

Library of Congress Washington 1995

# Introduction

Our nation's Founding Fathers recognized not only the need to protect the rights and property of individual Americans, but also the importance of providing incentives to stimulate the economic and cultural growth of the United States. Thus, in Article I, Section 8 of the Constitution, they gave the Congress the power "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

In 1790, Congress passed the first copyright law. Congress created the Library of Congress ten years later. No subsequent legislation was more important to the development of the Library than the 1870 law that transferred the entire "copyright business" from federal courts to the Library of Congress. The law required all authors, poets, artists, composers, and mapmakers to deposit in the Library two copies of every book, pamphlet, map, print, and piece of music registered in the United States.

This booklet reprints John Y. Cole's article "Of Copyright, Men & a National Library" in recognition of the 125th anniversary on July 8, 1995, of the placement by Congress of the copyright system in the Library. The partnership has served the nation well. Supplying the information needs of the Congress, the Library of Congress has become the world's largest library and America's national library. This great repository of more than 108 million books, photographs, maps, films, documents, sound recordings, computer programs, and other items has been created largely through the operations of the copyright system, which brings deposits of every copyrighted work in the Library.

The importance of copyright deposits to the Library's ability to serve the Congress and the nation has not diminished. Indeed, we rely increasingly on copyright deposits to keep current our collections of books, databases, and other materials created by our fellow Americans.

The placement by Congress of the copyright registration system in the Library of Congress was both idealistic and practical. It has created unequalled national collections and yielded tremendous benefits to the public, exceeding the highest expectations of those legislators who approved the copyright revision a century and a quarter ago.

—James H. Billington  
*Librarian of Congress*

## Introduction

In building the Copyright Office of the 21st century, we will continue to seek better ways to participate in developing the collections of the Library of Congress as well as to serve our constituency of authors, musicians, artists, and other creators who need the protection of copyright.

Copyright law protects authors' works but also aims to promote creativity by ensuring that works are available to others for study and reflection. The Copyright Office transfers over 800,000 items to the Library of Congress each year. We will continue to enhance the collections of the Library not only through transfer of copyright deposits but also through an electronic system being developed that will allow for paperless copyright registration and deposit. Registration applications and copies of works, including unpublished works that the Library finds it difficult to acquire, will be transferred and stored electronically. The establishment of an electronic copyright system will be an important step towards advancing the Library's development of its own digital archives and enabling widespread access to it.

—Marybeth Peters  
*Register of Copyrights*

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# Of Copyright, Men & A National Library

BY JOHN Y. COLE

*To the public, the importance . . . of having a central depot, where all products of the American mind may be gathered, year by year, and preserved for reference, is very great. The interest with which those in 1950 may consult this library . . . can only be fully and rightly estimated by the historian and the bibliographer.*

—Charles Coffin Jewett  
*Annual Report of the Board of Regents  
of the Smithsonian Institution, 1849*

In the United States the practice of depositing, in a single location, copies of items registered for copyright protection has served two purposes: deposit for record, whereby the item, or deposit, is kept as legal evidence of copyright registration; and deposit for use, whereby it is kept for library use and the enrichment of library collections. The history of the national library is firmly linked to the second purpose, as copyright deposit for use was the method by which a national collection of books and materials comprehensively reflecting the American national life was accumulated.

The foundation of British and American copyright law is the Statute of Anne (1710), which included a provision for sending copyright deposits to several British libraries. Copyright deposits were first received by the British Museum Library in 1814 and played an important role in that institution's development into a national library during the 19th century. When Anthony Panizzi became Keeper of Printed Books in 1837, the British Museum ranked seventh in size among great European libraries. Because of his strict

enforcement of the copyright law, the size of the Library had nearly doubled by 1852, and by 1859 the British Museum had risen to second place among Europe's libraries.<sup>1</sup>

The establishment of copyright deposit as an effective method of building library collections was of greater importance to the development of a national library in

And the history of the development of a national library in the United States followed the same course.

Two American librarians, Charles Coffin Jewett, Librarian of the Smithsonian Institution from 1847 to 1854, and Ainsworth Rand Spofford, Librarian of Congress from 1865 to 1897, stood alone in recognizing the value of copyright deposits to their institutions and to



PRINTS AND PHOTOGRAPHS DIVISION

*The Library of Congress when it was located in the Capitol Building, depicted by W. Bengough for Harper's Weekly, February 27, 1897. Standing at the right is Ainsworth R. Spofford, Librarian of Congress, whose 15-year campaign for space finally culminated in a new building to house the national collection.*

the United States than it was in England. The first U.S. law providing for the enrichment of library collections through copyright deposit was passed in 1846 but was largely ineffective. It was not until the copyright laws of 1865 and 1870<sup>2</sup> were put into effect that the concept of deposit for use became a reality.

the development of a national library in the United States. For a brief period it appeared that Jewett's Smithsonian library might someday be a national library, but at the close of the Civil War the Library of Congress, under Spofford's direction, assumed the national role. At the turn of the century the Library of

Congress was recognized as America's national library. When it occupied its magnificent new building in 1897, it was distinguished by the unsurpassed size and scope of its collections relating to American national life, which were overwhelmingly the result of the copyright law.

In the United States the concept of copyright deposit for library use was enacted into State law at an early date. A Massachusetts law of 1783 provided that one copy of every book copyrighted in the State be forwarded "to the library of the University of Cambridge [Harvard] for the use of said University." However, the first Federal copyright law, passed May 31, 1790, did not provide for deposit for library use, even though the concept of deposit for record was implicit: as legal evidence of copyright, a single copy of the registered book, map, or chart was to be forwarded directly to the Secretary of State in Washington within six months of publication. The copyright amendment of April 29, 1802, added designs, engravings, and etchings to the list of items protected by copyright, but it did not affect the deposit requirements.

The act of February 3, 1831, the first general revision of U.S. copyright law, provided for the protection of musical compositions for the first time and changed the deposit procedure: copies were to be deposited with the clerk of the U.S. district court, who would forward them to the Secretary of State within a year, along with a "certified list of all such records of copyright." The emphasis on deposit as the legal record of copyright was further accentuated in 1834 when, in *Wheaton v. Peters* (8 Peters 591), the Supreme Court ruled that the deposit of a record copy was essential for the

validity of the copyright.

By 1837 there was a change in the intellectual climate in the United States which soon led to a renewed, if passive, interest in copyright deposit for library use. Considerable interest had developed among New England scholars and literary men in the need for an American "national literature," and the need for a national library was frequently mentioned at the same time. This new national self-consciousness was stimulated by an increased interest in national history, the desire to "free" American scholars from dependence upon European literature and libraries, and a growing awareness of the inadequacy of American libraries. Many New England intellectuals, including Edward Everett and George Ticknor, both instrumental in the founding of the Boston Public Library, linked the accumulation of large libraries directly to the development of a national literature. Their views were echoed by a writer in *The American Almanac and Repository of Useful Knowledge for the Year 1837*, who also noted the desirability of government support, as the formation of several large libraries "under the patronage and direction of the government . . . would afford the most important aliment to American literature, which might soon be expected to manifest a growth more vigorous than hitherto witnessed."<sup>3</sup>

The need for a large accumulation of books in an American national library was frequently expressed in the *North American Review*, the prestigious intellectual journal, published in Boston. In an extended article on libraries in the July 1837 issue, historian George W. Greene, writing from his position as U.S. consul in Rome, urged a concentrated effort to

build a national library which would "render the American student nearly independent of the vast collections of European libraries." He advocated enlarging the Library of Congress into the national library.

But the Library of Congress was a meager place in 1837. The *American Almanac*, while listing it as the "National" library, ranked its collection of 24,500 volumes in fifth place among American libraries, behind the collections of the Library Company of Philadelphia, Harvard, the Boston Athenaeum, and the New York Society Library. Congress regarded the Library of Congress as only a small legislative library and by the late 1830's was turning its attention toward the development of another Washington institution.

In 1838 the half million dollars bequeathed to the United States by Englishman James Smithson for "an establishment for the increase and diffusion of knowledge among men" was paid into the U.S. Treasury, and Congressional debate on how best to spend the money intensified. Smithson's gift had not been an easy one for the United States to accept—John C. Calhoun felt, for example, it was "beneath the dignity of the country to accept such gifts from foreigners"—and it was even more difficult for Congress to agree on the type of "establishment" Smithson had in mind. An agricultural experiment station, a national university, an institute for scientific research, a museum of natural history, and a national library were among the proposed establishments. Rufus Choate, a book-loving Whig lawyer from Massachusetts, elected to the Senate in 1841 to fill the vacancy created by the resignation of Daniel Webster, led the national library advocates in the Smithsonian debate. In a heroic Senate speech on

January 8, 1845, a speech which a writer in the *North American Review* claimed would "render more memorable the day on which it was delivered than that gallant military achievement of which it is the anniversary" (the Battle of New Orleans), Choate urged devoting the largest part of the Smithson bequest to the establishment of a national library: <sup>4</sup>

"does not the whole history of civilization concur to declare that a various and ample library is one of the surest, most constant, most permanent, and most economical instrumentalities to increase and diffuse knowledge? There it would be—durable as liberty, durable as the Union; a vast storehouse, a vast treasury."

Choate, chairman of the Joint Committee on the Library, the governing committee for the Library of Congress, felt the small annual expenditure Congress allowed for that Library could never "enable it to fulfill the functions of a truly great and general public library of science, literature, and art."

Representative George P. Marsh of Vermont, Choate's supporter in the House of Representatives during the Smithsonian debates and a fellow committee member, attacked those who felt a grand accumulation of knowledge in the form of a national library was not a noble purpose: "It is an error to suppose that the accumulations of the stores of existing learning, the amassing of the records of intellectual action, does not tend also to increase knowledge. What is there *new* in the material world, except by extraction or combination?" Marsh also insisted that the American national library, when established at the Smithsonian, be as comprehensive as possible, since it had to sustain "a people descended from men of every clime, and blood, and language." <sup>5</sup>

Choate, Marsh, and most advocates of a national library did not view copyright deposit as an important means of obtaining the necessary books, or "accumulations." Greene, in his 1837 *North American Review* article, had proposed that all American historical societies regularly transmit their published volumes to the Library of Congress but did not mention copyright deposit. Instead, immediate large annual appropriations appeared to these men to be the only way to acquire books on the scale intended, particularly if the United States were ever to rival the 700,000 volumes in the Bibliothèque Nationale or even the 300,000-volume library of the University of Göttingen, which Marsh claimed was "the most useful of all for the purposes of general scholarship."

Yet the act of August 10, 1846, which established the Smithsonian Institution, contained the first Federal provision for the use of copyright deposits to enrich American libraries. According to section 10, both the Smithsonian Institution and the Library of Congress were to receive one copy of each copyrighted article within three months of publication "for the use of said libraries." This provision was introduced by Senator Stephen A. Douglas of Illinois and was apparently accepted without debate.

Copyright deposit was clearly considered supplementary to the acquisition of books through purchase, for there were no enforcement provisions in section 10. As the deposit of copies at the Smithsonian and Library of Congress did not appear necessary for the validity of the copyright and the institutions had no legal power to claim delinquent deposits, the law was eventually ignored by most

publishers and authors. The Library of Congress was probably included with the Smithsonian as a corecipient of the deposits because Choate and Marsh, along with Senator James A. Pearce of Maryland and Representative Benjamin Tappan of Ohio, other principals in the Smithsonian national library debate, were all members of the Joint Committee on the Library. None of them, however, had any ambitions for the Library of Congress as a national library.<sup>6</sup>

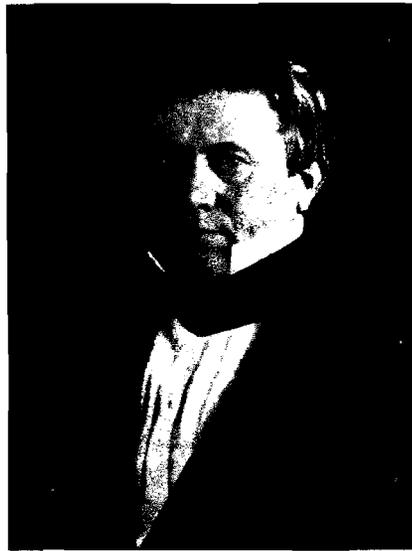
In spite of its obvious flaws, section 10 of the 1846 act was the first legislative recognition of the value of copyright deposits to American libraries since the Massachusetts law of 1783 and was an important step in the development of a national library in the United States. Although the act was a compromise among the various schemes proposed for the Smithsonian, it helped keep the national library plan alive through its stipulation that an appropriation "not exceeding an average of twenty-five thousand dollars annually" should be made to develop a library "composed of valuable works pertaining to all departments of human knowledge."

#### **At the Smithsonian, Joseph Henry and Charles Coffin Jewett**

The chances that the Smithsonian might grow into a national library were enhanced by the appointment of Charles Coffin Jewett, the prominent librarian of Brown University, to the post of Assistant Secretary in Charge of the Library. Professor Jewett was selected for the position by the national library proponents on the Smithsonian Board of Regents, including Rufus Choate, Jewett's

fellow New Englander and strongest supporter. The newly appointed Secretary of the Smithsonian, Joseph Henry, professor of physics at Princeton, accepted the Regents' recommendation and Jewett was appointed. Although Henry had no objection to Jewett, admitting he could not think of any other possible candidates, he recognized that agreement between himself and Jewett concerning the Smithsonian was necessary and should be achieved immediately. Prophetically, on March 23, 1847, Secretary Henry warned his new assistant, "we have embarked together on a perilous voyage and unless the ship is managed with caution and the officers are of the same mind and determined to pull together, we shall be in danger of shipwreck."

England acquiring books, visiting libraries and librarians, and studying languages. In England he met and



PRINTS AND PHOTOGRAPHS DIVISION

*Joseph Henry, Secretary of the Smithsonian Institution when its library was transferred to the Library of Congress in 1866.*



PRINTS AND PHOTOGRAPHS DIVISION

*Charles Coffin Jewett, Librarian of the Smithsonian Institution, whose efforts to turn the Smithsonian into the national library were defeated by Joseph Henry.*

formed a strong friendship with Anthony Panizzi, then Keeper of Printed Books at the British Museum, and later Principal Librarian. Jewett spent months observing the operations and admiring the collections of the great foreign libraries and frequently contrasted their riches to the poverty of American libraries. Once at the Smithsonian, he set out to correct this deficiency by forging that institution into a strong national library and bibliographic center, convinced that Congress shared his wish.

Secretary Henry, despite Congressional authorization for a large Smithsonian library, definitely did not share Jewett's national library views. The foremost American scientist of his day, Henry insisted upon a limited library designed solely to support what he, as

As librarian and professor of modern languages and literature at Brown, Jewett had spent over two years in France, Italy, Germany, and

Secretary, viewed as the true purpose of the Smithsonian: the increase of knowledge by scientific research and the subsequent diffusion of this knowledge through publication. In its first years, however, the ultimate direction which the Smithsonian would take was not clear, and an uneasy peace prevailed between the strong-willed Secretary and his ambitious librarian.<sup>8</sup>

Late in the autumn of 1847 Jewett expressed his concern to Henry over the failure of the 1846 act to provide for strict enforcement of the copyright deposit requirements. The next spring, as most publishers were still not forwarding the required copies to the Smithsonian or the Library of Congress, he reemphasized the need for enforcement provisions:<sup>9</sup>

if it be considered just & expedient to require three copies of every book, let the delivery of them be made obligatory & essential to the securing of a valid title. I have always thought that at least *two* copies should be required, because there is always danger of losing one by fire or otherwise. One of these copies should be kept in a safe depository, from which it *should never be taken*, except by order of a Court of Law.

Charles Coffin Jewett was the first American librarian to recognize and acclaim the potential value of copyright deposits to the development of an American national library. In his 1849 annual report he explained why a complete copyright collection was necessary:

In coming years, the collection would form a documentary history of American letters, science, and art. It is greatly to be desired, however, that the collection should be complete, without a single omission. We wish for every book, every pamphlet, every printed or engraved production, however apparently insignificant. Who can tell what may be important in future centuries?

The keystone of Jewett's national library plan was to be a

centralized cataloging system for U.S. libraries, based on the distribution of catalog entries produced at the Smithsonian from stereotype plates. Other libraries could use the plates in producing their own catalogs and would prepare catalog entries and plates for items not in the Smithsonian catalog. To eliminate the duplication of cataloging effort and to merge, in effect, the separate library catalogs, Jewett proposed the use of uniform cataloging rules as a necessary component in his national bibliographic system. He also published a list of copyright deposits received at the Smithsonian through 1850 in two appendixes to the 1850 annual report.<sup>10</sup>

The success of Jewett's national library plans depended on the accumulation of a comprehensive collection at the Smithsonian, which was not possible without enforcement provisions in the copyright law. Even though Jewett claimed the ruling was not valid, he was disturbed by the decision of the New York District Court in *Jollie v. Jacques* (1 Blatchford 618) in 1850 that the deposit of copies at the Smithsonian and the Library of Congress was not essential to the validity of the copyright.

According to Jewett's statistics in his 1850 annual report, only 15 percent of the books and pamphlets in the Smithsonian library had been obtained through the copyright law. As an appendix to the report, the Smithsonian published Jewett's *Notices of Public Libraries in the United States of America*, perhaps the best evidence of its librarian's national bibliographic activities. A pioneering work, the *Notices* contained historical and statistical information concerning more than 900 libraries. Jewett found that Harvard, with its 84,200 volumes, had the largest

library collection in the United States, followed by the Library Company of Philadelphia, Yale, and then the Boston Athenaeum and the Library of Congress, both with approximately 50,000 volumes apiece. The copyright library in the State Department, recipient of deposits for record since 1790, numbered only 10,000 volumes, and the Smithsonian library a mere 6,000.<sup>11</sup>

The first half of the decade of the 1850's witnessed a surge of library activity in the United States; among other events, the first national librarians' conference was held in 1853, and New York's Astor Library and the Boston Public Library opened in 1854. But Charles Coffin Jewett and his plans for a national library at the Smithsonian created the most excitement. The *North American Review* proclaimed: "We must have a large national library . . . the Smithsonian Institution affords one of the most favorable opportunities that was ever offered in any country for the establishment of such a library." *Norton's Literary Gazette*, leading publishing and literary journal of the day, took special note of the Smithsonian in a February 1852 issue and expressed great hope for its future: "The Library has been commenced; and although the funds have not been available for its rapid growth, it is destined, we hope, to meet that great want of American scholarship, a National Library for reference and research."

In its only mention of the copyright law, *Norton's* scolded publishers for not depositing copies but, like the *North American Review*, it did not suggest copyright deposit as a method of developing the national library which each journal was promoting. Generally, the writers in the *North American Review* were

concerned only with the desired result, a grandiose national library which would put Europe to shame, while *Norton's* viewed copyright deposit from the standpoint of the publisher: deposit was the best possible advertisement he could have.<sup>12</sup>

In his 1851 annual report, Jewett complained at length about the copyright situation, estimating that the Smithsonian received as deposits less than half of the works annually copyrighted in the United States. Again pleading for enforcement provisions, he suggested a reduction in the number of copies required for deposit. While he could not say "whether or not the deposit is desired by the guardians of the Library of Congress," if the deposit requirement were ever reduced to one copy, he felt it "could be most properly placed in the library of the Smithsonian Institution."

By 1851, however, relations between Jewett and Henry were deteriorating. Henry was becoming more adamant in insisting that the Smithsonian library would not absorb more than a limited share of the annual budget, and the outspoken Jewett was equally determined to gain greater financial support in order to carry out his national library plans; each stated his case in separate annual reports with increasing determination, and each rallied his supporters on the Board of Regents. Henry was never opposed to the idea of a national library per se, viewing the idea, in fact, with some favor; however, he was absolutely opposed to the Smithsonian Institution's becoming that national library. He felt the Government should establish and maintain a national library in another institution and even looked to the Library of Congress as a foundation

“for a collection of books worthy of a Government whose perpetuity principally depends upon the intelligence of its people.” In the same 1851 report he clearly warned Jewett, “The idea ought never to be entertained that the portion of the limited income of the Smithsonian fund which can be devoted to the purchase of books will ever be sufficient to meet the wants of the American scholar.”

Jewett completely ignored Henry and increased his own propaganda activities. In his 1853 report he reaffirmed his goal: “There ought, therefore, to be in every country one complete collection of everything published—one library where everything printed should be garnered up, treated as of some importance.”

In 1853 Jewett was the most eminent librarian in the land, and it was only natural that he should play a central role in the first librarians’ conference in the United States, held in New York City from September 15 to 17. The conference was conceived and organized by Charles B. Norton, a New York bookseller and the publisher of *Norton’s Literary Gazette*. Attended by over 80 delegates representing 47 different libraries in the United States, the conference itself was proof of the growing national interest in library matters. Jewett, elected conference president, held the floor for half a day explaining at length his plans for the development of the Smithsonian library. He began by presenting statistics about copyright deposits received at the Smithsonian, emphasizing, as always, the deficiencies in the system and the need for enforcement provisions. In spite of his difficulties with Henry, Jewett explicitly reaffirmed his belief that “a large central library of

reference and research will be collected at the Smithsonian Institution, if not by the expenditure of the funds of the Institution, then by other means,” and he warned the hearts of supporters of the national library cause by eloquently proclaiming a great central library to be “an important national object; as necessary to secure the literary independence of this people as was the war of the Revolution to secure its political independence.” The librarians responded enthusiastically and passed resolutions approving the idea of the Smithsonian as the national library and endorsing Professor Jewett’s stereotype cataloging scheme.<sup>13</sup>

But time had run out for Jewett and his national library plans at the Smithsonian. In 1854 newspaper and magazine reports hostile to Secretary Henry and his plans for the Smithsonian began to appear with increasing frequency; Henry correctly surmised that Jewett was responsible for the articles and resolved to take action. Assured of the support of a majority of the Board of Regents, Secretary Henry fired Professor Jewett on July 10, 1854. Senator Choate angrily resigned from the Board of Regents, Jewett strongly protested, dozens of outraged editorials appeared, from Washington to Boston, and a Congressional investigation reviewed the entire affair. But Henry had gathered his evidence and built his case carefully, and his victory was never seriously in doubt.

While Senator Choate and other national library supporters continued the battle in Congress, others conceded defeat and mused that after all, the Smithsonian might not be the most suitable institution for the national library. *Norton’s Literary Gazette* took this position, stating that

Smithson's bequest "would not be more than sufficient to lay the foundation of the library that our country should now have."<sup>14</sup>

Professor Jewett returned to New England, became the successful Superintendent of the Boston Public Library, and dropped his national library plans.

The value of the copyright deposits in the Smithsonian library was at the root of the disagreement between Jewett and Henry, and once he was rid of Jewett, Secretary Henry turned his attention to securing the repeal of the irksome deposit requirement. He had always been dismayed at the odd assortment of chromolithographs, maps, and other objects brought into the Smithsonian by the copyright law and unhappy with the nonscientific contents of most of the books. Henry felt most of the deposits were worthless and resented the administrative expense they represented, as well as the popular image and clientele they brought to his Institution. On March 5, 1855, the Smithsonian was relieved of paying the additional postage due on deposits, as Congress finally passed an act allowing copyright deposits to be sent free through the mails, a reform long advocated by Jewett.

Henry favored the consolidation of copyright activities at the Patent Office, where the patent business was centralized, and felt that the deposit of a single copy would be sufficient. On February 5, 1859, he was successful: the 1846 law requiring the deposit of copies in the Smithsonian Institution and the Library of Congress was repealed. The copyright records and the 12,000-volume copyright library in the Department of State were transferred to the Patent Office, which was to receive the single copy forwarded by

the district court clerks from that date hence. After a 13-year trial the concept of deposit for use had suffered a severe setback, as the single copy now sent to the Patent Office was the deposit for record and not available for use. The lack of enforcement power in the 1846 law was the major reason for the failure of the first national effort in the United States to provide copyright deposits for the development of library collections. Unable to establish an effective means of building a national collection, Jewett had failed to realize his national library plans for the Smithsonian.

### **Meanwhile, at the Library of Congress**

The Librarian of Congress between 1846 and 1859, when the copyright law brought deposits to the two institutions, was John Silva Meehan, an appointee of Andrew Jackson. Meehan supported Joseph Henry's efforts to have the deposit provision repealed; during the 13 years when it was in effect, the law brought only about 4,200 volumes into the Library of Congress, and it was never regarded as an important means of acquiring materials. In December 1851 the Library had suffered a disastrous fire, in which 35,000 of its 55,000 volumes were destroyed, including many copyright deposits. Congress generously appropriated \$85,000 to rebuild the Library's collections, and Meehan devoted most of his time to preparing purchase lists for the Library's London bookdealer. Between January 1852 and April 1856 more than 36,000 volumes were purchased, while only 2,000 were acquired through copyright.<sup>15</sup>

Meehan's assistant, E. B. Stelle, handled the copyright

correspondence and viewed the whole copyright business as a burden. The Library suffered the same problems in relation to copyright deposits as did the Smithsonian: few publishers bothered to deposit copies, and the issuing of receipts and certificates was a troublesome administrative duty. Publishers frequently forwarded the two deposit copies in the same pack, and Stelle continually requested them to mail the deposits separately, one to each institution.

While he often pleaded ignorance of legal points related to copyright, Stelle did encourage publishers to deposit their volumes when in doubt. In 1854, apparently unaware of the *Jollie v. Jacques* decision, he wrote an Ohio author:<sup>16</sup>

Questions in relation to the perfection of copyright under this law have arisen among some of the publishers of the north, but whether the question has been carried to the courts, I know not. I think you had better send your book, as required by law, and should the point arise with regard to the law being carried out, you will at least have shown your intention to have complied.

After the deposit requirement was repealed in 1859, Meehan and Stelle dutifully notified major publishers that it was no longer necessary to send copies to the Library. For the next two years, until the trickle finally stopped, deposits mistakenly sent to the Library were nonetheless usually absorbed into the collections. For example, Meehan informed a Detroit author that the Library had kept his book, sent four months after the law's repeal, "as it would be expensive to you to have it returned." Another author found his errant deposit placed in the Library's collections "as a 'present' unless you send me directions to the contrary." Not a collection-builder, Meehan simply found it more convenient to

add the stray books to the collections than to return them.<sup>17</sup>

In 1859 the *Manual of Public Libraries, Institutions, and Societies in North America*, originally intended as a continuation of Jewett's *Notices of Public Libraries* (1849) and compiled by William J. Rhees, Chief Clerk of the Smithsonian, was published. By 1859 the American library movement had blossomed, and Rhees' *Manual* was considerably larger than Jewett's slim survey; Secretary Henry, not at all anxious again to associate the Smithsonian with a "national" library survey, refused to publish the *Manual* under the auspices of the Institution, and Rhees published it himself. According to his tabulation, Harvard was still the largest American library, holding approximately 113,000 volumes, followed closely by the Astor Library, the Boston Public Library, the Boston Athenaeum, Yale, and then the Library of Congress and the Library Company of Philadelphia, each with 63,000 volumes. The Smithsonian library contained only 25,000 volumes.

#### Ainsworth Rand Spofford

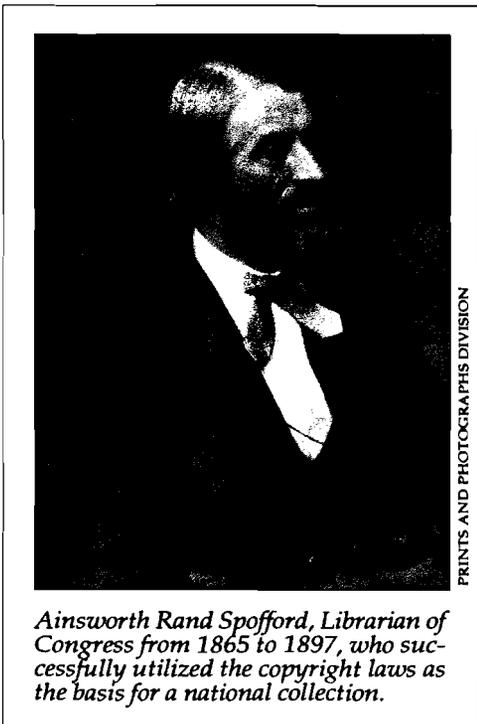
With the withdrawal of the Smithsonian Institution from its position of leadership among American libraries, the repeal of the deposit-for-use provision in the copyright law, and the widening of the sectional dispute between North and South, Congressional and literary interest in the national library cause subsided. Yet the Civil War proved to be an indirect stimulus to the national library effort, for it brought to Washington a Cincinnati bookseller and journalist who, as Librarian of Congress from 1865 to 1897, successfully used the concept of deposit for use to build the basis of a national library.

Born in New Hampshire, Ainsworth Rand Spofford moved to Cincinnati in 1844, where as a young bookseller and editorial writer, he developed strong interests in literature and politics. In 1849, with the assistance of friends, Spofford founded the Literary Club of Cincinnati, and under his guidance the club became a western outpost of New England culture and antislavery sentiment. His close friend Reuben H. Stephenson, librarian of the Cincinnati Mercantile Library, played an active role in the 1853 librarians' conference in New York and reported on proceedings to his fellow members of the Literary Club. While in Cincinnati, Spofford developed his talents as an abolitionist pamphleteer and literary essayist, publishing one of his first articles in the *North American Review* in 1855.

newspaper, and two of his earliest articles were on the subject of copyright. As with Jewett, the copyright deposits were of greatest interest, and on February 10, 1859, Spofford wrote an article which emphasized the variety of deposits received by the U.S. district court clerk in Cincinnati, finding that "Twenty-six copyrights have been secured, of which one was for a cough label, one for a lithograph, three for maps, six for bookkeeping and interest tables, and fifteen for books. Of the latter, five were revisions and new editions of old books, and ten were new books."

Spofford was sent to Washington in 1861 as a correspondent for the *Commercial*. When not busy preparing dispatches for his newspaper, he visited Reuben H. Stephenson's brother, John G. Stephenson, who had recently been appointed Librarian of Congress by President Lincoln. Librarian Stephenson, impressed with the knowledge of books, enthusiasm, and Republican credentials of his brother's friend, offered Spofford the job as Assistant Librarian of Congress. Uncertain of his future with the *Commercial*, Spofford accepted.

While the Library of Congress tied for sixth place among U.S. libraries in the 1859 Rhee survey, Spofford never considered it anything but the national library. Like the national library advocates of the *North American Review* and the supporters of the cause in the Smithsonian debate, he felt the primary function of the American national library should be the accumulation of a comprehensive collection of American publications; his first official letter was therefore probably a poignant reminder of the potential role of copyright deposits in



Ainsworth Rand Spofford, Librarian of Congress from 1865 to 1897, who successfully utilized the copyright laws as the basis for a national collection.

In 1859 Spofford became associate editor of the Cincinnati *Daily Commercial*, a leading

building a collection worthy of a national library. On September 23, 1861, he wrote a gentleman in St. Paul, Minn.:<sup>18</sup>

In reply to your favor . . . relating to your Map of Dakota, I would state that the Law requiring a copy of each publication issued to be deposited in this Library was repealed Feby 5, 1859, and all Books & Maps sent by mail to the Library of Congress are now deposited in the Department of Interior.

Spofford was the intellectual heir of Charles Coffin Jewett's views on the importance of copyright deposits to the development of an American national library, but his task was easier than Jewett's. For example, he could deal directly with Congress and was able to act effectively less than two months after his promotion to Librarian on December 31, 1864. By February the Joint Committee on the Library agreed to support an amendment which would return the copyright privilege of deposit to the Library of Congress.

Spofford originally proposed that the deposit copy sent to the Library be in place of the copy sent to the Patent Office, but it was instead agreed that an additional deposit copy be sent to the Library, designated by law for its use. Therefore, at the suggestion of the Librarian, Senator Jacob Collamer of Vermont, the chairman of the Joint Committee, added the desired deposit provision to a pending copyright amendment which extended protection to photographs. Collamer, however, was not telling the whole story when he explained to Senator Charles Sumner that the proposed change in the deposit system was "merely for carrying into effect what used to be the law formerly, that one copy of all these publications shall be sent to the Library."<sup>19</sup>

For the 1865 deposit amendment was stronger than the 1846 law: it stipulated for the first time that failure to deposit a copy for use could result in the forfeiture of the copyright previously secured. But actual deposit within the Library was still not ensured, for the Librarian was responsible for detecting any violations and for claiming delinquent deposits. Nonetheless, the concept of deposit for use assumed a new importance when the amendment of March 3, 1865, passed, because the Library of Congress now had a legal right to claim for its collections and use "a single copy of every book, pamphlet, map, chart, musical composition, print, engraving, or photograph, for which copyright shall be secured."

In 1860 Joseph Henry sent a large accumulation of American newspapers to the American Antiquarian Society "in exchange for works more immediately in accordance with the design of the Institution." A fire in the Smithsonian Building in 1865 presented him with another opportunity to streamline the Smithsonian library. As Spofford had recently obtained Congressional authorization for the physical expansion of the Library of Congress into larger, fireproof rooms, Henry proposed the deposit of the 40,000-volume Smithsonian library in one of those rooms. His purpose was not to separate the collection from the Smithsonian, "for it must still bear its name and be subject to its control," but instead to place it "where its preservation will be more certain and its usefulness more extended."<sup>20</sup> Naturally Spofford was willing, if not eager, to receive the collection, and on April 5, 1866, Congress approved the transfer of the Smithsonian library, including its copyright deposits received between 1846 and 1859.

The transfer of the Smithsonian library to the Library of Congress, together with the Copyright Act of 1865, eliminated any possibility that the Smithsonian might someday become the national library. Nevertheless, as Jewett had hoped, the Smithsonian library formed the basis of a national library collection, but the national library was at the Library of Congress: the transfer of the Smithsonian library added 40,000 volumes to the Library's collection of 99,000 volumes, gave the Library of Congress the outstanding collection of publications of scientific societies in the Nation, and provided for its continued expansion. A few years later Joseph Henry fully recognized the importance, if not the irony, of the situation: "The collection of books owned by Congress would not be worthy of the name of a national library were it not for the Smithsonian deposit."<sup>21</sup>

In his 1866 annual report Spofford discussed the importance of enforcement power in the copyright deposit provisions, noting that "the benefits of the law to the Congressional Library will depend greatly on the means provided for its enforcement and the vigilance with which it is administered." Spofford himself tried to administer the law with utmost diligence, making periodic trips to the district courts in New York, Philadelphia, and Boston to obtain information from the copyright records so he could demand copies, as provided in the law. He also corresponded with more than 30 district court clerks throughout the country, asking them to forward transcripts from their copyright records from which he could claim deposits not received by the Library. In early 1867, tired of performing what he considered unnecessary labor to claim what

legally belonged to the Library, Spofford, again acting through the Library Committee, proposed an amendment which imposed a \$25 fine for noncompliance and clarified the postage-free status of deposits mailed to the Library. The amendment quickly became law, and the improved results were noticeable immediately.

In 1866, the first full year of the 1865 law's operation, only 1,996 items were deposited in the Library; but in 1867, with the enforcement amendment in effect for most of the year, 4,499 items were deposited, mostly books, pamphlets, and periodicals but also 1,256 pieces of music, 319 engravings and photographs, and 91 maps. By the end of 1867, the Library's collection of over 165,000 volumes was the largest in the United States,<sup>22</sup> owing primarily to the acquisition of the Smithsonian deposit and the collection of Americana previously owned by Peter Force and purchased during the year. The Library's rooms had been expanded, and with the establishment of a more effective copyright law, Spofford admitted that the Library had experienced a year "unexampled in its past history."

But he was still troubled by the copyright law. While the Library was now receiving over 75 percent of all U.S. copyrighted publications, Spofford wanted *all* copyrighted publications available in the Library, for it should represent, as nearly as possible, "the complete product of the American mind in every department of science and literature." He found that even with the "utmost diligence" it was impossible to obtain all the copyrighted publications, since he was forced to pursue delinquent publishers and authors through the

44 U.S. district courts where the original copyright registrations were still being made.<sup>23</sup>

The entire system needed changing, and Spofford proposed to eliminate the district courts and the Patent Office from the copyright system altogether by centralizing all registration and deposit activities at the Library of Congress. According to his plan, both deposit copies—the copy for legal record and the copy for library use—would be sent directly to the Library of Congress. The Librarian would be responsible for registration and for keeping the copies deposited as legal evidence separate from the general collection.

Early in 1870, Spofford presented his ideas for the centralization of copyright activities to Representative Thomas A. Jenckes of Rhode Island, whose Committee on Patents was about to report out a bill for the revision and consolidation of the patent laws. Spofford previously had gained the support of Samuel S. Fisher, a patent lawyer from Cincinnati who had been appointed Commissioner of Patents on April 26, 1869. Like Spofford, Fisher had been a member of the Literary Club of Cincinnati, and Fisher and Jenckes had corresponded on the subject of patent law reform before Fisher came to Washington. Assured of the support of the Patent Office, the copyright registration agency and legal custodian of the deposit for record, Spofford wrote a 1,600-word letter on April 9, 1870, to Representative Jenckes outlining seven arguments favoring the centralization of all copyright activities at the Library:<sup>24</sup>

Under the present system, although this National Library is entitled by law to a copy of every work for which a copyright is taken out, it does not receive, in point of fact, more than four-fifths of such publications.

The transfer of the Copyright business proposed would concentrate and simplify the business, and this is a cardinal point. . . . Let the whole business . . . be placed in the charge of one single responsible officer, and an infinitude of expense, trouble, and insecurity would be saved to the proprietors of Copyrights and to the legal profession.

The advantage of securing to our only National Library a complete collection of all American copyright entries can scarcely be over-estimated. . . . We should have one comprehensive Library in the country, and that belonging to the nation, whose aim it should be to preserve the books which other libraries have not the room nor the means to procure.

Having all American publications thoroughly catalogued . . . in an annual volume, carefully edited and authoritatively issued from the press of the Government . . . would be an invaluable aid to thousands.

The proposed reform of the present unsatisfactory methods of recording and perfecting copyright would take away all the objections now so freely brought against the law.

The proposed change would be a great economy for the Government. It would save the Patent Office the trouble, expense, and room of providing for a great library of material which it cannot use and does not want. . . . A copyright is not an invention or a patent—it is a contribution to literature.

By requiring the Librarian to make an annual report to Congress, a highly important and interesting class of facts would be added to our national statistics.

Less than a week later, on April 14, 1870, Jenckes skillfully condensed Spofford's eight pages of arguments into a short, effective speech advocating the transfer of the copyright business to the Library,<sup>25</sup> and attached the proposal to his bill revising the patent laws. Jenckes' bill passed Congress easily, and when it was signed into law by President Ulysses S. Grant on July 8, 1870, the Library of Congress became the first central agency for copyright registration and for the custody of copyright deposits in the United States.

While fully aware of the importance of copyright centralization in establishing the Library of Congress as a national

library, Spofford never emphasized national library arguments in his dealings with Congress on the subject. Instead, as in his letter to

P.S. An important fact omitted in this last outline is that under the present system, no one knows where copyright publications are issued in the U.S. By requiring the Librarian to make annual reports to Congress, a highly important step is taken as to the place of publication of all books which are added to the national statistics.

Library of Congress,  
Washington, April 9, 1870.  
Hon. T. A. Jenckes;  
Chairman Committee of Patent & Copyright,  
Dear Sir,

Permit me to bring to your attention some leading reasons why the transfer of the entire Copyright business and books to the care of the Library of Congress would promote the public interest.

1. Under the present system, although this National Library is entitled by law to a copy of every work for which a Copyright is taken out, it does not receive, in point of fact, more than four-fifths of such publications. It is made the duty of the Librarian to make demand from delinquent proprietors of Copyright of a copy for this Library. To do this, I must have authentic evidence of every Copyright that is issued in the United States. Now there are forty-four judicial Districts, the Clerk of each of which issues certificates of Copyright. It is made the duty of all

MANUSCRIPT DIVISION

First page of Spofford's letter to Representative Thomas A. Jenckes of Rhode Island, in which he argues that the Library of Congress should be the central agency for copyright registration and for custody of copyright deposits.

Jenckes, he began with the assumption that the Library was already recognized as the national library and stressed the economies and efficiencies which would result to the Government and the publishing world through centralization. In his speech of April 14 Jenckes did not refer to the Library of Congress as the national library or as a potential national library.

While Spofford's practical successes were his own, his intellectual debt to Jewett, whose mantle and cause he assumed, was great. Jewett and Spofford shared the same view of five aspects of copyright deposit as a means of developing a national library collection. Each was convinced that: 1) deposit for library use protected the right of the public, just as deposit for record protected the right of the author; 2) his institution, as a Government-sponsored agency open to the public, had an irrefutable claim to the deposit copy intended for public use; 3) deposit for use was the most practical channel through which a comprehensive collection of American publications could be accumulated; 4) the centralized, permanent accumulation of the "products of the American press" was a positive national benefit and the natural basis of an American national library; and 5) the collection of copyright deposits should be as complete as possible, and completeness was ensured only by strong enforcement provisions in the law.

Spofford and Jewett each pursued the cause of a national library zealously and enthusiastically. However, before the Civil War, it was difficult for any national institution to succeed in the United States, and the Smithsonian Institution presented special difficulties. Supported solely

by an endowment, the Institution had to limit its functions in order to survive, a necessity recognized and skillfully used by Joseph Henry to the dismay of Jewett and supporters of the national library concept. At midcentury, in spite of increased library activity, a majority of Americans—including most Congressmen and the press—were indifferent to the subject of a national library, as they had been to a national university and other proposals for national cultural or scientific institutions. And Washington, D.C., as a location posed difficulties. Although the National Government was situated there, the city was relatively isolated, and the literary, commercial, and social centers of the country were elsewhere: the Federal Government itself, rarely perceived beyond Washington, was weak and its very survival becoming more questionable.

The Civil War changed the situation drastically. The Federal Government not only survived, it established itself; Washington emerged as a true political capital and an important Federal city. National pride, new wealth, and the growth of new Federal agencies and institutions changed the cultural climate and assisted Spofford's national library cause. The Smithsonian Institution itself, through the efforts of Joseph Henry, aided Spofford, not only through the Smithsonian deposit of 1866 but also by its example: an institution successfully promoting scholarly activity and contributing to Washington's intellectual climate. Throughout the United States scholarship achieved a new status and increased attention, with numerous professional associations created to promote and sustain it. Intellectual activity was becoming

organized and institutionalized, and Congress, responding to Spofford's pleas and proposals, began to recognize the need for and the potential role of a national library in the United States.<sup>26</sup>

The Library of Congress was exclusively a library, and this was probably Spofford's greatest advantage over Jewett. Unlike the Smithsonian Institution or the Patent Office, the Library was intended solely as a library, and Spofford faced no competing schemes for the development of his institution. He was able to deal directly with members of the Joint Committee on the Library and with all other Congressmen, most of whom fully appreciated his talents as a reference librarian, bibliographer, and speech writer.

Spofford not only operated under more favorable conditions than Jewett; his personality was better suited to the task. Less mercurial and more tactful, Spofford deliberately maintained superb relations with all Congressmen; keeping his personal reputation above reproach, he did not hesitate to ask individual Congressmen for support when he felt it necessary. Put simply, Spofford was a skillful politician; Jewett was not.

At the same time Spofford's goals and efforts were more limited, for unlike Jewett he never viewed the national library as the center of a national system of libraries offering nationwide service. Instead, for Spofford the national library was essentially a centralized permanent accumulation of national literature to be used for the benefit of Congress and the American people. To attain his goal, he worked with a single-minded devotion, merging personal ambition with his ambitions for the Library, thereby making the cause of

the Library of Congress as the national library a natural one for any Congressman to support and a difficult one to oppose. The copyright laws of 1865 and 1870 were striking successes in Spofford's campaign and crucial to his cause.

After passage of the 1870 law, the deposits began to arrive at an accelerated rate: over 11,500 articles in 1870, including 5,874 books and pamphlets, and almost double that number the next year. The law required that all copyright records and deposits from the district courts and the Patent Office be turned over to the Library, and the Patent Office copyright library of 23,070 volumes was added to the collections in 1871, minus the law books retained at the Department of the Interior at the request of the Commissioner of Patents. Spofford was disappointed in the size of the Patent library and the quality of the collection, but he optimistically declared that "although consisting of schoolbooks and the minor literature of the last 40 years, (it) embraces many valuable additions to the store of American books, which it should be one object of the national library to render complete."<sup>27</sup>

In its 1876 survey of the libraries of the United States, the U.S. Bureau of Education listed the rapidly growing Library of Congress and Boston Public Library as the two largest libraries in the United States, with approximately 300,000 volumes apiece.<sup>28</sup> In one decade the Library of Congress had tripled in size and risen to the top rank of American libraries. Copyright deposits constituted over 40 percent of its collections.

By 1897, when it moved from its overcrowded rooms in the Capitol across the east plaza into its spacious new building, the collections of the

Library of Congress easily ranked first among American libraries, both in size and scope. Over 40 percent of its 840,000 volumes and at least 90 percent of the map, music, and graphic arts collections had been acquired through copyright deposit.<sup>29</sup>

After the monumental copyright law of 1870, one other copyright law was enacted which added even further luster to the Library's collections: the act of March 3, 1891, granted U.S. copyright protection to foreign authors and brought deposits of foreign works into the Library for the first time.

Between 1865 and 1897 the only major acquisitions obtained directly from sources other than copyright deposit were the Smithsonian library, a collection of English county histories purchased in 1875 for \$5,000, the gift of the library of Dr. Joseph M. Toner in 1882, and the Rochambeau collection purchased in 1883 for \$20,000. The Library's annual appropriation for the purchase of books averaged only \$9,000, and while a system of international exchange of public documents was successfully inaugurated, the results had only a minor impact on the collections during this period.

Between 1865 and 1897 unsurpassed "national collections" had been accumulated within each class of material brought in by the copyright law. During these years copyright deposit added to the Library's collections approximately 350,000 books and pamphlets, 47,000 maps and charts, 250,000 musical compositions, 12,000 engravings, lithographs, and chromolithographs, 33,000 photographs, 3,000 etchings, and 6,000 dramatic compositions.

The centralization of copyright activities at the Library of Congress not only developed impressive

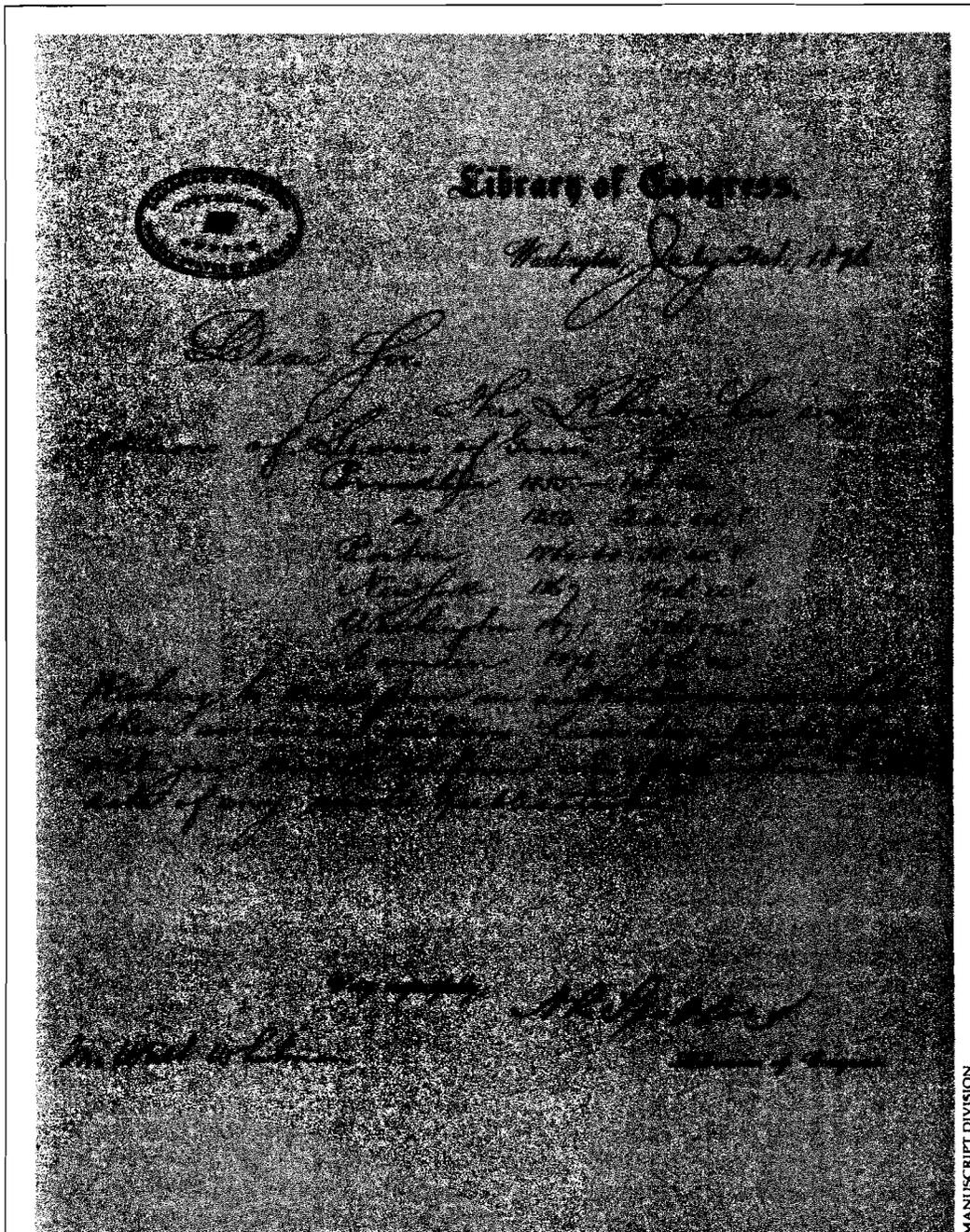
collections but also gave the Library an exclusive Government function and the national prestige which naturally accompanied it. For the first time the Library became part of the publishing and, to a lesser extent, the literary world, as well as an important Government institution rendering a service essential to the intellectual life of the Nation. As the collections increased, so did the Library's reputation, and it came at last to be generally recognized as a national institution.

As the sole copyright officer of the U.S. Government, Spofford corresponded with statesmen, scholars, and literary figures all over the United States, as well as with publishers and editors. In the process he succeeded in gaining new friends for the Library and new supporters in his long campaign for a separate library building. For example, in 1872 historian George Bancroft complimented Spofford: "Under your management the Congressional Library is attaining so high a character." After struggling with Spofford through copyright problems with *The Gilded Age* and *A Tramp Abroad*, Samuel Clemens gingerly asked permission for his nephew to "burrow a little" in Spofford's "grand literary storehouse." The influential Washington journalist Kate Field called Congressional neglect of Spofford's space needs "a disgrace" and strongly supported his efforts to secure a new building.<sup>30</sup>

In spite of the overcrowded conditions in the Library, Spofford always placed great value on the comprehensiveness of the collection brought in by the copyright law, strongly believing that "what is pronounced trash today may have unexpected value hereafter, and the unconsidered trifles of the press of the nineteenth century may prove

highly curious and interesting to the twentieth." He never ceased defending the Library against

charges that it was filling up with "trash" brought in by the wide net of the copyright law, asserting that

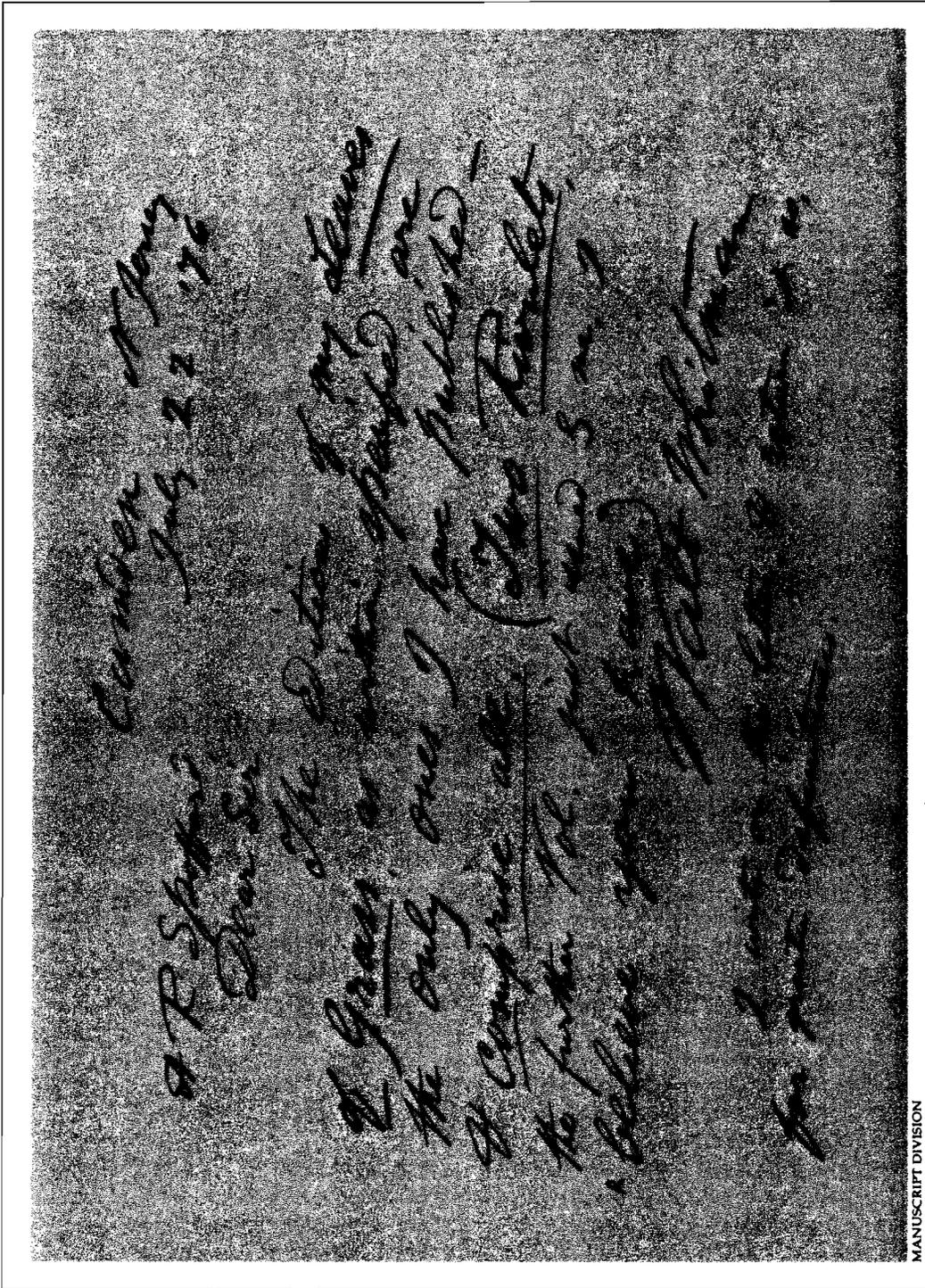


MANUSCRIPT DIVISION

Spofford's scrupulous attention to details about new or revised editions is illustrated in his letter to Walt Whitman, who in turn notes in his reply: "I write on the letter, & return it so, for greater definiteness."

"every nation should have, at its capital city, all the books its authors have produced, in perpetual

evidence of its literary history and progress or retrogression, as the case may be."<sup>31</sup> He carefully ensured the



complete representation in the Library of all editions of works from authors well known in his day,

for an appropriation for a new building, which was not finally completed and occupied until 1897.



PRINTS AND PHOTOGRAPHS DIVISION

*Spofford's warning that if he didn't get more space he "would soon be presiding over the greatest chaos in America" was hardly an exaggeration, for this was the situation when the copyright deposits were moved into the new Library building.*

frequently querying established authors directly concerning the dates of new or revised editions of their works.

### **"Greatest Chaos in America"**

Although essential to the growth and prestige of the Library, copyright deposit also created serious problems. Spofford was overwhelmed by the unceasing flow of deposits into his cramped Library. He cried to Congress for help almost immediately, and his 1871 annual report launched a 15-year struggle

In 1874, for the first time, the copyright law brought in more books than were obtained that year through purchase; in 1880 the law would bring in twice as many. In 1875 Spofford warned Congress that its Librarian would soon be presiding over the "greatest chaos in America," and by 1877 more than 70,000 books were "piled on the floor in all directions."

As the mountains of books, maps, music, prints, and photographs grew around him, Spofford was unable to devote much effort to the other essential functions

of the Library: by 1896 the administration of the copyright law required over 75 percent of his time and the full-time efforts of 26 of the Library's 42 employees.<sup>32</sup> Lack of space and adequate staff to cope with the sharply increasing copyright business contributed to another embarrassing situation for the Librarian, as he was unable to keep the copyright accounts and records in presentable order. And finally Congress, while unwilling to take decisive action on Spofford's annual pleas for more space and staff between 1872 and 1885, used the congested condition of the Library and the existence of guaranteed acquisition through copyright as reasons for refusing larger appropriations for staff and the purchase of materials.

The most serious problem was the chaotic condition of the deposits themselves. Virtually inaccessible without the aid of Librarian Spofford's remarkable memory, the accumulated wealth of the collections was not fully appreciated until they were transferred into the new building and cleaned, sorted, examined, and counted. Unfortunately, numerous individual items stored in the Capitol had been damaged or simply lost.

Of the copyright deposits, the map collection apparently suffered most from the crowded conditions in the old Library. Many of the maps were stacked in damp and dusty corners throughout the Capitol and emerged in a mangled condition from the masses of material which were hauled by one-horse wagons to the new building. But in 1897 the superintendent of the new Hall of Maps and Charts reported a collection of 26,500 maps—"perhaps the best collection in the United States, unless precedence is given to

Harvard." The next year he was forced to admit that there were actually 46,605 maps; the sharp statistical increase was due, not to the receipt of new material, but to the "discovery of maps in the old Library, their rescue, mending, mounting, and their final assignment."

The music collection suffered from the same crowded conditions as the maps, though it apparently suffered less physical damage. Stacked on the floor in ever-growing piles, where they could not be accessioned, classified, cataloged, nor made truly accessible, the pieces of music could not be sorted out and accurately counted until 1899. In 1898 Librarian John Russell Young asked for the first appropriated funds to purchase music. He was certain that Congress would comply, as the copyright law had already built a music collection of great value, and with an annual appropriation it "would soon be without a rival."

Most of the approximately 250,000 pieces of copyrighted music in the Library in 1897 were popular American compositions in sheet music form, vocal and instrumental, including music for the aeolian, pianola, and other special instruments. Of particular value were the 300 bound volumes of sheet music deposited in U.S. district courts between 1820 and 1859, originally collected and carefully tended in the State Department before they were transferred to the Library. The collection also included foreign musical compositions, mostly from England, Germany, and France, published and entered for copyright in the United States after the passage of the international copyright law of 1891.

The graphic arts materials in the Capitol building were in the same embarrassing state as the other

collections. Spofford was unable to arrange them in the Capitol or even to make an accurate estimate of their number. Yet the accumulated copyright deposits of photographs, engravings, etchings, lithographs, and chromolithographs, once arranged and counted in the new building, provided the Library with a collection of pictorial Americana unrivaled by any other library. Even after its first enumeration in the new building, unexpected materials continued to be unearthed. Among discoveries noted in the 1897 annual report were 800 portraits of eminent Americans, several portfolios of photographs taken in Paris during the commune insurrection of 1871, and a portfolio of etchings made during the Civil War by Confederate artists.

The copyright law also provided the Library of Congress with a unique collection of early motion pictures. While the first public showing of a motion picture for a fee in the United States took place in 1894, the copyright law did not provide for the protection of motion pictures as such until 1912. In the meantime pioneer motion picture producers registered their works as photographs, and 172 motion pictures were thus registered for copyright and deposited in the Library of Congress between 1894 and 1897. All but nine of the films were registered by Thomas A. Edison.<sup>33</sup>

The copyright privilege not only accelerated the growth of the Library's collections; it determined the direction and, ultimately, the quality of that growth. The very language of the 1865 law, requiring the deposit of every copyrighted "book, pamphlet, map, chart, musical composition, print, engraving, or photograph," not only ensured the

future development of those collections but also the establishment of separate Library departments for their cultivation and care.

The long-needed administrative reorganization came in 1897, when the Library was preparing for its move into the new building, and separate map, music, graphic arts, and copyright departments were established. Thorvald Solberg, who had worked in the library from 1876 to 1889 and was by then a nationally known copyright authority, was appointed the first Register of Copyrights. The creation of a separate copyright department officially recognized, for the first time, the value of the copyright function to the national library.

At the same time John Russell Young, a prominent journalist and diplomat, replaced the 71-year-old Spofford as Librarian. Established in its opulent new building, the Library for the first time had ample space for the organization and storage of its copyright accumulations of 32 years. Concurrently, in 1897 it was obvious that the Library must go beyond its previous reliance on copyright as practically the sole means of expanding its collections. In his first annual report, Young succinctly described the situation faced by the Library:

We have a basis for a library of comprehensive research so broad that it only needs to be built upon with care, system, and liberality to become in a few years the most representative collection in the United States and one of the greatest libraries of the world. While our own library has for twenty-five years lived so largely upon copyright accretions, other libraries, aided by liberal appropriations and bequests, and fortified by lists of desiderata by professional men and specialists in every field, have strengthened their collections until some of them far surpass us in important branches of learning. Numerical strength does not constitute the real force of a library.

A new era had arrived. In its 1855 editorial about the demise of the Smithsonian's national library role, *Norton's Literary Gazette* accurately prophesied the eventual need of sizable annual appropriations from Congress to develop fully and adequately maintain a national library in the United States. The New England scholars, intellectuals, and Congressmen who fought for a national library wanted such appropriations immediately, and the importance of large appropriations was always acknowledged by Jewett and Spofford, even though they recognized copyright deposit as a more immediate and practical method of achieving a national library. In 1895 Spofford predicted that the new Library building, "with the liberal fostering care of Congress, will yet be filled with the learning of all lands."<sup>34</sup>

In the United States annual appropriations adequate to sustain a national library were not available until after the basis for that library had already been established. When the new Library of Congress Building opened in 1897, sizable annual appropriations for the support and development of the national library and its collections were for the first time not only feasible but imperative. Copyright deposit had provided Spofford with the means of accumulating the necessary national collections and the argument for constructing the necessary building.

In 1899 Herbert Putnam, Superintendent of the Boston Public Library, became Librarian of

Congress, and in the next four years the Library's national services—cataloging, classification, reference, loan, and bibliographic—developed spectacularly, and its place among the national libraries of the world was assured. Putnam also extended the other methods of increasing the collections, such as exchange, gift, and transfer, and secured generous appropriations from Congress to increase the collections; the 1902 appropriation for the purchase of materials was \$70,000.

The national services and prestige of the Library were based, as Putnam recognized, on the unparalleled national collections already accumulated, the books, maps, music, prints, and photographs acquired as copyright deposits, mostly since 1865. By 1902 the Library of Congress was truly the national library, and Putnam paid homage to its collections and the ideals and efforts of Charles Coffin Jewett and Ainsworth Rand Spofford, while looking to the Library's challenging future:

"The opportunities of the Library of Congress for rendering service properly to be expected of the National Library of the United States appear ample, and conditional only upon adequate development of the resources already at its disposal."<sup>35</sup>

Today copyright deposit is still one of the Library's major acquisitions sources,<sup>36</sup> but between the years 1865 and 1897 it played a crucial role in the development of the national library.

## NOTES

<sup>1</sup> Gertrude Burford Rawlings, *The British Museum Library* (New York, 1916), p. 78.

<sup>2</sup> For copyright deposit from the legal standpoint, see Elizabeth K. Dunne, *Deposit of Copyrighted Works* (Washington, 1960. Copyright

Law Revision Studies No. 20). See also Thomas G. Tanselle, "Copyright Records and the Bibliographer," in *Studies in Bibliography* (Charlottesville, 1969), vol. 22, p. 77-124; and Martin A. Roberts, *Records in the Copyright Of-*

file Deposited by the United States District Courts Covering the Period 1790-1870 (Washington, 1939).

<sup>3</sup> *The American Almanac and Repository of Useful Knowledge for the Year 1837*, edited by Charles Bowen (Boston, 1836), p. 82-83. On literary nationalism and library development, see Jesse H. Shera, *Foundations of the Public Library* (Chicago, 1949), p. 206-216; and Ray W. Frantz, Jr., "A Reexamination of the Influence of Literary Nationalism on the Public Library," *Journal of Library History*, 1:182-186 (July 1966).

<sup>4</sup> *Congressional Globe*, January 8, 1845, p. 105.

<sup>5</sup> *The Smithsonian Institution: Documents Relative to Its Origins and History, 1835-1899*, edited by William J. Rhees (Washington, 1902. Smithsonian Miscellaneous Collections 42), p. 381-382.

<sup>6</sup> See discussion, William Dawson Johnston, *History of the Library of Congress, 1800-1864* (Washington, 1904), p. 403-506.

<sup>7</sup> Henry to Jewett, March 23, 1847, Smithsonian Institution archives.

<sup>8</sup> See Joseph A. Borome, *Charles Coffin Jewett* (Chicago, 1951), p. 18-106; Wilcomb E. Washburn, "Joseph Henry's Conception of the Purpose of the Smithsonian Institution," in *A Cabinet of Curiosities* (Charlottesville, 1967), p. 106-129.

<sup>9</sup> Jewett to Henry, April 26, 1848, quoted in Borome, p. 41-42.

<sup>10</sup> For the cataloging scheme, see *Annual Report of the Board of Regents of the Smithsonian Institution*, 1850, p. 32-41; for the listing of copyright deposits, see Joseph W. Rogers, *U.S. National Bibliography and the Copyright Law* (New York, 1960), p. 21-29.

<sup>11</sup> Charles C. Jewett, *Notices of Public Libraries in the United States of America* (Washington, 1851), p. 140-141, 190.

<sup>12</sup> *North American Review*, 71:220 (July 1850); *Norton's Literary Gazette*, 2:23 (February 15, 1852) and 2:129 (July 15, 1852).

<sup>13</sup> *Norton's*, 3:170-176 (October 15, 1853).

<sup>14</sup> *Ibid.*, n.s. 2:67 (February 15, 1855).

<sup>15</sup> Deposit statistics compiled from 1849 *Catalogue of the Library of Congress* and its annual supplements, 1846-48, 1850-59, and from Meehan to Senator James A. Pearce, April 18, 1856, Librarian's Letterbook No. 4. This and other letterbooks of the Librarian are in the Library of Congress archives.

<sup>16</sup> Librarian's Letterbook No. 3, February 28, 1854.

<sup>17</sup> Copyright Letterbook, June 14, 1859, p. 474 and July 15, 1859, p. 476, Copyright Office archives.

<sup>18</sup> Librarian's Letterbook No. 6.

<sup>19</sup> Spofford to Messrs. Robert Clarke & Co., May 29, 1867, Librarian's Letterbook No. 7; *Congressional Globe*, February 22, 1865, p. 981.

<sup>20</sup> *Annual Report of the Board of Regents of the Smithsonian Institution*, 1865, p. 70.

<sup>21</sup> *Ibid.*, 1873, p. 21.

<sup>22</sup> *City of Boston Annual Report of the Trustees of the Public Library*, 1869, p. 39-40, appendix 23.

<sup>23</sup> *Annual Report of the Librarian of Congress*, 1868, p. 4; and A. R. Spofford, "The Copyright System of the United States—Its Origin and Growth," in *Celebration of the Beginning of the Second Century of the American Patent System* (Washington, 1892), p. 149-153.

<sup>24</sup> Fisher to Jenckes, February 10, 1866, and Spofford to Jenckes, April 9, 1870, Jenckes papers, Manuscript Division.

<sup>25</sup> *Congressional Globe*, April 14, 1870, p. 2683.

<sup>26</sup> See A. Hunter Dupree, *Science in the Federal Government* (Cambridge, Mass., 1957), p. 44-90; also Wilcomb E. Washburn, "The Influence of the Smithsonian Institution on Intellectual Life in Mid-Nineteenth-Century Washington," in *Records of the Columbia Historical Society* (Washington, 1966), p. 96-121.

<sup>27</sup> *Annual Report of the Librarian of Congress*, 1871, p. 3.

<sup>28</sup> U.S. Bureau of Education, *Public Libraries in the United States of America* (Washington, 1876), p. 1012-1142.

<sup>29</sup> These statistics and the estimate that follows of the total number of copyright deposits received at the Library of Congress, 1865-97, are based on statistics in the *Annual Report of the Librarian of Congress* for the years 1866-1901; A. R. Spofford's *A Book for All Readers* (New York, 1900), p. 410-411; and a letter from Thorvald Solberg to John Russell Young, November 8, 1897, in Solberg's Copyright Letterbook No. 6, Copyright Office archives. The Librarian's 1901 *Annual Report* is especially useful.

<sup>30</sup> Bancroft to Spofford, September 21, 1872; Clemens to Spofford, December 31, 1880; Field to Spofford, March 11, 1885, Spofford papers, Manuscript Division.

<sup>31</sup> A. R. Spofford, "The Function of a National Library," in Herbert Small, *Handbook of the Library of Congress* (Boston, 1899), p. 125.

<sup>32</sup> Joint Committee on the Library, *Condition of the Library of Congress, March 3, 1897* (54th Cong., 2d sess. S. Rept. 1573), p. 33-127.

<sup>33</sup> Compiled from Howard Lamarr Walls, *Motion Pictures 1894-1912* (Washington, U.S. Copyright Office, 1953), p. v-ix, 71-90.

<sup>34</sup> *Norton's*, n.s. 2:67; A. R. Spofford, *Special Report of the Librarian of Congress* (54th Cong., 1st sess., S. Doc. 7), p. 16.

<sup>35</sup> Herbert Putnam, "A National Library for the United States," *The Bookman*, 15:52-57 (March 1902).

<sup>36</sup> According to a table prepared by Joseph W. Rogers, 15,276,183 copies of works were deposited in the Library between 1902 and 1957; see Dunne, *Deposit of Copyrighted Works*, p. 24. The same study contains a discussion of the effect of deposits on the Library's collections in this century.