



# Laws and Regulations Affecting Federal Libraries

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FEDERAL LIBRARIES are governed by laws which are usually enacted for the purpose of establishing and operating government programs and which affect libraries only because they happen to be part of the agencies established to carry out these programs. By implication these laws usually allow for establishment and operation of libraries and other service organizations which are chartered through issuance of internal regulations.

In addition to this type of law and regulation there are general laws and regulations affecting government operations in such areas as procurement, personnel, publishing, dissemination of information, etc. These dicta are often of great importance to libraries since they control the ways in which they may operate. Frequently the success or failure of a library program will depend upon how such laws and regulations are interpreted by managers, personnel officers, procurement officers, or librarians.

The most convenient sources of information about laws and regulations affecting federal libraries are William S. Strauss's *Guide to Laws and Regulations on Federal Libraries* (New York, R. R. Bowker, 1968, 862 p.) and Leslie K. Falk's *Procurement of Library Materials in the Federal Government* (FLC Publication No. 1, Washington, D.C., Federal Library Committee, 1968, 42 p.). The first of these is a pioneer work which, in spite of some omissions, is the most complete collection of basic legal documents relating to federal libraries ever compiled. The second in its narrow field illustrates how firmly government operations are embedded in law and regulation and how small operations are forced to conform to general regulations designed for other purposes.

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Paul Howard retired as Executive Secretary, Federal Library Committee, Library of Congress in February 1970.

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This article will deal with those laws and regulations which have been enacted or promulgated within the last two years and which are directed at federal libraries or which affect their operations to such an extent as to require attention by federal librarians or students of federal library programs. Two laws of a general nature which, while not aimed specifically at the operation of federal libraries, are still of importance are the Federal Revenue and Expenditures Act of 1968 (82 Stat 251) and the Tax Reform Act of 1969.

The first of these inaugurated an austerity program which has since been intensified. Among its provisions was a prohibition against filling more than three out of four vacancies occurring in any government agency. Federal librarians have felt that this has been particularly hard on library programs which they believe have been understaffed to begin with. However, this restriction has not been nearly as severe as those imposed by more recent budget cuts as reflected in appropriation acts. For example, one library with a complement of fifty employees has in one year suffered reductions in force of seven, then three employees; it expects to lose an additional five in the spring of 1970. The closing of a number of military bases throughout the nation includes the closing of libraries which serve them. The far-reaching effect of laws which reduce appropriations is much greater than often appears on the surface. Reduction in funds for the Department of Health, Education, and Welfare and the Department of Defense has resulted in reduction of several hundred people at the Library of Congress. Thus, although appropriation acts are not generally included in discussions of library laws, they cannot be ignored in the federal government.

The Tax Reform Act of 1969 (PL 91-172) contains a provision which may seriously handicap libraries, archives, and museums in building historical collections. Tax deduction allowances for the gift of personal papers and other self-generated works are restricted. The full effect of this restriction will not be fully known until the Internal Revenue Service and perhaps the courts have had an opportunity to review and interpret those provisions. However, such federal libraries as the presidential libraries, the Library of Congress, the Smithsonian Institution, the military academies and all others which maintain archival and historical collections are likely to experience greater difficulty in obtaining gifts of personal records from former officials or their estates.

On January 17 and 18, 1970 the Library of Congress presented a status report to the Association of Research Libraries which included

a section on "Legislation Relating to the Library." Before the end of January some changes had been made in the status of the legislation but the report remains concise and factual and therefore the section on legislation is included below.

*Legislation Relating to the Library*

*LC Appropriations for Fiscal 1970*

With the passage of the Legislative Branch Appropriations Act (P.L. 91-145) and its signature by the President on December 12, 1969, the Library of Congress received operating funds for fiscal 1970 amounting to \$43,856,300, an increase of \$2,143,400 over fiscal 1969 appropriations.

The total provided \$19,061,500 for LC salaries and expenses, an increase of \$1,042,200 over last year's amount. This included an increase of \$185,000 for space rental costs, an increase of \$100,000 for preservation activities, bringing the total for preservation to \$1,292,500, and \$1,600,000 for the LC automation program.

For the Copyright Office an appropriation of \$3,124,000 was made, an increase of \$136,200. The Legislative Reference Service received a total of \$4,135,000, an increase of \$315,000; and the Catalog Card Distribution Service received \$7,728,000.

Funds for the purchase of books for the general collections were increased by \$85,000 to a total of \$750,000, and the sum for purchase of books for the Law Library was raised by \$15,000 to a total of \$140,000. For the provision of books for the blind and physically handicapped \$6,997,000 was appropriated, \$329,000 above fiscal 1969. For the Public Law 480 Program \$1,603,000 in U.S.-owned foreign currencies and \$199,000 in hard-dollar support were made available.

Under appropriations for the Architect of the Capitol, \$1,047,000 was appropriated for structural and mechanical care of the Library buildings and grounds, and \$350,000 for furniture and furnishings.

*Library of Congress James Madison Memorial Building*

Also included in the appropriation made to the Architect of the Capitol was the sum of \$2,800,000 for final plans and specifications for the proposed third building for the Library of Congress. This appropriation, however, was made contingent upon enactment of a new authorization reflecting the increase in building costs. S. 2910,

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which increases the authorization for the new building from \$75,000,000 to \$90,000,000, was passed by the Senate on October 15. Hearings were held on it before the House Committee on Public Works and it was ordered to be reported favorably with a minor amendment, but in the rush for adjournment the bill did not reach the floor of the House and was held over for the Second Session of the 91st Congress.\*

### *Title II-C Appropriations*

Since funds for the National Program for Acquisitions and Cataloging, administered by the Library of Congress, are provided by transfer from the Department of Health, Education, and Welfare and since its appropriation bill was not approved before the adjournment of the First Session of Congress, operation of the program remained dependent on a continuing resolution. The conference report (No. 91-781) on the HEW appropriation bill provided a total of \$6,737,000 for the Title II-C program, in contrast to the FY 1969 appropriation of \$5,500,000 and an Administration request of \$4,500,000 for FY 1970. The conference report was approved by the House of Representatives before adjournment but not by the Senate, which deferred final action until after the start of the Second Session to forestall, it was stated, a pocket veto by President Nixon who had indicated that he would not sign the measure.

### *Supergrade Positions*

The Librarian is authorized to assign 16 additional positions in the GS-16, GS-17, and GS-18 range following passage of P.L. 91-187, which was signed by the President on December 30, 1969. This law, designed to strengthen Government operations through recruitment and advancement of distinguished professionals, increases the LC allotment of supergrades to 44.

### *Tax Reform Act of 1969*

Enactment of this legislation (P.L. 91-172) is expected to result in a sharp drop in the number and value of gifts of personal papers made to the Library of Congress and to other educational institutions. The status of the LC as well as other libraries as a recipient is not changed—it retains a “most favorable” status under Section

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\* Since this was written the Congress has approved the \$90 million authorization and has appropriated funds for the first phase of construction.

170 of the Internal Revenue Code—but the incentives to prospective donors are greatly reduced. Under the new law gifts of tangible personal property, especially of personal papers and other self-generated works, may be subject to more strict rules for determining the actual amount that may be claimed as a charitable contribution. Until the new provisions have been subjected to interpretation by the Internal Revenue Service and rulings by the courts, however, the situation will not be entirely clear.

### *Copyright Law Revision*

After extensive consideration of many proposed amendments, the Subcommittee of the Senate Judiciary Committee which has had before it the copyright revision bill, S. 543, approved the bill with a number of amendments on December 10, 1969. The bill as amended is expected to be considered by the full Senate Judiciary Committee early in 1970.\*

Of particular interest to libraries are the provisions of the amended bill pertaining to library photocopying. The amended bill retains the general provisions in the original bill on fair use. It also retains, in substance, the provision permitting libraries to reproduce manuscript materials in their collections for purposes of preservation and security, or for deposit for research use in other libraries. To these it adds new provisions permitting libraries to make single copies of copyrighted works, without regard to fair use, in the following two situations:

- (1) For the purpose of replacing a copy that is damaged, deteriorating, lost, or stolen, if an unused replacement cannot be obtained at a normal price from commonly-known trade sources.
- (2) For the purpose of supplying a copy requested by a user, even of an entire work, under the several conditions (i) that an unused copy cannot be obtained at a normal price from commonly-known trade sources, (ii) that the library has no notice that the copy will be used for any purpose other than private study, and (iii) that the library displays a warning of copyright. But this provision for supplying a copy to a user does not extend to musical, pictorial, graphic, or sculptural works or to motion pictures or other audio-visual works.

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\* This has been delayed and chances for passage now seem dim. (August 1970)

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Another new provision would excuse a library from any liability for unsupervised use of reproducing equipment on its premises, as long as a copyright warning is displayed on the equipment.

In all other cases, copying would be governed by fair use; and another new provision would permit a court to excuse a librarian from liability for damages if he overstepped the bounds of fair use in copying when he reasonably believed that he was acting within its bounds.

The amended bill includes the earlier provisions for the establishment of a National Commission to study the problems relating to the use of copyrighted material in computer systems and in machine reproduction. These provisions have been amended to reduce the size of the Commission from 23 to 13 members, one of whom would be the Librarian of Congress, and to expand the scope of the Commission's study to cover new kinds of works created by the new technological devices.

The fifth in the series of copyright extension acts, Public Law 91-147, was approved December 16, 1969. The effect of these acts is to continue until December 31, 1970, all renewal copyrights in which the 56-year term would otherwise have expired between September 19, 1962 and December 31, 1970.<sup>1</sup>

Two recent pieces of legislation affecting medical libraries and the National Library of Medicine as reported by that library are:

1. *Establishment of the Lister Hill National Center for Biomedical Communications*

Public Law 90-456, 90th Congress, S.J. Res. 193, dated August 3, 1968 designated the proposed National Center for Biomedical Communications. The Center was established as an organizational entity of NLM by the Secretary, HEW on September 18, 1968.

The objectives of the Lister Hill Center are to:

- speed the flow of new knowledge to application so as to rapidly improve medical care;
- apply communications technology to undergraduate and graduate medical education;
- offer better communications for the continuing education of health professionals;

- facilitate the development of new knowledge; and
- improve the understanding of the public with respect to healthful living and preventive medicine.

2. *Extension of the Medical Library Assistance Act*

The original Act of 1965 provided for 5-year support of medical library service by means of assistance in research and development, improving library resources, developing regional library programs, and supporting biomedical publications.

On July 10, 1969 the House of Representatives passed Bill HR 11702, "Medical Library Assistance Act of 1969," which extends the act for three years, authorizes funding to the National Library of Medicine in the amount of 21 million dollars for each of the three years, and provides for separate authorizations for the various Library programs.

The Senate Committee on Labor and Public Welfare reported out on October 16, 1969 a modified version of Bill HR 11702 that was passed by the House. Its proposed title is "Medical Libraries and Health Communications Assistance Amendment of 1969." The Act would be extended for three years. It provides for funding increases during each of the three years to a level of 35 million dollars, and provides for changes in authorization for extramural support programs. The Senate passed this bill on October 20.<sup>2</sup>

Operating regulations within the federal government are an extension of the law and serve federal agencies much as statutes and ordinances serve local governments. There are, in reality, three levels of such regulations: 1) general regulations applying to the executive branch of the government as a whole, issued by such agencies as the Executive Office of the President (executive orders), the Civil Service Commission (personnel handbook, standards, etc.) and the General Services Administration (procurement regulations, etc.); 2) departmental regulations (secretarial orders, departmental manuals, etc.); and 3) bureau or other unit regulations (manuals of procedures, memoranda, etc.). Libraries in the federal government are affected much more directly by regulations and their interpretation than by law. Regulations are changed much more frequently than are laws and in reality establish the mission, the functions and the procedures of federal libraries.

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Two recent amendments to the Civil Service Commission Personnel Handbook will have a long-range effect upon the status of federal librarians. In November 1968, the commission included librarians in a group of professionals for which acquisition of a masters degree is automatically qualifying, without experience, for a grade 9 level position (beginning salary \$9,320). Then in June 1969 it issued an internal instruction which was followed by a revision in the Personnel Handbook X118 providing that a job allocated to the 1410 (librarian) series automatically carries a level II knowledge requirement. Level II knowledge requirement is possession of a masters degree or its equivalent. At the same time, the commission has abolished librarian registers in its ten regional offices and established a single national register of librarian applicants in Washington. These actions should have a permanent and profound effect upon the quality of library staffs and library service within the federal government. By attrition, the 52 percent of federal librarians without masters degrees should be gradually replaced by fully trained librarians. With a starting level of grade 9, the grades of experienced librarians should also be raised so that more rewarding career opportunities should attract highly qualified professionals to the federal library service.

At the same time, the General Services Administration (GSA) has extended the mandatory provisions of its specifications for library furniture from applying to the Veterans Administration (VA) only, to apply to the Department of Defense as well. These specifications which were originated by the VA shortly after World War II have been the subject of critical study by the Federal Library Committee's Task Force on Physical Facilities and have been judged by that body as being unsuitable for contemporary library use. However, GSA feels that if a greater demand for furniture manufactured under these specifications is not generated, manufacturers will not be willing to agree to supply the government's requirements. An effort is being made to determine the government's real needs and to develop standards which will meet those needs. The Federal Library Committee, with the cooperation of the Army Research Office and Corps of Engineers, is actively engaged in a project which, hopefully, will result in a regulation more responsive to library requirements.

The two examples above show how general regulations can affect not only the operations but the basic character of library service in the federal government. Departmental regulations are usually more directly concerned with details of library operations and are more

voluminous. It will be impossible within the limitations of a single article to list and describe all departmental regulations which have been initiated or revised within the past two years and which control the nature, the scope, and the programs of federal libraries.

Army regulations affecting libraries have been extensively revised in the last two or three years. The basic document governing the army-wide library program (AR 28-85) was reissued in 1968. Changes included a new mission statement which is more specific on the actual programs to be supported by the post library covering information, education, career development and the profitable use of leisure time. The organization ordered places emphasis on army-wide and command-wide library programs and organization into systems. It is interesting that censorship in army libraries is strictly forbidden by the new regulation. This is further emphasized in AR 210-10 change 1, issued in February 1969, which makes more specific the responsibilities of installation commanders to make available a wide range of viewpoints on public issues.

AR 230-2 is a completely new document setting up policies for the administration of personnel (including librarians) paid for from non-appropriated funds. Its chief purpose is to establish comparable working conditions and fringe benefits for non-appropriated funds (NAF) personnel as for personnel paid from appropriated funds. This will affect 80 to 100 army librarians in Europe.

The army civilian personnel regulations (CPR 950-21) establish an army-wide civilian career program for librarians with special provisions relating to program coverage, intake, training, and registration and referral. This has been revised within the army but recent Civil Service Commission changes have made the grade structure obsolete and a new revision is needed.

Air force regulations AFR 212-1, air force library service, are being revised and are scheduled to be published February 6, 1970. The regulations consist of three sections: a) air force library service in general; b) administration and operations; and c) air force library personnel. They cover academic and technical as well as base libraries.

On December 19, 1968 the Secretary of the Interior issued secretarial order 2917 which created the National Library of Natural Resources. This national library is to differ from other national libraries in that it will be a network of more than sixty-five libraries already existing within the department. At the same time, the departmental library which for twenty years had been supported by assessments upon the

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bureaus and offices served, requested and obtained a direct appropriation for operation of the Natural Resources Library. New regulations in the Department of the Interior departmental manual will be designed to implement the new program.

This article (written in January 1970) represents a summary of recent laws and regulations which affect the operation of federal libraries and which have not been previously reported. It does not include appropriations except those that have significance beyond ordinary continuing operations. It should be noted that policy decisions affecting library programs are recorded as frequently in departmental regulations as in statutes.

### *References*

1. U.S. Library of Congress. *Report of the Library of Congress to the Association of Research Libraries Meeting in Chicago, Illinois, January 17 and 18, 1970.* Washington, D.C., Library of Congress, 1970. (Multilithed.)
2. Cummings, Martin. Letter dated Jan. 1970.