

2-2006

AALL's National Advocacy Efforts

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Recommended Citation

Germain, Claire M., "AALL's National Advocacy Efforts" (2006). *Cornell Law Faculty Publications*. Paper 1054.
<http://scholarship.law.cornell.edu/facpub/1054>

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AALL's National Advocacy Efforts

AALL members and entities have been hard at work on national advocacy efforts, including authentication of government information, permanent public access to legal information, and influencing the *USA PATRIOT Act* and the *Digital Millennium Copyright Act*. **Special thanks to the Washington Affairs Office, Bob Oakley, and Mary Alice Baish; to the Government Relations Committee, chaired by Tim Coggins; and to the Copyright Committee, chaired by Paul Callister, for their continuous efforts to steer us in the right direction.**

Authentication of E-Law

AALL is working at the federal and state levels to ensure that digital government information is certified to be the official and authentic version of a legal document. This will ensure that citizens using legal information found on government Web sites can rely on the fact that the document is authentic.

Under the leadership of Richard Matthews, chair of the Access to Electronic Information Committee, and in collaboration with the Washington Affairs Office and the Government Relations Committee, AALL is currently conducting a 50-state Authentication Survey to determine which states, if any, offer “official” and “authentic” versions of primary legal resources on their Web sites.

From preliminary results, most government Web sites publishing primary legal resources—statutes, session laws, and court opinions—have a disclaimer directing users to official print resources to avoid possible errors in the online text. Foreign countries, such as Australia, Belgium, Canada, and France, have already moved to a certified digital signature for some of their official documents.

At the federal level, the Government Printing Office (GPO) plans to publish and disseminate most federal documents to its 1,400 federal depository libraries uniquely in electronic form. The GPO has developed a “GPO Seal of Authenticity,” which notifies users that a document has not been altered since it was authenticated and disseminated by GPO.

Law librarians indicate that the authentication of the documents needs to occur at the office of the agency, congressional officer or body, or other entity

that releases the document. For example, a Senate bill should have the authenticating signature of the clerk of the Senate. The GPO authentication seal only reflects that the document is what the Senate sent to the GPO; it does not, however, attest to the “official character” of the Senate bill.

Permanent Public Access to Legal Information/Vulnerable Information

As you have seen in the November 2005 *AALL Spectrum Members' Briefing* on permanent public access to legal information, AALL is currently discussing with other organizations how it can best support efforts to ensure long-term access to born-digital legal information and the preservation of print legal materials.

Born-digital official legal information raises particular concerns because it has no print equivalent and is therefore more vulnerable to alterations and disappearance. Under good conditions, official court reports, session laws, and codes printed on acid-free paper, will last for centuries. The same information published in digital form may become obsolete within five years.

Beyond the technical problems related to the fragility of the digital medium, a number of financial, legal, and policy issues are at stake in a democracy where no one can ignore the law and citizens feel entitled to free access to government information. What is at stake is the transmission of official documents, “the word of the law,” to future generations. Law librarians have a role to play to foster equitable and permanent access to legal information.

Reauthorization of the USA PATRIOT Act

AALL has long been on record as opposing provisions of the *USA PATRIOT Act* that erode the privacy and confidentiality of library users, specifically Sections 215 and 505.

Section 215 gives the government the power to access information from libraries about patron records without probable cause. Section 505 allows the FBI to issue its own “national security letters” under gag order to compel production of Internet-use records from any entity that provides the public with access to the Internet. The press reported last summer that the FBI now issues more than 30,000 national security letters a year.

This summer both the House and Senate passed very different bills to reauthorize this controversial law. Sixteen of its provisions were due to expire on December 31, 2005, including Section 215. The Government Relations Committee and Washington Affairs Office issued an action alert last November because the conference report reconciling the House and Senate bills did not include some very important safeguards contained in the Senate bill.

As a result of your help and a large national grassroots effort, conferees went back to the table and agreed to a second, slightly improved, conference report. It includes four-, rather than seven-, year sunsets for the more contentious provisions, including Section 215. However, it still allows the use of national security letters with little accountability or oversight. A bipartisan handful of senators threatened a filibuster and were able to delay a vote on the Senate floor. Congress eventually agreed to extend the act until February 3, giving them little time to work out the remaining differences. The Washington Affairs Office continues to monitor the reauthorization bill.

I am very grateful to Associate Washington Affairs Representative Mary Alice Baish, who always fights the good fight and alerts us when member action is required. I also want to thank each of you who took the time to respond to this important alert by calling your Congress members during the Thanksgiving recess. As usual, law librarians *do* make a difference, and we look forward to your continued help on this and other important issues in the coming year.

Joint Library Comments on § 1201 of the Digital Millennium Copyright Act

On the copyright front, AALL and the other members of the Library Copyright Alliance (the American Library Association, Association of Research Libraries, Medical Library Association, and the Special Libraries Association) filed joint comments to the Copyright Office on December 1 in the triennial rulemaking for exceptions to § 1201 to allow libraries to circumvent a technological protection measure to gain access to a lawfully acquired work.

The Washington Affairs Office prepared comments on behalf of AALL, which support the renewal of the exemptions granted in 2003 because, to our knowledge, there has been no adverse impact on the market for the classes of copyrighted works to which the exemptions applied.

In addition, we requested two new exemptions including one for “*Audiovisual works and sound recordings distributed in*

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digital format when all commercially available editions contain access controls that prevent the creation of clip compilations and other educational uses.” This exemption is needed for those who seek to use clip compilations, such as a law professor who wants to assemble a compilation of scenes of lawyers engaged in ethically questionable behavior or police conducting unlawful searches or interrogations.

You'll find the full comments at www.ll.georgetown.edu/aallwash/1201CommentsFinal_Dec2005.pdf.

I welcome your feedback on these initiatives. ■