



United States
National Commission on
Libraries and Information Science

DRAFT MINUTES
NCLIS Planning Meeting
January 29 - 30, 1998

Members Present	Jeanne Hurley Simon, Chairperson, "Abe" Abramson, Walter Anderson (29th only); Joan Challinor, Mary Furlong, José-Marie Griffiths, Martha Gould (portion of 1/29 and 1/30 via speakerphone), Frank Lucchino (portion of 1/29 and 1/30 via speakerphone), Joel Valdez, Robert Willard
Members not present	LeVar Burton, Diane Frankel, Winston Tabb (for James Billington)
Staff	Jane Williams, Acting Executive Director, Barbara Whiteleather, Recording Secretary
NCLIS consultants	Tom Sloan Ilona Holland
Guests/observers	Sherman Banks, White House Conference on Library and Information Services (WHCLIST), John N. Berry III, Editor-in-Chief, <u>Library Journal</u> , Beth Bingham, Baton Rouge, LA, Linda Bly, Central Arkansas Library System, Mary Costabile, American Library Association, Bridget Lamont, Illinois State Librarian, Jack Mulkey, Arkansas State Library, Peyton Neal, Information Industry Association, Susan Shallhorn, Central Arkansas Library System, Jackie Wright, Arkansas Supreme Court

Thursday, January 29, 1998

Central Arkansas Library System

Commissioner Roberts, Director, Central Arkansas Library System, presented a tour of the main new library from 8:30 to 9:30 a.m.

1110 Vermont Avenue, N.W. Suite 820
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Opening Comments

Chairperson Jeanne Hurley Simon called the meeting to order at 9:30 a.m. On behalf of the NCLIS Members, Chairperson Simon thanked Commissioner Roberts for inviting the Commission to meet at the beautiful new main library which, she noted, "Dr. Roberts built for the citizens of Arkansas."

Chairperson Simon announced that Commissioner Roberts was chosen "Librarian of the Year 1997" by the Library Journal. Commissioners, staff, and guests presented Commissioner Roberts with a hearty round of applause and congratulations. Chairperson Simon reported that President Clinton sent regrets that he could not attend the meeting in Little Rock.

Chairperson Simon welcomed the news of the nominations of Rebecca Bingham and Martha Gould. Advanced copies were distributed of *NCLIS Press Release* announcing, "Rebecca Bingham Nominated to NCLIS; Martha Gould Nominated to Second Term". On January 29 President Clinton announced his intention to nominate Rebecca T. Bingham of Louisville, KY, to be a Member for a term ending 2001. Mrs. Bingham, a national school library leader, is the retired Director of School Library Media Services for Jefferson County Public Schools, Louisville. When told of her nomination, Mrs. Bingham replied, "This is the crowning achievement of my career as a librarian." She replaces Carol DiPrete.

Vice Chair Gould was originally named to the Commission in 1993. She will now serve a new term ending 2002.

Chairperson Simon announced that Jane Williams has accepted a position at the University of Maryland Research Library and will resign as Acting Executive Director on February 13, 1998. The appointment of Tom Sloan as NCLIS Executive Director is pending due to a White House backlog in processing papers. In the event of a gap between the departure of Ms. Williams and arrival of Mr. Sloan, Commissioner Willard has agreed to serve as Acting Executive Director.

Tom Sloan, Delaware State Librarian, and Ilona Holland of Milford, Delaware, were introduced as NCLIS Consultants. Dr. Holland served as the Facilitator during discussions on the "Focus on the Commissioners" and "Focus on the Commission's Proposed Action Plan," developed by Mr. Sloan.

Focus on the Commissioners

As Facilitator, Dr. Holland outlined ground rules during discussions, emphasizing equal time for all and avoidance of 'side-bar' conversations. A synthesis of discussion will be prepared by Dr. Holland and sent to all Commissioners.

Presentation of Proposed Action Plan

Mr. Sloan presented the proposed NCLIS Action Plan 1998 - 2000, entitled "Addressing the Library and Information Services Needs of the Nation". The draft was distributed prior to the meeting for careful review in preparation for discussion on Friday, January 30.

In presenting the Action Plan, Mr. Sloan stressed three key words: "Focus, Focus, Focus." Referring to the consolidation of NCLIS' legislation as "the core of consideration in developing the Action Plan," Mr. Sloan suggested the Commission focus on:

1. **Advising the President and the Congress on the implementation of national policy;**
2. **Conducting studies, surveys, and analyses of the library and informational needs of the Nation, including the special library and informational needs of rural areas, or economically, socially, or culturally deprived persons, and of elderly persons;**
3. **Appraising the adequacies and deficiencies of current library and information resources and services and evaluate the effectiveness of current library and information science programs;**
4. **Developing overall plans for meeting national library and informational needs and for the coordination of activities at the federal, state, and local levels, taking into consideration all of the library and informational resources of the Nation to meet those needs;**
5. **Authorization to advise federal, state, local and private agencies regarding library and information sciences;**
6. **Promoting research and development activities which will extend and improve the Nation's library and information-handling capability as essential links in the national and international communications and cooperative networks;**
7. **Submitting to the President and the Congress a report on its activities during the preceding fiscal year; and**
8. **Making and publishing such additional reports as it deems to be necessary, including, but not limited to, reports of consultants, transcripts of testimony, summary reports, and reports of other Commission findings, studies, and recommendations.**

The draft Action Plan has three primary goals:

Goal One -- NCLIS will promote the needs of the people of the U.S. for extended and improved library and information services, delivered through the national and global information infrastructure.

Goal Two -- NCLIS will promote the needs of the people of the U.S. for extended and improved library and information services delivered through the Library Services and Technology Act.

Goal Three -- NCLIS will promote the needs of the people of the U.S. for extended and improved library and information services, delivered through federal government information products and services.

Mr. Sloan noted that each of the primary goals is directly linked to one or more existing federal library program.

The first objective of each primary goal positions NCLIS as a principal facilitator for the collection, analyses and dissemination of information on key federal library programs.

The second objective of each primary goal positions NCLIS as a principle advisor to the President, Congress and other key partners regarding key federal library programs.

Mr. Sloan offered two suggestions: (1) NCLIS should build on its past, and (2) NCLIS' goals should expand as staffing and budget increase.

Mr. Sloan offered that the purpose of the NCLIS Action Plan is to:

- Identify primary NCLIS goals;
- Identify key partners and advisors;
- Broadly disseminate interests and endeavors of NCLIS;
- Drive identification of expertise needed by NCLIS staff;
- Drive allocation of NCLIS budget and finance budget request;
- Measure NCLIS accomplishments;
- Measure staff performance; and
- Drive staff recommendations to the Commission on NCLIS operations and actions.

Friday, January 30, 1998

The Chairperson called the meeting to order at 9:15 a.m.

Referring to the draft Action Plan, Chairperson Simon stated, "Each Commissioner is committed and interested, in his or her own way, to improving library and information services. We realize that our primary responsibility is to develop and recommend overall policy and plans for library and information services adequate to meet the needs of the people of the United States, including the special library and informational needs of rural areas, or economically, socially, or culturally deprived persons, and of elderly persons. In whatever way we can, I would like to see us adopt the Action Plan to further our work. This Plan deserves our every consideration. NCLIS is in need of an agreed-upon, concentrated plan of action—a plan by which the new Executive Director can comply."

NCLIS Personnel Meeting

The Chairperson called a closed, one-hour emergency meeting of the NCLIS Personnel Committee to discuss NCLIS staffing and personnel matters.

Review of NCLIS Priorities

What has NCLIS Set as Past Priorities? For this discussion, the Commissioners received: (a) Consolidation of NCLIS Legislation; (b) A Survey of NCLIS' Research and Publications; (c) A copy of NCLIS at 25; and (d) Survey Results, NCLIS Member's Priorities. The results of the March/April 1994 survey were:

<i>First Priority:</i>	Libraries in the National Information Infrastructure
<i>Second Priority:</i>	Libraries, Literacy, and Educational Reform
<i>Third Priority:</i>	Library Services and Construction Act (LSCA) Reauthorization
<i>Fourth Priority:</i>	Economics of Library Support
<i>Fifth Priority:</i>	Federal Information Dissemination Policy
<i>Sixth Priority:</i>	Public/Private Sector Relationships

As reported in the unpublished 1996 draft of NCLIS at 25, "... the Commission's early work was in five areas where it determined progress must be made if NCLIS were to plan for better organization of library services and develop useful networks:

1. Understanding the information needs of users.
2. Financing of libraries and information systems.
3. Assessment of adequacies and deficiencies of present libraries and information systems.
4. Application of new technology to users' information problems.
5. Improved staffing of libraries and information systems. . . "

Ms. Williams noted that priorities have been functions of WHCLIS recommendations, administrative initiatives, legislative initiatives, concerns of library and information services communities, and the special interests and concerns of Commissioners and staff. She also suggested three models for the work of the Commission:

1. Contract for task forces or experts to produce report with recommendations that Commission can endorse or not. This is the most expensive model.
2. Commissioners themselves do much of the work in committees, with a lot of staff support.
3. Use community, through forums and other events, to obtain their views and opinions, which the Commission then synthesizes, repackages, adds value to, and reports on further.

Ms. Williams noted that due to NCLIS' serious professional under-staffing since the 1991 White House Conference, approaches 1 and 3 (above) have been used the most.

Ms. Williams suggested that there are several factors leading to success of NCLIS-sponsored studies, e.g., public libraries and the Internet and/or the Government Printing Office study:

- Well-known, trusted authority leads the study;
- Timely;
- Provides data not collected by anyone else; new information;
- Outcome not known in advance;
- Provides facts, not feelings, emotions or anecdotes, and facts are based on defensible studies and surveys;
- Responds directly to questions/issues being raised or considered in Congress and/or Administration;
- Has general interest and applicability; and
- Deals with specific questions and issues and specifically answers those issues and questions.

Commissioner Challinor agreed with the above factors and reminded Commissioners that in December 1995, the Commission developed and approved a template to be used in considering all Commission projects, studies, programs, etc. The template is composed of the following questions:

1. What do we wish to accomplish?
2. How do we wish to achieve this accomplishment?
3. Is anyone else undertaking this task at present?
4. That which we generate, how do we make it effective?
5. To whom, and how do we make it effective?

6. What resources/funds are required?

Ms. Williams asked, "Will the Commission be primarily a policy organization or an advocacy organization?"

Referring to the 1997 National Survey of U.S. Public Libraries and the Internet, Commissioner Roberts expressed his concern that the right questions were not asked. In his opinion, the new Library Services and Technology Act is not making a difference in the informational needs of rural areas, or economically, socially, or culturally deprived persons.

Designee for Librarian of Congress

NCLIS' enabling legislation cites, "The Commission shall be composed of the Librarian of Congress. . . ." Commissioner Abramson requested a legal opinion on whether or not the Librarian of Congress can designate a person or persons to serve in his stead and whether or not that person has a vote. (Subsequently, during the meeting, a copy of a legal memorandum from the Department of Justice dated September 19, 1978, was distributed to the Commissioners. A copy is attached (Attachment I).

Personnel Committee

Commissioner Challinor, Co-Chair, Search Committee for NCLIS Executive Director, reported that Tom Sloan's papers are at now at the Office of Personnel Management for final clearances. She also reported that the Committee is moving toward a final negotiation agreement to hire Tom Sloan as NCLIS Executive Director. Commissioners will be kept up to date on the status of the appointment by e-mail.

What Can NCLIS Achieve?

Dr. Ilona Holland led the question and answer period which addressed:

1. The proposed Action Plan recommends focusing the Commission's primary efforts on key federal legislation and programs. Is this the proper focus?
2. Considering current NCLIS staffing and budget, does the proposed Action Plan set a reasonable number of primary goals?
3. Should/could the Commission focus on local, state, and/or international issues?

4. The proposed Action Plan recommends focusing the Commission's primary efforts on key Federal legislation and programs: Is this the proper focus?
5. Are my individual interests and concerns adequately represented within the framework of the proposed Action Plan?
6. Should NCLIS support me to pursue individual interests and concerns which are not within the proposed Plan?
7. How can my expertise advance the Commission's agenda?

Mr. Sloan outlined what he perceived as proposed outcomes of the two-day planning meeting:

1. Agreement on the NCLIS Action Plan.
2. List of suggestions on how to improve Commission meetings.
3. Enhanced understandings regarding staff support for Commissioners.
4. List of Commissioners' expertise which support the work of NCLIS.
5. Agreement on a working definition of "Information Science."

Mr. Sloan stated that the Action Plan was presented as a consultant report to determine if he, as NCLIS Executive Director, and the Commission "are a match." He urged the Commissioners to take the draft Action Plan and turn it into "their Plan". "Once the document is in place, personal decisions can be made," he urged.

Commissioner Lucchino expressed his opinion that Mr. Sloan's statement "brought forces into adopting the Action Plan that are coercive and immaterial to what NCLIS should be doing." Commissioner Furlong agreed and encouraged Mr. Sloan to incorporate the views of the citizens into the draft Action Plan. Chairperson Simon responded this the Plan speaks to the needs of the Commission, presenting a framework which can be modified over time after careful discussion.

MOTIONS

Draft Action Plan, Goals

It was moved by Abe Abramson, seconded by Joel Valdez, to adopt the following goals, as presented in the draft Action Plan:

Goal One -- NCLIS will promote the needs of the people of the U.S. for extended and improved library and information services, delivered through the national and global information infrastructure.

Goal Two -- NCLIS will promote the needs of the people of the U.S. for extended and improved library and information services delivered through the Library Services and Technology Act.

Goal Three -- NCLIS will promote the needs of the people of the U.S. for extended and improved library and information services, delivered through federal government information products and services.

Commissioner Griffiths stated her support for the motion if the phrase “national and global information infrastructure” [Goal 1] is not limited to the Internet.

The motion carried. Commissioner Lucchino wished to be recorded as being opposed to the motion. Commissioner Furlong wished to be recorded as abstaining.

It was moved by Bobby Roberts, seconded by Frank Lucchino, that Goals 1, 2, and 3 focus on the needs of the under-served, including, but not limited to, the special library and informational needs of rural areas, or economically, socially, or culturally deprived persons, and of elderly persons, as outlined in Public Law 91-345 (NCLIS Public Law).

The motion carried unanimously.

MOTION

Draft Action Plan, Objectives

It was moved by Abe Abramson to adopt the objectives under Goals 1, 2, and 3 as presented in the draft Action Plan.

In discussion of the objectives, Commissioner Furlong suggested developing a model leveraging Commission resources in an effort to determine how best to use Commissioners to accomplish the goals. In addition, she suggested the need for a strong communication strategy.

Commissioner Griffiths noted that the objectives only focus on school and public libraries.

Commissioner Gould asked if the goals addressed literacy/national reading initiatives outside of the national and global information infrastructure. She offered two specific suggestions: (1) National policy regarding library services needs to be addressed along with digital library services; and (2) America Reads and other national literacy groups should be added to the list of Key Partners and Key Advisors.

Other additions to “Key Advisors” included Telecommunications Industry (Goal One), and Information Industry Association (Goal Three).

At Commission request, a new category was added at the end of each goal:
Targeted Audience.

Commissioner Willard and Commissioner Challinor noted the exclusion of international activities from the Plan. It was established for the record that while the Action Plan does not embrace international activities the spirit is that NCLIS can embrace this topic at a later date.

Commissioner Furlong mentioned that 2000 is the *International Year of the Aged* and suggested NCLIS' presence in pertinent events. Commissioner Challinor, with endorsement from Commissioner Furlong, suggested that the idea of "Sister Libraries" be explored by NCLIS staff.

Recognizing that a small portion of NCLIS resources are available for accomplishing "opportunistic" tasks/activities, staff were empowered to augment the Plan in this regard.

Commissioner Roberts cited the need for a budget for accomplishing the Plan. "Without a budget, it is nothing more than a wish-list," he stated.

It was moved by Abe Abramson, seconded by Joan Challinor, that the motion be amended to read: "It was Moved that the objectives under Goals 1, 2, and 3 in the draft Action Plan be approved with the suggested amendments."

The motion carried unanimously.

Key Federal Roles and Legislation

At Commission request, the list of key federal roles and legislation, p. ii of the draft Action Plan, will be expanded to include:

- The Museum and Library Services Act
- Intellectual Property Legislation
- Next Generation Internet
- Commercialization Legislation

Tribute to Bessie Boehm Moore

Mr. Jack Mulkey, Arkansas State Library, a long-time friend and colleague of the late Dr. Bessie Boehm Moore, presented a copy of Dr. Moore's biography to Commissioners, staff and observers. Dr. Moore was a Member of the Presidential

Commission that recommended the establishment of NCLIS. She was appointed to NCLIS by President Nixon and reappointed by three presidents. She served as Vice Chairman and on her retirement from NCLIS was named Vice Chairman Emeritus.

Commissioner Roberts offered a few words in tribute to Dr. Moore. He stated that she was a very powerful and persuasive woman and a pioneer in economic education, American library legislation, and educational standards for the use of children's literature for the State of Arkansas. And, as a tribute for her national leadership, a Mountain View Trust (Arkansas) has been established in her name and honor.

Commissioner Willard recalled his long friendship with Dr. Moore and called attention to Chapter One of the biography which details Dr. Moore's difficult birth. "Bessie's birth was emblematic of her life. She was an achiever ever since she came into this world," he said.

Chairperson's Report

Chairperson Simon presented a brief report on recent NCLIS Chairperson activities. Meetings and activities included a meeting with Francis Buckley, Superintendent of Documents on January 5, 1998; a meeting with Melanne Verveer, First Lady's Chief of Staff (with Commissioner Challinor) on January 6; the American Library Association midwinter meeting in New Orleans, January 9-15; and attendance at the 50th International Conference on Educational Exchange, Barcelona, November 18-20, 1997.

MOTION

Hearing on Child Abuse in Digital Environment

It was moved by Abe Abramson, seconded by Joel Valdez, that the Commission schedule a hearing on predatory pedophiles in the digital environment at the April 7-8, 1998, NCLIS meeting at the Linda Hall Library, Kansas City, Missouri.

Commissioner Abramson's rationale for this proposal is twofold: (1) This topic appears to be the single item consuming the time of public librarians in the world today; and (2) Concern for this issue has been raised on several occasions by Commissioner Anderson. *[Note. Commissioner Anderson was not present on this day.]*

During discussion, Commission Challinor expressed her opinion that a hearing in April would be premature. Chairperson Simon called attention to NCLIS' current understaffing situation. Commissioner Furlong stated that children are being hurt by this topic everyday, and it is one which NCLIS should address with a sense of urgency. She also noted that predation is a key concern to older people also.

Commissioner Furlong offered an amendment to the motion, which was accepted by Commissioner Abramson. The revised motion reads:

It was moved by Abe Abramson, seconded by Joel Valdez, that NCLIS will focus on the issue of pornographic pedophilia in the digital environment in a reasonable time, perhaps as early as September/October 1998, and in a venue such as New York City.

The amendment carried. Commissioners Challinor and Roberts wished to be recorded as being opposed to the motion.

Commissioners Roberts explained that he voted against the motion because he believes this issue to be outside the charge of the Commission. He stated he would support a motion to hold a forum to determine compelling issues and the role of public entities in dealing with the determined compelling issues on the Internet.

It was moved by Robert Willard, seconded by Martha Gould, to table the motion with the understanding that a well thought-out recommendation be prepared within 2-3 weeks for Commission review and approval. Necessary formal actions/decisions can be handled through the mail or at the NCLIS meeting in April.

The motion carried. Commissioner Abramson wished to be recorded as being opposed to the motion.

Chairperson Simon announced her intention to establish an ad hoc committee to discuss the abuse of children in the digital environment and to determine appropriate next steps, including hearing, date, cost, etc., based upon the NCLIS template.

Next NCLIS Meeting

The following topics will be included on the agenda and/or in the NCLIS meeting notebook for the NCLIS meeting, April 7-8, 1998:

- Background information on the Linda Hall Library.
- Tour of the Linda Hall Library from 8:00 - 9:00 a.m. on 4/7/98.
(Meeting begins at 9:00 a.m.)
- Update on Library of Congress activities by Dr. James Billington, Librarian of Congress. Chairperson Simon will personally invite Dr. Billington to present update.
- Update on "Sister Libraries".
- Two-page briefing on the impact on the development of the Internet, especially on under-served populations.
- Evaluation of NCLIS meeting materials/arrangements/facilities/etc. This will be a standard form for evaluating all NCLIS meetings.

To accommodate Commissioners who can attend one day of the NCLIS meeting, it was suggested that informational activities occur on one day and action items on the other.

Chairperson Simon offered to take under advisement Commissioner Abramson's request to attend the Public Libraries Association annual meeting in Kansas City.

NCLIS Web Site

The following additions/updates to NCLIS' web site were suggested:

1. Information on Bessie Boehm Moore as a role model and "as a woman who made a difference" (link to Web Girls/Digital Dames).
2. Update NCLIS Commissioner biographies.
3. NCLIS orientation material (and maintain).
4. NCLIS at 25.
5. Consolidation of NCLIS legislation.
6. Former Chairpersons with brief biographies.

NCLIS Draft Minutes

The following clarifications/corrections were received to the draft minutes of the NCLIS meeting, October 28-29, 1997:

Page 8. Correct title, "Office of Library Services", to read, "Office of Library Services, Institute of Museum and Library Services".

Page 8: 3rd paragraph. Delete, "Director, Office of Library Services (OLS)." Paragraph should read: "Mr. Robert Klassen reported that the 'marriage' between the Institute of Museum Services (IMS) and the Office of Library Programs (formerly under the U.S. Department of Education) is going well."

Page 9, under Institute of Museum and Library Services, 1st paragraph, second line: Correct spelling from "Plans" to "Plains."

Page 18, Salary for Commissioners. For clarity, last sentence should be revised to read: "Chairperson Simon so ordered that Commission salary be increased from \$225.00 to \$398.00 per day, effective January 1, 1998."

MOTION

NCLIS Draft Minutes

It was moved by Bobby Roberts, seconded by Abe Abramson, to approve the NCLIS meeting minutes, October 28-29, 1997, as corrected.

The motion carried unanimously.

Executive Director's Report

Copies of the NCLIS Executive Director's report dated January 27, 1998, were included in the NCLIS meeting notebook (Tab F).

Ms. Williams called attention to the proposal for a new survey on branch libraries' Internet connectivity, type of connectivity and services. (Surveys to date have collected data from public library systems or administrative units, not branches.) "Such information is pertinent to the Universal Service Fund, under which libraries can receive discounts of 20% to 90%, based on the poverty rate and urban/rural status of their service areas," she stated. In conversations with the Office of Information Technology Policy, American Library Association, Ms. Williams has expressed NCLIS' possible interest.

Ms. Williams urged the Commission's participation and urged that the time for a decision is now. The Commission approved co-sponsoring this survey with the American Library Association, not to exceed \$20,000."

Commissioner Valdez questioned the need to reduce Barbara Whiteleather's position from full time to part time after mid-March. Ms. Williams offered that Library Statistics Program funding had been reduced and that Ms. Whiteleather's job slot was needed to hire a Research Associate. Commissioner Valdez expressed his concern that such action was deemed necessary.

The Chairperson adjourned the meeting at 3:30 p.m.

Attachments:

I Legal Memorandum, Department of Justice, September 19, 1978

Department of Justice
Washington, D.C. 20530

19 SEP 1978

Honorable Alphonse F. Trezza
Executive Director
TO: National Commission on Libraries
and Information Science

Leon Ulman
FROM: Deputy Assistant Attorney General
Office of Legal Counsel

SUBJECT: Legal Memorandum dated September 19, 1978

Titled: Delegation of Duties by Librarian of Congress
and Quorum for the National Commission on
Libraries and Information Science.

The Attorney General has directed the Office of Legal Counsel to undertake the publication of selected opinions of this Office. We believe the attached opinion addressed to you is appropriate for publication. Unless we hear from you to the contrary within ten days, we shall assume that you have no objection to its publication.

This Office will undertake review of the opinion for accuracy of citations, etc., and will subsequently prepare an appropriate headnote. In instances involving questions of conflict-of-interest and ethical matters, the opinion will be sanitized to delete identifying details. Minor editorial revisions may also be made.

Department of Justice
Washington, D.C. 20530

19 SEP 1978

Honorable Alphonse F. Trezza
Executive Director
National Commission on Libraries
and Information Science
1717 K Street, N.W.
Suite 601
Washington, D. C. 20036

Dear Mr. Trezza:

This responds to your letter of August 24 requesting our opinion whether the Librarian of Congress can delegate his duties as an ex officio member of the National Commission on Libraries and Information Science (Commission) to the Deputy Librarian of Congress, and whether the Commission's Sunshine Act regulations affect the Commission's quorum. For the reasons stated hereafter, it is our opinion that the Librarian of Congress can delegate his official duties as a member of the Commission to the Deputy Librarian of Congress, and that the Commission's Sunshine Act regulations do not affect the Commission's quorum.

I.

Former Librarian of Congress H.R. Spofford testifying before the Joint Committee on the Library of Congress (Committee) in 1896, told the Committee that he had been advised by the Chairman of the Committee that he had the authority to deputize an assistant to whom he could delegate certain of his official duties. 1/ In making recommendations to Congress on the re-organization of the Library, the Committee said that the Librarian of Congress should have complete control over the Library's management and expressly declined to recommend a proposal to change the

1/ S. Rep. No. 1573, 54th Cong., 2d Sess. 129 (1897).



Librarian's authority. 2/ This tacit approval of the Librarian's authority to delegate his official duties is also supported by Congress' provision for compensation for a Deputy Librarian of Congress without specifying the Deputy's duties. 3/

The Librarian of Congress has the statutory authority to "make rules and regulations for the government" of the Library of Congress. 4/ Substantially identical grants of rulemaking power to the heads of the Executive Departments, regarding their respective Departments are considered general authorizations for their delegation of authority, 5/ although certain powers have been held nondelegable where Congress has so indicated. For instance, in United States v. Giordano, 416 U.S. 505 (1974), the Court found that the legislative history of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. §§2510-20 (1976), shows that Congress did not intend to authorize the Attorney General's delegation of authority to approve wiretap applications to the Attorney General's Executive Assistant; the Court held that a wiretap application approved by the Executive Assistant was invalid. However, the legislative history of the National Commission on Libraries and Information Act, 20 U.S.C. 1501-1506 (1976), shows no intent by Congress to limit the delegation of authority by the Librarian of Congress. Thus, we believe that the grant of rulemaking power to the Librarian of Congress implies his authorization to delegate his official duties. Again, this authority is also strongly suggested by Congress's provision for compensation for a Deputy Librarian, without specifying the Deputy's duties and Congress's early tacit approval of the Librarian's delegation of authority.

2/ Id. at 1-2.

3/ 2 U.S.C. §136 a-1 (1976).

4/ 2 U.S.C. §136 (1976).

5/ E.g., Fleming v. Mowhawk Wrecking & Lumber Co., 331 U.S. 111, 121 (1946); Wirtz v. Atlantic States Constr. Co., 357 F. 2d 442, 445 (1966); Plapao Labs. Inc., v. Farley, 92 F. 2d 228, 229 (D.C. Cir. 1937), cert. denied, 302 U.S. 732 (1937).

The Librarian of Congress is a member of the Commission ex officio, his membership being an extension of his duties as Librarian of Congress. 6/ Since we believe the Librarian of Congress can delegate his official duties, we also conclude that he can delegate his duties stemming from his membership on the Commission to his Deputy, allowing the Deputy both to vote and to be included in the Commission's quorum.

II.

The Commission's Sunshine Act regulations, as you stated in your letter, define the Commission's quorum to be "a majority of the Commission's members who have been appointed by the President and confirmed by the Senate." You ask whether this definition of quorum in the Commission's regulations is authority for allowing less than 8 members, a majority of the Commission's statutory 15 members, 7/ to conduct the Commission's business when the Commission has less than 15 members confirmed by the Senate.

The National Commission on Libraries and Information Science Act, 20 U.S.C. §§1501-6 (1976), does not specify a quorum for the Commission. The courts have uniformly held that a failure of Congress to specify a quorum authorizes the adoption of no less than a common-law quorum, a majority of the statutory membership of a collective body. 8/ We can find no authority

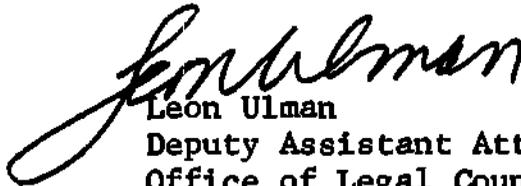
6/ 20 U.S.C. §1505 (1976).

7/ 20 U.S.C. §1505 (1976).

8/ E.g., FTC v. Flotill Products, 389 U.S. 179, 182-184 (1967).

for the Commission's adopting a quorum of less than a majority of its statutory 15 members. We must therefore conclude that the Commission cannot adopt a quorum of less than 8 members; thus the Commission's regulation defining the Commission's quorum must be interpreted to require a majority of the Commission's statutory 15 members for a quorum.

Sincerely,

A handwritten signature in cursive script, appearing to read "Leon Ulman".

Leon Ulman
Deputy Assistant Attorney General
Office of Legal Counsel