t comply. There are over 17 thousand tweets by the current president, and experts in the NPR report agree that they should be preserved. Watchdog groups, researchers and private citizens keep Twitter content and deletions, but they are not ISO compliant (a standard that certifies authenticity). Unlike the Government Printing Office which is ISO compliant, but doesn’t handle presidential documents, NARA solutions are not ISO compliant, for instance NARA’s Electronic Records Archive, and they have technical barriers. NARA continues to work on archiving solutions, including partnering with Facebook and Twitter to ensure that presidential accounts are captured or frozen. Although deletions from social media are a problem, there are third party platforms that capture deleted content. Ultimately, the Office of the President determines how social media records are captured and managed on a daily basis, but there is no legal mandate to provide future access. According to NPR, experts are unclear how they are being preserved, and NARA doesn’t have real oversight until the end of this administration. Public access to learn the extent of preservation will be an additional 5 years after the end of the administration and subject to FOIA requests. Con-
cerns are heightened since these issues come to light during an administration that has exhibited a willingness to obscure the historical record.

Bibliography


*Resolution for the Printing and Distribution of an Additional Number of the Journals of Congress, and of the Documents Published Under Their Order*, Res. 1, 3 Stat. 140.

The FDLP Conference was held in Arlington, VA and was, as usual, informative and inspiring. I have been attending for many years and I always look forward to seeing colleagues and hearing great programs. I am grateful to the AALL GD-SIS for helping me with the funding to attend this year.

I attended many good programs but two stand out in my mind. One was called: DO TWEETS DOCUMENT THE CONSTITUTIONAL DUTIES OF THE PRESIDENT? SOCIAL MEDIA AND THE PRESIDENTIAL RECORDS ACT. This program looked at the role of the Office of the Federal Register and the National Archives in collecting and preserving Presidential social media. The presenters were Will Stringfellow, a documents librarian from Vanderbilt University and Hannah Bergman, Information Policy Counsel from the National Archives and Records Administration.

A law which governs collection of publications by the President is 1 CFR 10. Social media is not specifically listed but it is broad enough to cover any kind of communications and publications that happen now and will happen in the future.
The Presidential Records Act (44 USC §§ 2201-2209) also governs the care of official records of Presidents and Vice Presidents and requires the preservation of all presidential records. It made ownership of official records of the Presidents from private to public and set up a structure where the NARA must manage these records. It establishes that presidential records transfer into the custody of the Archivist at the end of a Presidential term. It also requires preservation of official business records that used non-official electronic messaging accounts. Non-official electronic messages must be copied to an official account. Similar requirements for other government bodies are governed by the Federal Records Act (Public Printing and Documents) (44 USC ch. 31 §§ 3101 et seq.)

At the time of this program there were about 17,000 Presidential tweets. An official Twitter account for the President is @POTUS. This official account retweets from the @RealDonaldTrump account that the President uses. In addition to this, many watch dog groups, researchers and private citizens also capture presidential tweets. These private resources do not have the authenticity of the @POTUS account. Social media can be faked, hacked and deleted so it is difficult to keep track of this media to comply with the legal requirement to preserve these publications.

This program gave me much to consider about what government documents are and how to be a good steward of them. I also wondered what the difference is when official emails are deleted and when “official” tweets are deleted.
Legislative Bibliographies: Richard Lugar

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Senator Lugar served in the U.S. Congress from 1977 until 2013, representing Indiana. He served six terms in the Senate for a total of 36 years. Legislators are often judged by the legislation they draft, sponsor, and pass. During his long career in Congress, Lugar sponsored 520 bills, but only 43, success rate of 8.3%, of those became public laws. Here is a bibliography of those laws as listed in Lugar’s Member Profile on ProQuest Congressional. The public law citations are linked to Congress.gov. In Lugar’s legislation, a recurring topic was foreign policy, especially championing efforts aimed at ending apartheid in South Africa.

112th Congress (2011-2012)

Bills Sponsored= 30  Made into Laws= 0

111th Congress (2009-2010)

Bills Sponsored= 33  Made into Laws= 1

Pub. L. No. 111-202, A bill to permanently authorize Radio Free Asia, and for other purposes

110th Congress (2007-2008)

Bills Sponsored= 43  Made into Laws= 3

Pub. L. No. 110-36, A bill to increase the number of Iraqi and Afghani translators and interpreters who may be admitted to the United States as special immigrants

Pub. L. No. 110-83, A bill to establish a United States-Poland parliamentary youth exchange program, and for other purposes

Pub. L. No. 110-17, A bill to endorse further enlargement of the North Atlantic Treaty Organization (NATO) and to facilitate the timely admission of new members to NATO, and for other purposes

109th Congress (2005-2006)

Bills Sponsored= 74  Made into Law= 6

Pub. L. No. 109-134, A bill to authorize the transfer of naval vessels to certain foreign recipients
Pub. L. No. 109-268, A bill to provide funding authority to facilitate the evacuation of persons from Lebanon, and for other purposes

Pub. L. No. 109-207, A bill to designate the facility of the United States Postal Service located at 122 South Bill Street in Francesville, Indiana, as the Malcolm Melville 'Mac' Lawrence Post Office


Pub. L. No. 109-159, A bill to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea

Pub. L. No. 109-89, A bill to redesignate the Crowne Plaza in Kingston, Jamaica, as the Colin L. Powell Residential Plaza


Bills Sponsored= 53  Made into Law= 3

Pub. L. No. 108-35, A bill to designate the Federal building and United States courthouse located at 46 Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse"

Pub. L. No. 108-158, A bill to amend the Foreign Assistance Act of 1961 to reauthorize the Overseas Private Investment Corporation, and for other purposes

Pub. L. No. 108-497, A bill to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes

107th Congress (2001-2002)

Bills Sponsored= 23  Made into Laws= 1

Pub. L. No. 107-19, A bill to authorize funding for the National 4-H Program Centennial Initiative

Pub. L. No. 106-28, A bill to designate the United States courthouse located at 401 South Michigan Street in South Bend, Indiana, as the "Robert K. Rodibaugh United States Bankruptcy Courthouse"

Pub. L. No. 106-289, A bill to designate the United States Post Office located at 3813 Main Street in East Chicago, Indiana, as the "Lance Corporal Harold Gomez Post Office"

106th Congress (1999-2000)

Bills Sponsored= 38  Made into Laws= 2

Pub. L. No. 106-28, A bill to designate the United States courthouse located at 401 South Michigan Street in South Bend, Indiana, as the "Robert K. Rodibaugh United States Bankruptcy Courthouse"

Pub. L. No. 106-289, A bill to designate the United States Post Office located at 3813 Main Street in East Chicago, Indiana, as the "Lance Corporal Harold Gomez Post Office"
105th Congress (1997-1998)
Bills Sponsored= 36  Made into Laws= 2

Pub. L. No. 105-379, A bill to require the Commissioner of Social Security and food stamp State agencies to take certain actions to ensure that food stamp coupons are not issued for deceased individuals

Pub. L. No. 105-185, A bill to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes; from the Committee on Agriculture, Nutrition, and Forestry

104th Congress (1995-1996)
Bills Sponsored= 18  Made into Laws= 1

Pub. L. No. 104-9, A bill to amend the Commodity Exchange Act to extend the authorization for the Commodity Futures Trading Commission, and for other purposes

103rd Congress (1993-1994)
Bills Sponsored= 6  Made into Laws= 0

102nd Congress (1991-1992)
Bills Sponsored= 18  Made into Laws= 1

Pub. L. No. 102-146, A joint resolution designating October 1991 as "National Down Syndrome Awareness Month"

101st Congress (1989-1990)
Bills Sponsored= 12  Made into Laws= 1


100th Congress (1987-1988)
Bills Sponsored= 19  Made into Laws= 6

Pub. L. No. 100-356, A bill to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget; to the Committee on Agriculture, Nutrition, and Forestry

Pub. L. No. 100-601, A joint resolution to designate October 1988 "National Down Syndrome Month"
Pub. L. No. 100-124, A joint resolution to designate October 1987 as "National Down Syndrome Month"

Pub. L. No. 100-75, A joint resolution to designate the period commencing on August 2, 1987, and ending on August 8, 1987, as "International Special Olympics Week", and to designate August 3, 1987, as "International Special Olympics Day"

Pub. L. No. 100-104, A joint resolution to designate October 6, 1987, as "German-American Day"

Pub. L. No. 100-392, A joint resolution designating October 6, 1988, as "German-American Day"

99th Congress (1985-1986)

Bills Sponsored= 59  Made into Laws= 12

Pub. L. No. 99-162, A joint resolution relating to the proposed sales of arms to Jordan

Pub. L. No. 99-230, A bill to change the date for transmittal of a report

Pub. L. No. 99-144, An joint resolution to commend the people and the sovereign confederation of the neutral nation of Switzerland for their contributions to freedom, international peace, and understanding on the occasion of the meeting between the leaders of the United States and the Soviet Union on November 19-20, 1985, in Geneva, Switzerland

Pub. L. No. 99-344, A joint resolution to designate October 1986 as "National Down Syndrome Month"

Pub. L. No. 99-356, A joint resolution to designate 1987 as the "National Year of the Americas"

Pub. L. No. 99-204, A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation

Pub. L. No. 99-8, A bill to authorize appropriations for famine relief and recovery in Africa

Pub. L. No. 99-183, A joint resolution relating to the approval and Implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China

Pub. L. No. 99-72, A joint resolution to designate the month of October 1985 as "National Down Syndrome Month"

Pub. L. No. 99-438, A joint resolution designating July 2 and July 3, 1987, as the "United States-Canada Days of Peace and Friendship"

Pub. L. No. 99-252, A bill to provide for public education concerning the health consequences of using smokeless tobacco products

Pub. L. No. 99-83, An original bill to amend the Foreign Assistance Act of 1961, the Arms Export Control Act and other acts to authorize appropriations for the fiscal year 1986 for international security and development assistance, the Peace Corps, the Inter-American Foundation, and the African Development Foundation, and for other purposes
98th Congress (1983-1984)

Bills Sponsored= 9
Made into Laws= 2

Pub. L. No. 98-121, A bill to designate the Federal Building at Fourth and Ferry Streets, Lafayette, Ind., as the "Charles A. Halleck Federal Building"

Pub. L. No. 98-437, A joint resolution to designate the month of October 1984 as "National Down's Syndrome Month"

97th Congress (1981-1982)

Bills Sponsored= 26
Made into Laws= 1

Pub. L. No. 97-384, A bill to establish a wilderness area in the Hoosier National Forest Area, Indiana

96th Congress (1979-1980)

Bills Sponsored= 11
Made into Laws= 1

Pub. L. No. 96-149, A bill to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board

95th Congress (1977-1978)

Bills Sponsored= 12
Made into Laws= 0
The Southern California Association of Law Libraries (SCALL) Public Access to Legal Information Committee has published a new 6th edition of the legal research guide Locating the Law. As of 2020, the 225-page book is available on HeinOnline in the Spinelli Law Library Reference Shelf. Hein also provides access to the 4th and 5th editions.

This handbook is intended for public libraries, non-law librarians, and new law librarians. It includes chapters on general legal research topics such as reading a citation, and self-help materials. Other chapters have a more specific focus like using citators, and differentiating between providing legal reference versus giving legal advice. The book is written by law librarians from law school, government, and law firm libraries. In terms of jurisdic- tional coverage, several chapters focus on California and federal law. But overall, the book is geared to be of use as a basic legal research guide for those without a law or legal research background.

For researchers who do not have access via HeinOnline, Locating the Law is available online free of charge at the SCALL website under the Publications tab as a flipbook and in PDF. On the Publications page, scroll down to find an introduction and the flipbook version. In addition, after the flipbook, you will find a green accordion which you can open for PDF versions of the 6th and 5th editions.

The Public Access to Legal Information Committee welcomes feedback from researchers, including questions about the content of the guide, ideas for future editions, and corrections. Feel free to send your thoughts to elizabeth.caulfield@jud.ca.gov.
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