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Steve Leggett, Library of Congress
Submittal of Testimony on
Preservation of Television documents
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Surely the listeners at the hearings authorized by the Congress to take place in various locations under the aegis of The Library of Congress will hear testimony to the significance of Television as the most widely received communicator of popular culture. And as surely, there will be testimony of the need to preserve and make accessible for research the artifacts of this medium for the use of generations of future scholars and students of the American experience. Indeed, the rhetoric of the American Television and Radio Archives Act of 1976 specifically charges the Librarian of Congress with the task of preserving and making accessible the artifacts of this medium. Testifying to the need for this urgent goal will be representatives of several major research universities, archives that have already made some effort to preserve the heritage of American broadcasting, and various practitioners within the medium of television itself.

I should like to be thought of as a delegate from "another world"-- that of the small college, struggling to be a university in a world of giants. The Morgan State Universities of the world number in the hundreds, even thousands. They graduate most of the students of higher education in the United States. Particularly, in the case of Morgan, HB--"historically black"-- institution that it is, this statistic has meaning. "HB's" have graduated a far higher proportion of America's black leaders than have the traditionally "white" universities.

And yet we struggle in a way that larger, research-oriented universities do not. Our libraries, when compared with major libraries, grow at an inchworm rate. Especially this so with respect to costly electronic images, whether radio, television, motion pictures, laserdiscs, CD-rom materials. Not only

are these materials prohibitively costly, but their storage, maintenance, and accessibility render the need for their acquisition almost moot. Ranging from buying machinery--monitors, players, vcr's, and such--to buying licenses to take new materials off-satellite place small libraries in a perpetual survival mode. Thus our collections remain small and, relatively speaking, grow smaller. And so our distance from mainstreams of American intellectual life remains the subject of a constant struggle.

Almost no predominantly African-American university can expect to stay even in this uneven struggle. My own university, when I arrived thirty-seven years ago, was blessed by Guggenheim Fellows such as Benjamin Quarles and distinguished journalists such as G. James Fleming and pioneers in bringing black American life into "American Studies" and internationally regarded literary critics such as Philip Butcher and Nick Ford. Now we have perhaps one or two dinosaurs left.

Partly, this is so because the nature of the curriculum has changed in ways that render electronic media obligatory as sources of study and of teaching. When I was a graduate student--in olden times, as my students think of it--a professor once quoted with quiet approval a famous historian who had asserted that "History is past politics." Now politics has been subsumed under rubrics such as "Cultural Studies." This means that to study any trait of American culture and society has become for some scholars an search for politics--of art, of movies, of television. This curricular evolution alone has made both teaching and research prohibitively dear. Susan Davis's book, Parades and Power, a recent study of 19th century Philadelphia working class politics, combined, indeed linked, popular

forms of parading on holidays as manifestations of political campaigning. Her entire corpus of research might have been accomplished in one or two libraries by turning the pages of old newspapers. To attempt the same task in the age of television is to incur a research debt that would be both unavoidably depended on research and travel grants and also prohibitive to undergraduates.

So with the simultaneous arrival of both "cultural studies" and electronic media, the teacher and the student both at a small American college are effectively debarred from participating in an important trend in American higher education.

The solution to this emerging disparity in access to electronic resources is self-evidently the preservation of the videotaped documents. Others will argue far more effectively than I. I hope for an outcome of these hearings. My most deeply felt need is for access to the preserved document. At the very least, the ongoing work of the Library of Congress Division of Broadcasting, Motion Pictures, and Recorded Sound must be encouraged and expanded. In addition, in keeping with the law's expressed wish to enhance education while insuring against copyright infringement, we must ask for a reclarification of the Copyright Law of 1976 (coincidentally, in the same year as the Television Preservation Law). More about this later. If we clarify copyright law in a way that does not infringe upon the rights of copyright holders, it should allow for educational use as "fair use," perhaps by having institutions pay a general user fee not unlike that paid to ASCAP for the right to use musical composition. In this way researchers--even undergraduate researchers--would be able to

receive on request of the Library of Congress or other repository either by satellite or by postal service research/teaching copies of historic video documents. Perhaps copyright holders could have a small logo "supered" in the corner of the frame of such programming as an insurance against an unintended pirated use for broadcasting purposes. Many firms in the business of selling stock shots already do this. Or a more commonplace solution might be the often discussed prospect of regional media study centers. There are already precedents for this that need only greater numbers: the Pacific Film Archive, the late lamented Southwestern Film and Video Archive, the Harvard and Yale Archives, along with many smaller archives that have taken in the news footage of their local television stations, such as in Baltimore the University of Baltimore and the University of Maryland, Baltimore County.

To take any one of these steps--accompanied by a rigorous national effort to preserve the nation's television heritage much as has already been undertaken with respect to motion picture preservation--will allow the nation's small institutions to share in an academic culture now accessible only to those universities rich enough to collect their own archives, those near to a major repository such as the Library of Congress, and those who now scrape by even as they are partly daunted by the FBI's warnings at the top of every Blockbuster tape that they use a fragment of in class.

Many witnesses before this body will surely emphasize the documented need for preservation and broad access without violating copyright. But I would press further a more precious need that practicing scholars cannot do without: the development of the provenance and pedigrees of the video

image. To rely on collectors, commercial stores such as Blockbuster, or even their more historically minded counterparts such as Video American is to study documents that have frequently been violated, edited, fragmented, and otherwise spoiled as pristine primary sources. To have a national repository such as the Library of Congress with a staff trained in librarianship (using as a model the present division that embraced film, video, and sound), would assure not only the staunching of the bleeding away of lost materials but would assure that the survivors would be catalogued according to a profession standard of description.

Here I should point out that by the television document I mean precisely what is meant by almost everyone who might wish to speak to this issue: all of the programming, not merely news, documentaries, "educational" television. It is all educational, whether seven-year hit situation comedy, a flop that is dropped after six shows, or the hundreds of commercials that routinely punctuate the programming. It is the total television experience that will teach our offspring what our culture was like. Image if we were to judge the culture of Britain only by what comes to us through the prism of "Masterpiece Theatre." We would miss entirely the Irish, the working class, the blacks, and so on.

To fail to see this preservation attempt in the round is to become dependent on compilers of the holdings of copyright possessors. However much we were amused by MGM's That's Entertainment, however we wince at the NFL's compilations of the league's hardest hits (complete with augmented whacks of soundeffects), we are unable to learn much from them. And dependent willynilly on what sells, whether in the rental stores or among the chains of dealers such as Sun Coast.

May I have a final word on an aspect of our work here that may elude those of us who have not recently faced its strictures. That is the subject of copyright. We indeed need some uniform code or standard that will allow scholarly use without the threat of litigation for presumed violation or infringement of copyright. The law as it stands-- or rather the jurisprudence that has followed from it--has made eligible for copyright almost any document, even a laundry list. That is to say, any scribbling on a page constitutes intent to publish, therefore any manuscript--or in our instance today, any outtake--constitutes copyrighted document protected by the law. Moreover, this particular title in the law awards uncommonly ironclad protection to all of the future widows and orphans of America whose forbears may have produced something deemed as meant to be published. We need to remove all noncommercial, scholarly, research, or teaching purpose or intent from this morass ever lengthier claims to ownership. We should make clear intent neither to infringe the rights of others nor the wish to profit from the work of others but the public's right to know as phrased in the original Copyright Act of 1790 is also a right--and one that we must defend against infringement.

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