Librarians Before Congress: Advocacy and Identity

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ABSTRACT
This paper explores the connection between congressional testimony and political identity for libraries. Library testimony highlights the ways in which libraries are hybrid, public/private institutions. Thus, in some areas (such as library funding or intellectual property), libraries are like private associations: they testify to protect interests that are library-specific. In other areas (such as government information) libraries are more like governmental agencies: they testify as a partner and stakeholder in specific government programs, policies, and benefits. And in yet other areas (such as privacy), libraries are more like issue-oriented advocacy groups: they testify to engage their peers and patrons while organizing these constituencies to effectively advocate for public goods.
INTRODUCTION

Librarians have long had an important role in the legislative process. Thus, for over 200 years, the Librarian of Congress has informed public policy in the United States by providing Congress with research and analysis that is “authoritative, authentic, and non-partisan.”\(^1\) In a world where legislation is increasingly specialized, the generalists in Congress must increasingly rely on specialized or technical information to craft public policy.\(^2\) As arbiters of information,\(^3\) this trend tends to position librarians as both legislative resources and legislative advocates.\(^4\)

Of course, library information and influence has not at all been limited to the Library of Congress. Enlightenment thinkers like Jefferson and Madison envisioned libraries as essential disseminators of the ideas that fueled republicanism.\(^5\) And, later, in the aftermath of the second World War, as the federal government’s involvement with libraries grew, libraries—acting on their own and through the efforts of groups like the American Library Association (“ALA”)—grew more involved in the federal government, eventually leading to the establishment of the ALA’s federal-focused Washington Office in 1945.\(^6\)

The ALA, is of course, just one of the tens of thousands of interest groups who attempt to influence federal policy. For the purposes of this paper, we are primarily

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\(^5\) See John Perry Barlow, The Economy of Ideas, Wired (Mar. 1, 1994), https://www.wired.com/1994/03/economy-ideas/ (accessed July 7, 2018) (“Profit was the fuel that would carry ideas into the libraries and minds of their new republic.”)

concerned with two library-related professional associations: the ALA and the Association of American Law Libraries ("AALL"). A brief word about each is in order.

The ALA is the biggest and oldest national library interest group. With a membership of 57,000 and an annual budget of over $50 million, the ALA represents a wide variety of librarians, libraries, and library supporters.7 Its overarching mission is to "enhance learning and ensure access to information for all."8 The ALA’s efforts on behalf of the library profession are in service of that broader, public-facing mission.9

The AALL, whose membership consists of law librarians and other legal information professionals, provides an interesting contrast to the ALA. With just over 5,000 members and an annual budget of about $4.1 million, it’s less than a tenth as a large as the ALA. The stated motivations for its advocacy are also more instrumental: that is, the AALL efforts to influence information policy serve to support the professional growth of its members not the other way the around.

But before we can really begin to discuss how libraries and librarians organize themselves into interest groups like the ALA and the AALL to influence Congress, we need to settle upon a workable definition of “interest group.” Although there are many possibilities, an expansive definition is useful when attempting to describe the somewhat nebulous organizational forms that libraries (and the groups into which they organize themselves) often assume:

An interest group is a collection of individuals that share interests, and that are incentivized to organize and defend those interests through the political process.

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8 Id. at 1.
9 Id.
It is important to note that these individuals can be corporate entities (such as libraries or governments) or unincorporated persons (such as librarians). And although there are many ways in which these individuals and the groups they form can use the political process to defend (or otherwise advance) their interests, this paper is focused on one specific form of interest group advocacy: congressional testimony.

Congressional hearings are an important part of these library efforts to influence federal policy. According to the Congressional Research Service (“CRS”)—itself an arm of the Library of Congress—hearings are “the principal formal method by which committees collect information during the legislative policymaking process.” These hearings are important because they allow Congress to solicit information (in the form of testimony) from witnesses who hail from differing backgrounds and who possess diverse interests and varied competencies. This testimony is (theoretically, at least) gathered to inform the formulation and execution of federal policies.

Because congressional testimony affords such (seemingly) significant opportunities to impact federal policy, many types of organizations seek to protect and promote their interests by testifying as witnesses at these hearings. Indeed, when surveyed, interest groups consistently rate congressional testimony as one of their most preferred lobbying activities. However, hearings are invitation-only affairs, which makes the witnesses who do testify an important (and very visible) indicator of the interests and values of committees and groups alike. Significantly, librarians and their compatriots in the Congressional Research Service (“CRS”)—itself a department of the

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11 See id. at 4.
Library of Congress—play a critical support role throughout the hearing process. For example, CRS often suggests witnesses and drafts questions for Members of Congress to ask those witnesses.14

Although this level of library involvement in the planning of hearings and in the associated tasks of gathering and presenting information by the way of securing testimony from the relevant stakeholders and experts is not the focus here, it does help to illuminate the tension between the librarian’s role as a legislative resource and the librarian’s role as a legislative advocate. In this paper, I contend that this tension proceeds from the way libraries combine characteristics of public institutions and private associations. Because congressional testimony places librarians, libraries, and library groups before another public body (i.e., Congress) to proffer informational resources while also advocating for the interests of patrons, members, and other constituents, an analysis of library testimony should serve to clarify the political and organizational implications of the hybrid, public/private nature of the library as institution.

**LITERATURE REVIEW**

This paper endeavors to study librarians and library-related associations as interest groups engaged in the political process. To do so, I analyze these librarian interest groups within the intellectual and empirical framework established by the most relevant scholarship in the discipline of political science. My qualitative analysis of librarian testimony is thus guided by the ideas of scholars who have studied interest groups and congressional hearings. By applying the findings, hypotheses, of theories of

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14 See id. at 6-7.
these scholars to the specific context of library-related interest groups and librarian testimony, I hope to achieve insights into the behavior and organization of interest groups; into the purpose and conduct of congressional hearings; and into the profession of librarianship.

Of course, the nature of this type of analysis is interdisciplinary. Because the primary audience for this paper consists of librarians and law librarians, it would be a mistake to assume a great deal of familiarity with the political science literature on interest groups and congressional hearings. Accordingly, the aim of this literature review is to summarize the most important and relevant scholarship in this area, while also providing the background and context necessary to understand this scholarship.

The most relevant research draws upon two interrelated subfields within political science: congressional studies and interest group scholarship. Each of these subfields contributes to the study of interest groups testifying before Congress, although they do emphasize different aspects—i.e., congressional studies scholarship examines hearings and groups from the perspective of Congress, while the scholarship on interest groups is focused on the groups themselves. In addition, my discussion of the interest scholarship is further broken down into a discussion of the scholarship that considers how interest groups are organized and a discussion of the scholarship on how interest groups use congressional testimony to impact the policymaking process.

**Congressional Hearings: Theory and Background**

A number of scholars have studied the role and purpose that committee and subcommittee hearings play from the perspective of Congress. A better understanding of
the institutional role of these hearings is a prerequisite for understanding why and how librarians would testify before these hearings.

Early congressional scholars studying hearings were skeptical that the committees were at all influenced by the expert testimony of interest groups. Instead, these scholars saw the hearing as a carefully staged event, manipulated by the committee majority to buttress its preferred position. Under this theory of the congressional hearing, the primary function of testimony is not to inform or persuade the committee; instead, the testimony’s chief purpose is to establish a record to support the committee’s preconceived policy position.

However, later scholars pushed back at the notion that hearings are merely theoretical gestures. Holding hearings imposes substantial monetary and opportunity costs upon lawmakers and committees: why would Congress continue to hold thousands of these costly hearings each year if they hold no informational value? Gilligan and Krehbiel helped to pioneer this approach to hearings. Their theoretical model sees the committee system as a means for Congress to reduce uncertainty about the consequences of legislation. To achieve this aim, committees and subcommittees specialize by gaining expertise based on private information. Hearings are one of the primary ways these committees gain this information; however, hearings do impose

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15 See, e.g., David N. Farnsworth, *The Senate Committee on Foreign Relations* 162-64 (Univ. of Ill., 1961).
16 See id.
20 See id. at 298-99.
21 See id.
costs, which the committee incurs in order to specialize and increase certainty regarding policy outcomes.\textsuperscript{22}

Austen-Smith builds upon Gilligan and Krehbiel’s model by explicitly incorporating interest groups—\textit{i.e.}, in Austen-Smith’s model, it is interest groups that possess the private information that congressional committees seek.\textsuperscript{23} Diermeier and Feddersen help to refine this framework by focusing specifically on information transmission through congressional hearings.\textsuperscript{24} They note that Members of Congress \textit{outside} of the committee are often the chief beneficiaries of the information gained at hearings. Indeed, the committee’s decision on even the basic question of whether to incur the costs of holding a hearing at all functions as a powerful signal acting to inform the rest of Congress.\textsuperscript{25} Through hearings, even committees who are ideologically extreme (relative to the rest of Congress) can use the credentials and expertise of witnesses to credibly transmit useful information to their less partisan colleagues.\textsuperscript{26} This emphasis on transmitting credible information also helps to explain why committees would solicit testimony from witnesses who are opposed to their policy preferences.\textsuperscript{27}

Wright’s discussion of how legislators and interest groups alike strategically use specialized information helps to place the insights of these models within the

\begin{footnotesize}
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\item \textsuperscript{22} See id. at 301.
\item \textsuperscript{24} Daniel Diermeier and Timothy J. Feddersen, \textit{Information and Congressional Hearings}, 44 Am. J. Pol. Sci. 51 (2000).
\item \textsuperscript{25} See id.
\item \textsuperscript{26} See id.
\item \textsuperscript{27} See id.
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appropriate social and institutional context.\textsuperscript{28} To explain the central role of information from interest groups in committee hearings (and throughout the legislative process more generally), Wright invokes the law of supply and demand:

The informational relationship between legislators and lobbyists has a marketlike quality to it: legislators demand information to reduce uncertainty, and lobbyists supply it.\textsuperscript{29}

Members of Congress rely on interest groups for three types of information: electoral information, political information, and policy information.\textsuperscript{30} Electoral information includes information about constituent preferences.\textsuperscript{31} Political information includes information about voting preferences and procedure.\textsuperscript{32} Policy information includes information about the likely effects of legislation, which interest groups generate using their research staff, or (sometimes) through the firsthand experiences of their membership.\textsuperscript{33} Because of specialization and expertise, it is often less costly for lawmakers to seek this information from interest groups than it would be for the same lawmakers to otherwise find or create the information.\textsuperscript{34}

In Wright’s analysis, hearings play two important informational roles for legislators.\textsuperscript{35} The first role is to educate legislators on the policy under consideration: this includes both policy information on the likely consequences of various proposals, as well as political and electoral information concerning the viability of those policy

\textsuperscript{28} See John R. Wright, Interest Groups & Congress: Lobbying, Contributions, and Influence 82-115 (Allyn & Bacon 1996).
\textsuperscript{29} Id. at 88.
\textsuperscript{30} See id. at 88-97.
\textsuperscript{31} See id.
\textsuperscript{32} See id.
\textsuperscript{33} See id.
\textsuperscript{34} See id.
\textsuperscript{35} See id. at 44-43.
proposals. The second role of hearings is to force interest groups to publicly state their positions. By increasing the cost (to interest groups) of changing their positions, these public positions make the bargaining at the heart of the legislative process possible.

This scholarship examining the informative role of congressional hearings is useful not only as essential background and context; the nature of the hearing also bears upon the status of librarians as witnesses testifying at those hearing. If Wright and his scholarly predecessors are correct in their vision of hearings as a quintessially informative enterprise, the librarian’s professional competency in the strategic use of information could justify a special role in the legislative process.

**Advocacy and Interest Group Organization**

Another major area of scholarship deals with why interest groups form and how these groups organize and maintain themselves. This area is relevant to this paper because of the way that these scholars discuss how (and why) an interest group decides to engage in political advocacy, and how that decision to engage affects an interest group’s relationships with its membership, with other important constituencies, and with other groups. That is, much of the interest in specifically studying librarians and library-related groups from the political science viewpoint stems from studying how librarian advocacy relates to librarian organization.

Olson focuses on the incentives of potential members to organize themselves into interest groups in the first place. His analysis focuses on how interest group activities

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36 See id.
37 See id.
39 See id.
tend to create public benefits that all individuals can enjoy, regardless of whether they are actually members of the group. This is especially true of any interest group activities that influence public policy, which—by definition—is a public good.

This creates perverse incentives, leading to a classic problem of collective action. Assuming that individuals are rational actors, if an individual can capture all (or most) of the benefits produced by an interest group without joining that group (or otherwise devoting resources to it), that individual will not join the group. If rational individuals thus have no incentive to join or form an interest group, the interest group will not form. Furthermore, if an interest group never forms, its collective interests will never be promoted or defended as such.

Obviously, our practical experience of the world tells us that this is not the case: interest groups not only form, they proliferate wildly, despite these problematic incentives. Thus, Olson’s chief contribution here is to pose the question: despite lacking rational incentives to do so, why is it that individuals nonetheless organize themselves into interest groups?

Salisbury’s exchange theory of interest groups offers some possible answers. First, the exchange theory posits a distinctive role for the entrepreneur, an individual who forms and leads an interest group by investing capital to create a set of benefits that

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41 See id.
42 See id.
43 See id.
44 See id.
45 See id.
the entrepreneur then offers to the market of the group’s potential members.\textsuperscript{47} If enough of these potential members join, a viable interest group is created.\textsuperscript{48}

Salisbury elaborates on the different types of benefits that an entrepreneur may offer to motivate individuals to become members of an interest group.\textsuperscript{49} Whereas Olson’s discussion was premised upon the nature of the pecuniary benefits that come with group membership, Salisbury’s analysis is much more inclusive in its treatment of these membership benefits.\textsuperscript{50} Thus, the exchange theory proposes that any benefits that individuals may realize from joining and participating in interest groups will fall into one of three distinct categories: material benefits, solidary benefits, and expressive benefits.\textsuperscript{51}

Material benefits are tangible rewards of goods, services, and other extrinsic benefits.\textsuperscript{52} The prototypical example of a material benefit is the 24-hour roadside assistance offered to members of the American Automobile Association. Material benefits create easy-to-understand incentives for individuals to join interest groups.\textsuperscript{53} Moreover, the provision of material benefits subsidizes interest group activities that benefit individuals in a more indirect way, such as political advocacy.\textsuperscript{54}

Solidary benefits are intrinsic to the individuals receiving them.\textsuperscript{55} The category of solidary benefits includes the rewards of socializing with like-minded individuals, the

\textsuperscript{47} See id. at 11-12.
\textsuperscript{48} See id.
\textsuperscript{49} See id. at 15-22.
\textsuperscript{50} See id.
\textsuperscript{51} See id. at 15-17.
\textsuperscript{52} See id.
\textsuperscript{53} See id.
\textsuperscript{54} See id.
\textsuperscript{55} See id. at 16.
feeling of group identification, and the status resulting from membership.\textsuperscript{56} Although they are intrinsic to individuals, solidary benefits—by their very nature—cannot be captured without joining an interest group.\textsuperscript{57}

Expressive benefits are gained by members through public expressions of values by interest groups.\textsuperscript{58} Significantly, this category of benefits does not include any material benefits members may receive from the group’s instrumental pursuit of those values through the policy process. Instead, expressive benefits are non-instrumental and non-material in nature.\textsuperscript{59} They relate to the way interest groups facilitate speech by providing what Salisbury describes as “mechanisms for the public expression of values”\textsuperscript{60} such as support for civil liberties or intellectual freedom.

In the exchange theory, expressive benefits are usually considered the key to understanding the political activities of interest groups.\textsuperscript{61} This is likely because expressive benefits—unlike material benefits or solidary benefits—are public-facing and primarily communicative.\textsuperscript{62} Salisbury also observes that the value of expressive benefits is especially prone to fluctuate with changing political and social circumstances.\textsuperscript{63} Interest groups and their associated entrepreneurs react to this potential source of instability by adding solidary or material benefits to the mix.\textsuperscript{64} Similarly, when an

\textsuperscript{56} See id.
\textsuperscript{57} See id.
\textsuperscript{58} See id. at 16-17.
\textsuperscript{59} See id.
\textsuperscript{60} Id. at 16.
\textsuperscript{61} Id. at 18-19.
\textsuperscript{62} See id.
\textsuperscript{63} See id. at 19-22.
\textsuperscript{64} See id.
interest group that primarily provides material benefits has surplus resources, it may use those resources to provide expressive benefits by engaging in political activity.65

Other scholars have attempted to expand upon exchange theory in ways that help to further explain how and why interest groups engage in political activities such as congressional testimony. For example, Bollyer and Weiler find that, in larger groups, social ties between members inevitably become more tenuous, making solidary benefits more difficult to provide.66 When that happens, these groups are incentivized to replace those solidary benefits with the mix of expressive and material benefits derived from political activities.67

Moreover, when political activities are directed at a group’s membership in this way, the visibility of those political activities is especially important.68 Highly visible political activities are effective mechanisms for signaling the importance of an interest group’s mission and strengthening group ties.69 Although Bollyer and Weiler look at this visibility metric in terms of interest group media campaigns, it stands to reason that visibility would also make congressional testimony—which, after all, occurs in a very public forum—an attractive venue for the political advocacy of larger groups that are seeking to replace solidary benefits.

**Congressional Hearings as Interest Group Access**

65 See id.
67 See id. at 8.
68 See id.
69 See id.
A few scholars have studied how testimony at congressional hearings functions as a mechanism for interest group access to the political system. Seeking to uncover and operationalize the mysterious relationship between an interest group’s organizational characteristics and its potential power over policy, these scholars seized upon testimony at congressional hearings as a rather direct and highly visible measure of interest group access to the political system.\textsuperscript{70} And because interest group testimony is a core concern of this paper, it is well worth taking a closer look at the contributions of these articles.

Leyden examines the link between the resources an interest group has at its disposal and the likelihood that the group will be invited to testify at congressional hearings.\textsuperscript{71} Previous scholars had theorized that interest groups with more resources are more successful when it comes to affecting policy.\textsuperscript{72} According to the theory, basic resources capable of maintaining the group’s organizational stability are a prerequisite for impact policy; however, additional resources promote additional influence by permitting the group to invest in the type of sophisticated and reliable research that convinces legislators.\textsuperscript{73} Testing this theory, Leyden finds a positive relationship between various measures of a group’s organizational resources—the number of lobbyists it employs, the size of its membership, and whether it maintains a political action committee (PAC)—and that group’s participation in congressional testimony.\textsuperscript{74} In


\textsuperscript{71} Kevin M. Leyden \textit{Interest Group Resources and Testimony at Congressional Hearings}, 20 Legislative Studies Q. 431 (1995).


\textsuperscript{74} Kevin M. Leyden \textit{Interest Group Resources and Testimony at Congressional Hearings}, 20 Legislative Studies Q. 431, 436-37 (1995).
addition, the study suggests that establishing any degree of participation in hearings requires considerable resources.\textsuperscript{75}

Holyoke employs an intricate research design to capture the effects of competition and ideology on hearing participation.\textsuperscript{76} This study is also notable because it considers several additional dimensions of the phenomenon of interest group access. In particular, Holyoke is focused on the inter-group competition that occurs when multiple interest groups stake out opposing positions on a shared issue of concern, and each tries to exert influence upon the policymaking mechanism to create benefits for its constituency.\textsuperscript{77} Using data from interest group testimony and interviews, Holyoke finds that competing interest groups will make an effort to strategically tailor their ideological positions so that they converge with the positions of the committee and subcommittee chairs before which these groups would like to testify.\textsuperscript{78} This study also suggests that testimony before committees masks the conflicts between the groups testifying at the hearing.\textsuperscript{79} When Holyoke’s findings are applied to librarian interest groups like ALA and AALL, the expectation would be that these groups would be unlikely to air their policy differences when testifying at a congressional hearing.

Hays looks at the efforts of interest groups representing various subnational units of governments—\textit{e.g.}, cities, states, counties—to lobby the federal government.\textsuperscript{80} The

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\item \textsuperscript{75} Kevin M. Leyden \textit{Interest Group Resources and Testimony at Congressional Hearings}, 20 Legislative Studies Q. 431, 438 (1995).
\item \textsuperscript{76} Thomas T. Holyoke, \textit{Madam Chair, We Object: Interest Group and Testimony at Congressional Hearings}, Paper presented at the Annual Meeting of the American Political Science Association, Philadelphia, Penn., 2003.
\item \textsuperscript{77} \textit{See id.}
\item \textsuperscript{79} \textit{Id.} at 28.
\end{itemize}

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study uses congressional testimony as an indicator of this lobbying activity because surveys show that interest groups generally view testimony as an effective means of communicating policy positions to both Congress and the public. Unlike most other studies on testimony, Hays tracks the substantive content of the hearings before which these intergovernmental representatives testify, putting each hearing into a general policy category. Using a further grouping of these policy categories into a typology that fleshes out the standard regulatory/distributive policy-analysis framework, the study finds that state and county interest groups tend to concentrate their advocacy efforts on regulatory policy in areas where subnational interest groups least want to get “massively” involved themselves, such as the environment and social services. However, referencing the data about testimony frequency with state and local budgetary data shows that these governments are unlikely to testify concerning policies in a particular area unless that level and type of government has already assumed some involvement in that area.

These findings are particularly relevant to the research about libraries presented in this paper for two distinct reasons. First, because most libraries are ultimately units in subnational governments, one might hypothesize that libraries and their associated interest groups would engage in political advocacy in a way that is broadly similar to the efforts of these governmental organizations. If that is the case, libraries should testify more often at congressional hearings that relate to regulatory policies where libraries already play a significant role. This would suggest that library testimony would be frequent in highly-regulated areas of traditional library concern, such as copyright and

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81 See id. at 1086-87.  
82 See id. at 1088.  
83 See id.  
84 See id. at 1088.
intellectual property, and that it would be somewhat less frequent in “redistributive” policy areas such as job training and social services. Second, and more broadly, the Hays study is useful because looks at a particular set of related interest groups and examines the substantive policy discussed at the congressional hearings where those groups testify. The type of analysis in the Hays study is closely related to the analysis of the set of librarian- and library-related interest groups and the substantive policy about which these groups testify.

Kasnusias endeavors to examine how interest groups gain access to congressional hearings and how they are able to use testimony at those hearings to influence policy.\textsuperscript{85} To analyze access, the study employs a dataset consisting of the attempts of interest groups to testify before congressional committees.\textsuperscript{86} To study influence, the study makes use of a sampling of interest group testimony before those committees.\textsuperscript{87}

When it comes to determinants of access, Kasnusias finds that interest groups with reputations for possessing high-quality information in a particular area of policy are more likely to be invited to testify at congressional hearings.\textsuperscript{88} Significantly, this reputational effect is much stronger than the effects many other studies have focused upon, such as interest group resources or monetary political contributions to the members of the committee.\textsuperscript{89} Another key finding of this study further reinforces the importance of this type of informational expertise: if an interest group attempts to lobby a wide range of issues, it diminishes the chance that the committee will see that group as

\begin{footnotes}
\item[86] See id. at 66-73.
\item[87] See id. at 89-96.
\item[88] See id. at 202-203.
\item[89] See id. at 202-203.
\end{footnotes}
an expert on any single issues, making it less likely that interest group will be invited to testify.  

Somewhat surprisingly, the Kasnusias dissertation appears to be the only empirical study of the ability of interest groups to use congressional testimony to influence legislation. The overwhelming number of academic studies focusing on the way groups influence policy have focused on monetary contributions to legislators. In contrast to the findings on access, Kasnusias finds that the ability of interest groups to actually influence policy largely depends on characteristics of the committee itself: for example, the committee’s level of partisanship and the committee’s level of ideological extremism both act to decreases the chance of influence. Thus, although an interest group’s reputation for providing good information can open the door to congressional testimony, that access does not guarantee influence.

Overall, Kasnusias’s findings on access and influence support Wright’s theory of informational lobbying, which posits that the important role that interest groups play in the policymaking process stems from their provision of useful and relevant information to legislators. The validation of this theory would seem to bode well for the interest group testimony of librarians: if the profession’s reputation with policymakers reflects its expertise with information, librarian testimony should have a significant role.

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90 See id. at 203.
93 See id. at 203-204.
94 See id. at 206.
95 See John R. Wright, Interest Groups & Congress: Lobbying, Contributions, and Influence 82-115 (Allyn & Bacon 1996).
METHODOLOGY

The original research presented in this paper primarily relies upon a qualitative analysis of the congressional testimony of librarians and library-related groups. This analysis takes several of the most pertinent theories and findings from the interest group literature as its starting point. It then attempts to apply those interest-group insights to the specific case of the library-related groups testifying before congressional committees. This hybrid approach facilitates an in-depth treatment of how librarians and libraries behave when they organize themselves into interest groups and engage in this specific political behavior. At the same time, the more nuanced treatment afforded by the qualitative methodology can also attend to matters of purpose and context that would otherwise be quite difficult to capture.

Data Collection and Refinement

The primary data analyzed here is drawn from the ProQuest Congressional Hearings Digital Collection. This database provides the most complete collection of congressional hearings available: it includes all hearings, so long as they are not classified or otherwise withheld from publication by Congress. The ProQuest collection is based upon the published and unpublished congressional hearings originally compiled into microfiche by the Congressional Information Service (“CIS”).

97 See id.
ProQuest retains the detailed index entries created by CIS in the original compilations, resulting in rich metadata for all records.

For this research, I used ProQuest to locate all of the hearings where librarians or representatives of library-related groups are identified as witnesses in the metadata. These results were further refined by year, narrowing the dataset to all relevant hearings conducted from 1998-2018. The cutoff year of 1998 was chosen because it covers a manageable 20-year span of time wherein the library profession was undergoing major changes in reaction to the advent of digital culture. Reinforcing this chronological framework, note that 1998 was also the year that saw Google incorporate and begin offering its web search service. For my purposes here, the introduction of Google in 1998 serves as a convenient symbolic event demarcating a major (and seemingly lasting) shift in how people find and use information, a shift of great importance to the library profession.

Refining the data further, I decided to set aside data concerning any hearing where the Library of Congress was the sole library-related witness. These hearings were altogether different from the ordinary case of a hearing where librarians testify. When it comes to these hearings where just the Library of Congress testifies, there seem to be two primary types: First, there are hearings that address the operations and activities of the Library of Congress as a government agency. Second, there are hearings where the Library of Congress is rendering library services to Congress. In these hearings, Congress is essentially acting as a patron. There is no clear analog to these LoC-focused hearings amongst “ordinary” librarian-featuring hearings, making it difficult to

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meaningfully compare the two sets of hearings with any degree of precision. Due to that difficulty of comparison, I decided to exclude the LoC-focused hearings from my primary data set. For the hearings where the Library of Congress testifies alongside other library witnesses, this difficulty of comparison does not exist, so the hearings are not excluded.

However, although I do not directly compare hearings where the Library of Congress is the sole library witness to the other hearings in what I have termed my primary set of data (i.e., the spreadsheet populated with ProQuest metadata), I do nonetheless find that the more specialized LoC-focused hearings have some bearing upon the general topic of librarian testimony. Why? Well, perhaps it is the case that qualities of those hearings point to certain universal qualities inherent to the library—as an idea and as an institution—that act to set libraries and library-related groups apart from other interest groups seeking to influence the political process. Thus, the essential characteristics of the two types of LoC-focused hearings—LoC-as-agency hearings and LoC-as-Library hearing—are relevant to my later analysis and discussion.

After finding and refining the relevant records in ProQuest, I transferred the metadata for each hearing to a spreadsheet using Microsoft Excel. The most relevant and useful metadata fields became headings in the spreadsheet. These fields included basic identifying information such as:

- the title of the hearing;
- the committee and subcommittee that held the hearing; and
- the year in which the hearing was held.

This overall paper is focused on witness testimony, so it was also important to collect information from the metadata fields related to the librarian or library-related witness(es), including:
the professional title of the witness;
- the institutional affiliation of the witness (usually, this would be the library); and
- any relevant professional associations being represented by the witness.

My analysis is also concerned with the substantive content of both the hearing and testimony. Accordingly, I collected multiple fields containing information about the subjects and content of both the overall hearing and the specific testimony of the librarian or library-related witness. These fields included:

- the summary of the hearing;
- specified subjects of the witness testimony;
- statements or explanations regarding specific hearing testimony; and
- descriptors supplied by CIS for subject indexing.

In addition, as my data collection progressed, I refined my collection method, focusing on only the most relevant fields of metadata for the purposes of my analysis. Thus, for some earlier records I did collect data for fields containing information that later proved to be irrelevant to my research purposes or otherwise extraneous.

**Policy Categorization**

Collecting and organizing the ProQuest hearings data in this manner allowed me to further categorize and sort the relevant records in ways that promoted the analytical goals of the present research. The content- and subject-related categorization process was especially important to my research, because a big-picture perspective on hearing and testimony subjects facilitated the parts of my analysis focused on the substance of librarian and library-related testimony. I analyzed the ProQuest testimony data under these five substantive policy categories

- Library-Centric
• Government Information
• Privacy and Access to Information
• Intellectual Property
• Research and Education

To develop these categories, I first consulted the ALA and the AALL’s official materials related to their policy goals and advocacy efforts. However, in their own literature, these library-related interest groups used many categories that were not helpful for the purposes of this analysis. Some categories were unhelpful because neither of the groups appear to lobby the federal government on the included issues. In some cases, the lack of lobbying can probably be explained by federalism. An example of this category might be the AALL’s advocacy before state and local governments for adoption of the Uniform Electronic Legal Material Act (“UELMA”). This model legislation was designed to be adopted by these types of jurisdictions, so it is unsurprising to see that the AALL does not commit federal lobbying resources towards passage of UELMA. For other less-than-helpful ALA and AALL issue categories, testimony may have been strategically suboptimal due to issue prioritization within the groups themselves. For example, the ALA lists “Diversity in the Workplace” as one of its “Issues and Advocacy” categories. However, it appears that the ALA has prioritized congressional testimony on other issues where librarian expertise gives the group a competitive advantage over other interest groups, such as “Patron Privacy” and “Academic Freedom.” Still, as a general matter, the granularity of the library groups’ policy categories is what made

104 See id.
them unusable for the purposes of this research. They are too narrow and too many in number: an unfortunate combination when you are describing categories of public policy. Thus, I ultimately found it more profitable to develop a smaller set of more inclusive policy categories.

The first policy category used in my analysis is “Library-Centric.” The focus of this category is policies that specifically apply to libraries, and which do not generally have any direct effect on other institutions and individuals. Most obviously, this would cover hearings and testimony on topics such as library funding and library operations. Examples of “Library-Centric” testimony topics would thus include amendments to the Library Services and Technology Act, which provides federal grants to state and local governments for the provision of library services.105 The “Library-Centric” category also includes non-legislative hearings where Congress seeks information concerning libraries; a good example here might be a hearing dedicated to examining the role of museums and libraries in local communities.106 The idea behind this “Library-Centric” category is to capture policies where the primary motivation for the interest of libraries and librarians is professional in nature. When groups like the ALA and AALL testify in areas covered by the “Library-Centric” policy category, they are behaving more like traditional professional associations.

The next policy category is “Government Information.” This one is more straightforward: the focus is on issues related to government documents and other types of official information published by the federal government. Librarians at public and

academic libraries have historically had a strong interest in many aspects of the government publication process. Examples of hearings on policies in the “Government Information” category include hearings overseeing programs at the National Archives and hearings investigating the impact of the closures of specialized EPA libraries. The “Government Information” category is comprised of a subset of specialized but broadly impactful policy issues where the government has traditionally relied on the expertise of librarians.

There is considerable overlap between the policies in this category and policies in the “Privacy & Access to Information” category. That overlap is to be expected: often the information to which libraries would like to guarantee access is government information. To resolve this while navigating the categorization process, I emphasized the more specialized nature of government information by assigning hearings solely concerned with access to government information to the “Government Information” category.

The third policy categories used for my analysis is “Privacy and Access to Information.” These issues have been combined into a single category because library-related privacy issues are usually framed in terms of the ability to access information privately and confidentially. Thus, the ALA declares privacy a “bedrock foundation of intellectual freedom” and defines the right to privacy as “the right to open inquiry

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without having the subject of one’s interest examined or scrutinized by other.”

Over the years, libraries have gradually incorporated an awareness of these issues into their professional culture: landmarks in this movement towards greater advocacy on privacy and information access include the passage of Library Bill of Rights in 1939 and the establishment of the ALA’s Office of Intellectual Freedom in 1967. In library culture, these issues tend to cut across partisan and ideological lines, resulting in a sense of unity and solidarity in the profession. Library concerns about privacy and access are both forward-thinking and widely-shared: the advent of digital culture and the concomitant proliferation of data has increased the salience of these interrelated issues during the 20-year period studied here. Examples of hearings and testimony in the “Privacy and Information Access” category include hearings considering the imposition of filters on internet access at public libraries and hearings on federal efforts to promote the expansion of broadband access.

The fourth policy category is “Intellectual Property.” Library advocacy on issues in this category has a pragmatic dimension: as disseminators and curators of information, libraries are naturally concerned with the ownership of that information. In addition, the library profession has a demonstrated expertise in this area, as evinced

115 See Joseph Janes, Internet Librarian: Data, Data Everywhere, 43 Am. Libr. 42 (2012).
118 See, e.g., Lesley Ellen Harris, Copyright Compliance in Your Library, 12(6) Information Outlook 73 (2008).


The final policy category used in this analysis is “Research and Education.” Historically, many libraries have been attached to educational institutions, so libraries have a natural role in this area of policy. In addition, librarians have research expertise which Congress relies upon when formulating policies and evaluating federal research. (This is different from the LoC-as-Library hearings that I mention above as having been excluded: these hearings are different because, instead of relating to research as a patron service rendered to Congress, they instead relate to research as a government function, or perhaps, to research as a public enterprise.) This category includes testimony related to research, such as librarian testimony at hearings discussing federal funding for medical research.\footnote{See Department of Labor, Health, and Human Services, Education, and Related Agencies Appropriations for 2010, Part 6: Statements of Members of Congress and Other Interested Individuals and Organizations, Hearing Before the Subcomm. on Labor, HHS, Education, and Related Agencies Appropriations, H. Comm. on Appropriations, 111th Cong. (2009).} This “Research and Education” category also includes testimony related to public schools and other educational efforts, such as testimony at hearings on federal legislation aiming to incentivize effective secondary and elementary school programs.\footnote{See Title VI: Providing Flexibility for Innovative Education, Hearing Before Subcomm. on Early Childhood, Youth, and Families, H. Comm. on Education and the Workforce, 107th Cong. (2000).}
As part of my analysis, I further categorized each instance of library testimony according to whether the hearing was primarily concerned with regulatory or distributive policies. This is an important distinction in the interest group literature.\textsuperscript{124} Generally, this part of the categorization process was driven by an evaluation of the hearing and the policy under consideration. Most policies under the “Library-Centric,” “Government Information,” and “Research and Education” categories concerned the provision of some type of benefit, and thus fit easily into the distributive policy paradigm. On the other hand, the “Intellectual Property” and “Privacy and Access to Information” categories are almost exclusively comprised of regulatory policies that, in some way, govern individual conduct. I tried to resolve doubtful cases of categorization by looking at the type of committee before which the hearing is held: generally, constituency committees are oriented towards distributive policies and policy committees are focused on regulatory policies.\textsuperscript{125}

**Findings from the Interest Group Literature**

With the data collected and categorized, I proceeded to use that data to apply findings and theories from the interest group literature to the specific case of librarian groups testifying before Congress. In summary, these findings are:

- *Competition*: Due to competition, interest groups will advocate for similar policy positions in their congressional testimony.

- *Intergovernmental lobbying*: When governmental units testify on regulatory policy, it related to a policy area where that government seeks to avoid involvement. When they testify on distributive policy, it relates to a policy area where it is already involved.


\textsuperscript{125} See generally Christopher J. Deering and Steven S. Smith, *Committees in Congress* 58-108 (CQ Press, 3d ed. 1997).
I discuss more of the specifics of the scholarship that produced these findings in more detail in my Literature Review above. This section is focused on providing a foundation for application and analysis.

It should also be noted that, although I am using this strand of political science scholarship to guide and inform my analysis, I am not necessarily using the methods you generally see in that discipline. The interest group studies that produced these findings were based on a variety of methodologies, with most of the studies employing some type of quantitative, regression-based analysis. In contrast, my analysis throughout this paper is qualitative, based upon reasoning from the data (as described above), as well as inductive and inferential reasoning using that data alongside information gleaned from other sources, such as official ALA and AALL advocacy materials. This type of analysis is adapted well to the needs of the present research: although findings based upon qualitative methods like these are not as easily generalizable as those premised upon quantitative methods, qualitative methods can provide greater (and more nuanced) insights into a specific case (here, the specific case of librarians testifying before Congress).

The finding on interest group competition is drawn from a study by Holyoke. According to the Holyoke study, when interest group compete in the same policy area, they are incentivized to strategically tailor their policy positions to better align with the ideology of the committee holding the hearing where they wish to testify. As a result of this process, these competing interest groups advocate for similar policy positions. To apply this finding here, I compare the testimony of the ALA to that of the AALL.
The finding on intergovernmental lobbying is taken from a study by Hays. The Hays study is especially relevant here because the similarities between libraries and other public institutions will likely be apparent when looking at the advocacy efforts (i.e., congressional testimony) of libraries. Hays find that the testimony of governmental units (i.e., states, counties, and cities) fits different patterns depending on the type of policy involved. So, when these governmental units testify on regulatory policy, it is related to a policy area where that government seeks to avoid involvement. But when they testify on distributive policy, it relates to a policy area where the governmental unit is already involved. To apply these findings, I analyze the types of policies about which librarians and library groups testify. I then look at other sources to discern the level of library involvement in some indicative policy areas.

**DISCUSSION**

Looking at the testimony, it’s clear that the librarian has a distinctive role in the legislative process. Indeed, the data does appear to suggest that librarians testify before Congress more often than one might expect from the profession’s economic strength and political influence.

This outsized library role makes more sense if congressional hearings serve some sort of an informative purpose. After all, even if we agree with the theorists who believe that hearings are simply a carefully staged production designed to support the committee’s preexisting policy beliefs, why would the committee invite librarians? In

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practical terms, the obvious political (electoral) cost of excluding librarian testimony would be low for most topics.

Instead, the data seems to suggest that the librarian has an important role in these informative hearings due to the profession’s expertise with information. In many situations, the librarian’s lack of political clout might actually help to effectuate those informational goals: on many issues, inviting librarians to testify is a low-cost, low-risk vehicle that the committee uses to transmit information to the rest of Congress.

Inescapably, the librarian’s proficiency with information is coupled to an information-oriented ethic that values the integrity of the patron’s search process. To librarians, the dissemination of information in and of itself is a positive outcome. As I just suggested, these qualities make the librarians a good info source for Congress.

Library Groups: Competition or Cooperation?

The librarianship qualities associated with information proficiency also help to explain how the behavior of library interest groups like the ALA and AALL might be more meaningfully reconciled with scholarly observations and explanations of the general behavior of competing interest groups. This additional layer of application and explanation is rooted in the connection between information sharing and the ethos and action of cooperation.

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130 See, e.g., American Library Association, Code of Ethics of the American Library Association (2008) (describing how libraries have a “special obligation to ensure the free flow of information”).
In his study of interest groups competition, Holyoke observes that interest groups operating in the same policy space engage in a kind of “ideological competition” to win over the committee so that they can get invited to testify.\textsuperscript{131} Fundamentally, this group competition theory arises because it helps to explain why these “competing” interest groups adopt policy positions when testifying before Congress that are more similar to one another than you would otherwise expect.\textsuperscript{132}

With librarians, we do observe a superficially similar phenomenon. During congressional testimony, the ALA and the AALL do adopt very similar positions on most polices at most hearings. Indeed, when the two groups testify, they almost always do it together. The ALA is a much larger organization, so it is unsurprising that it testifies much more often than the AALL. In the rare cases where the AALL testifies at a hearing but the ALA is absent, that usually indicates that the hearings related to a policy that is highly specific to the law librarianship field, or else a policy that touches upon the AALL in its role as a direct advocate for its member/constituents. An example of the former might be a hearing on collection development and inventory management at the Law Library of Congress.\textsuperscript{133} An example of the latter might be a hearing on issues that affect the law librarians at the Law Library of Congress as legislative branch employees.\textsuperscript{134} In these more specialized AALL-only hearings, ALA testimony would serve little purpose.


\textsuperscript{132} See id. at 28.


But in the usual case, when the AALL testifies, they do so alongside their colleagues from the ALA. In these “teamwork” hearings, there is not much daylight between the positions presented by the two groups. Moreover, it is often true that the two groups are not just advocating for the same position; they are actually represented by the same witness before the committee.\textsuperscript{135}

So, under Holyoke’s framework, these similar policy positions would suggest that the ALA competes with AALL (and vice-versa) to better suppress its “true” policy position so that it aligns more closely with the position and ideology of the committee.

But what if cooperation better explains this behavior (and these positions) than competition? Perhaps these similar policies arise from how the ALA and the AALL share information and resources.\textsuperscript{136} Indeed, the expertise of a librarian/witness is itself a critical resource. If that is indeed the case, the tendency of the ALA and the AALL to rely upon the same advocate at these congressional hearings thus appears to be another expression of this professional affinity\textsuperscript{137} for cooperating and sharing resources. Of course, it is important to note that competition and cooperation are not mutually exclusive theories. The balance between these two disparate philosophies of interaction likely varies according to the hearing and the policy at stake.\textsuperscript{138} So, for example, we might hypothesize that, if the AALL and ALA are striving to get an invitation to testify at a hearing about the distribution of LSTA grants that could either go towards funding

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\textsuperscript{136} See, e.g., Statements Supporting the AALL Representative Program, 40 Tech. Svcs. Librarian 5-9 (2015) (Describing benefits realized from AALL participation in key ALA committees) \\
\textsuperscript{137} See Matthew M. Bejune, Wikis in Libraries, 26(3) Info. Tech. and Libraries 26, 32-33 (2007) (discussing how the “long legacy of cooperation and collaboration intraorganizationally and extraorganizationally within libraries” is rooted in the professional culture of librarianship). \\
\end{tabular}
\end{footnotesize}
public libraries or towards funding law libraries, a theory premised upon intergroup competition is a better explanation than a theory founded in notions of information and cooperation.

Still, the overall tendency of librarians and library-related groups to share information (and information-bearing resources) amongst one other does point towards some distinguishing characteristics that librarians bring to the witness role. The librarian’s professional ethic emphasizes service to patrons and institutions and the integrity of both information and the process by which that information is gathered. These informative tendencies do seem to be deeply ingrained within the professional culture of librarianship: they are apparent from the behavior of librarians and libraries in a wide variety of situations. Thus, in a different context, we can see how these same informative qualities that we observe when the AALL and ALA choose to cooperate also help to make the Library of Congress—in its roles as a governmental agency and as a provider of library services to congressional committees—such an important resource for legislators.

The Intergovernmental Aspect: Public Institutions, Private Associations

The fact that the government’s library shares this characteristic affinity for information with other types of libraries that serve other constituencies is not necessarily surprising. As an institution, the library has its roots in public life. As a symbol and manifestation of the intellectual freedom of postwar life and the

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141 See John Buschman, On Libraries and the Public Sphere, 7(2) Library Phil. & Practice 1, 2-3 (2005).
concomitant expansion of educational opportunity, the idea of the library can only be
said to truly belong to the American People.\textsuperscript{142}

With that in mind, observe that many individual libraries are, in fact, public
institutions. So, when we discuss academic libraries at state universities or public
libraries serving diverse communities, we are essentially discussing libraries that are
organized as parts of the government.\textsuperscript{143} And when it comes to matters of organization
and inspiration, even ostensibly private libraries often take their cues from their public
brethren.

But because library testimony proceeds under the auspices and jurisdiction of a
separate and superior government (i.e., the federal government), analyzing that
testimony can provide a window into how this mix of public- and private-leaning
characteristics plays out in the institutional context of the library. So, if the data does
suggest that public institutions behave differently from private groups when testifying
before Congress, what are the implications of those behavioral differences for the special
case of the library as a witness?

The Hays study on intergovernmental testimony is insightful here.\textsuperscript{144} It
examines the testimony of state and local governments using a variation of Lowi’s
classic distributive/regulatory policy typology as a theoretical framework.\textsuperscript{145}

When it comes to distributive policies, Hays discovers that these subnational
government units only testify when they are already committed to involvement in those

\begin{footnotesize}
\begin{enumerate}
\item See generally Wayne A. Wiegand, \textit{Part of Our Lives: A People’s History of the American Public Library}
(\textit{Oxford 2015}).
\item See, e.g., Edwin Beckerman, \textit{Politics and the American Public Library: Creating Political Support for Library
Goals} 23-29 (Scarecrow Press 1996).
\item R. Allen Hays, \textit{Intergovernmental Lobbying: Toward an Understanding of Issue Priorities}, 44 W. Pol. Q. 1081
\item See \textit{id.} at 1088.
\end{enumerate}
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Perhaps this makes sense: if significant resources have already gone towards securing (or else distributing) the benefits of these federal policies, subnational governments are testifying about those policies as stakeholders (or else partners). But in other distributive policy areas, state and local governments feel better about stepping aside to let their own constituents secure federal benefits by exercising their own electoral power as federal constituents.

Libraries behave the same way. In some areas of distributive policy, libraries partner with the federal government to distribute benefits to the communities they serve. This is a good description of how libraries (and library groups) operate as preservers and purveyors the government information. More fundamentally, libraries cooperate with the feds to carry out their most essential existential activities. That’s why we can observe that Washington subsidizes the provision of library services throughout the entire country. So, perhaps it is unsurprising that librarians and library groups testify when Congress considers distributive policies in areas like government information and library funding. These are areas where libraries are already partners and stakeholders. These are also areas where the library’s quasi-governmental attributes are most prominent. Accordingly, librarian lobbying does resemble intergovernmental lobbying when the lobbying takes the form of testimony about these distributive policies.

146 See id. at 1088.
However, when regulatory policies are center-stage, this resemblance becomes a big difference. When testifying about these policies, the observed behavior of libraries and governments appears to diverge.

In his intergovernmental lobbying study, Hays finds that subnational units testify about regulatory policies in areas where they are actively avoiding involvement.\textsuperscript{150} This suggests that many federal regulatory policies manifest themselves not as zero-sum rules of conduct, but as “negative benefits” that accrue to these subnational units by the way of calculated inaction.\textsuperscript{151} And the governmental units benefit because effective federal regulation tends to relieve state and local governments of any duty to enact costly legislation regulating these “federally occupied” policy areas.\textsuperscript{152} The assumption is that they testify to better secure these benefits.

But here, we observe that librarians and library groups behave quite differently. The evidence suggests that libraries testify in regulatory policy areas where libraries are actively seeking greater involvement and influence. These regulatory areas with heightened levels of library involvement are most associated with the “Intellectual Property” and “Privacy and Access to Information” policy categories. Although libraries seek involvement in these areas for many different reasons, analyzing these reasons does reveal some common themes.

Some of these policy areas are prioritized because they implicate rules that regulate the conduct of libraries and librarians. Often, private individuals own the information that libraries collect and disseminate. The regulatory rules that create intellectual property and govern the conduct of its owners and licensees thus have big

\textsuperscript{151} See id. at 1094-96.
\textsuperscript{152} See id.
implications for basic library operations. Moreover, these basic functions attend to the library’s role as a public distributor of private information. And because that role is unique, IP law and policy will usually affect libraries in idiosyncratic, library-specific ways. That results a range of library interests and incentives that are not necessarily aligned with the interests and incentives of other IP stakeholders.

This creates a situation where libraries face strong incentives to testify in order to protect and promote their own provincial library interests. And that inclination towards advocacy is also bolstered by the additional credibility libraries enjoy as administrators of copyright policy. So, the political activities of libraries on issues of IP policy are the product of professional aptitude and rational self-interest.

But in the realm of privacy policy, the advocacy calculus differs significantly. In the library world, privacy just isn’t a bread-and-butter issue in the same way as IP. The hem and haw of privacy regulation can only be expected to meaningfully impact library behavior in the most marginal of cases. Moving away from the margin to examine the more ordinary cases of privacy regulation, let me suggest that libraries will themselves take proactive steps to secure patron privacy. Those steps may well go beyond what law requires, depending in part on the intensity of patron preferences.

155 See id.
The interplay of patron and librarian preferences does go a long way towards explaining some of the idiosyncrasies of librarian-as-witness behavior. It’s easy to imagine a situation where librarians value patron privacy more than the patrons themselves. Indeed, Americans do appear to have relinquished—whether knowingly or unknowingly—much of their privacy for the sake of convenience and access.158 This relinquishment of rights is especially apparent when the privacy being relinquished is defined in terms of the confidence of our transactions and inquiries.

We must somehow reconcile that stark assessment with the fact that nearly all Americans at least claim to place a high value on privacy.159 But if that opinion is so widespread, why do these privacy-loving consumers do such a lousy job protecting their own privacy? As is often the case, this broken system of incentives can credibly be traced to what economists might call a “collective action problem.” Individual incentives are misaligned because it’s a mistake to conceive of privacy as an individual right; instead, a patron’s privacy depends upon the social, economic, and informational aspects of her environment.160 Moreover, during the time period studied in this analysis, many related trends—including the widespread adoption of internet technology, the advent of social media, and the increasing sophistication of data aggregation techniques—have combined to make this public nature of privacy more salient. This public quality means that individuals tend to partake in privacy losses without regard to whether they consented to any particular intrusion. For example, we can observe that information on Facebook non-users is nonetheless aggregated and monetized through the company’s

system of “shadow profiles” based on extrapolations from data obtained from consenting users.\footnote{See Violet Blue, Firm: Facebook’s Shadow Profiles are ‘Frightening’ Dossiers on Everyone, ZDNet (June 24, 2013), https://www.zdnet.com/article/firm-facebooks-shadow-profiles-are-frightening-dossiers-on-everyone/} So, while it may sound like an oxymoron to say so, privacy is a public good.\footnote{See Joshua A.T. Fairfield & Christoph Engel, Privacy as a Public Good, 65 Duke L.J. 385, 421-433 (2015).}

As a public good, privacy poses a social dilemma that libraries and librarians may be equipped to help their patrons resolve. Although a public good benefits society as a whole, the ability of the individuals who comprise society to enjoy that public good is not connected to any efforts on the part of those individuals to secure the public good.\footnote{See Richard Cornes & Todd Sandler, The Theory of Externalities, Public Goods, and Club Goods 9 (Cambridge, 2d ed. 1996).} Thus, individuals have no incentive to undertake those efforts, which creates a serious risk that the public good will not be produced and the social benefit will thus be foregone.\footnote{See id.} Applied to the case of patron privacy, public goods theory thus suggests that, although patrons would benefit from privacy, the fact that one can rarely successfully exclude others from enjoying privacy gains means that no patron will be properly incentivized to advocate for their own privacy. Moreover, although governmental efforts are normally well-suited to resolving the social dilemmas created by public goods, in the case of privacy, the government’s incentive to control its citizenry puts its interests at odds with the interests of the public.\footnote{See John Poindexter, Total Information Awareness, DARPA Tech 2002 Symposium (Accessed July 5, 2016), http://www.samizdata.net/~pdeh/20030102-Darpa-InformationAwarenessOfficeOverview-JohnPoindexter-slides.pdf}

However, this distinctive set of problems does provide an opening for the library.\footnote{See Ginny Mies, How Public Libraries Play a Role in the State of Privacy in America, Public Libraries Online (Feb. 29, 2016), http://publiclibrariesonline.org/2016/02/how-public-libraries-play-a-role-in-the-state-of-} As a preliminary matter, note that the cooperative ethos of the librarianship
profession naturally facilitates the type of cooperative activity that can help overcome the collective action problems we can observe in the privacy arena. More significantly, it’s precisely the hybrid quality of the library as an organization—the way that the library combines the attributes of public institutions and private groups—that makes it especially capable of advocating for the otherwise under-represented interests of its patrons. Because of this hybrid nature, libraries are able to act as semi-public governmental partners in provisioning benefits such as government information to their communities, while at the same time pursuing an advocacy strategy on privacy and access issues that is not dissimilar to the political strategies of issue-oriented advocacy groups. Indeed, it does appear that ALA and AALL advocacy on privacy issues create especially intense engagement amongst library and librarian members of interest groups such as the ALA and AALL.\footnote{See George M. Eberhart, \textit{Advocacy in Critical Times: Prepping for 2017 National Library Legislative Day}, American Libraries (May 3, 2017), https://americanlibrariesmagazine.org/blogs/the-scoop/advocacy-critical-times/ (accessed July 5, 2018) (describing librarian enthusiasm for the ACLU’s keynote speaker for ALA’s advocacy-focused National Library Legislative Day event).} And testifying before Congress, of course, is a very visible means of advocacy for these members. This greater engagement makes that membership a much more effective resource for the profession (and the group) during a time when governmental funding of libraries is decreasing.

\textbf{CONCLUSION}

Like constitutional republicanism, the notion that the library is fundamental to a well-functioning democratic government has its roots in Enlightenment ideals.\footnote{See Wayne Bivens-Tatum, \textit{Libraries and the Enlightenment} 100-103 (Library Juice 2012).} But in what sense the library actually a part of that government? I pose this not as a technical
question to be resolved by reading municipal codes or drafting letters to trustees, but
instead as a question of political identity. The librarian’s professional expertise with
information gives her a unique role in the legislative process, but a certain difficulty
inheres with balancing that institutional role—premised as it is upon the library’s
neutrality and integrity as an informative resource—with the librarian’s inclination
towards organization and advocacy.

Observing how libraries behave when testifying before Congress provides a
window into how the library profession navigates this tension between public
institutionalism and private advocacy. When it comes to their most essential activities
and operations, the testimony of libraries (even private ones) are largely
indistinguishable from the testimony of governmental agencies. They testify to lend
their expertise to the joint efforts to disseminate information by providing library
services throughout the United States.

This intergovernmental aspect of librarianship can also be observed in the
relationships between the libraries themselves. Unlike a corporation or a private
association, a library does not necessarily regard a peer as a competitor. Instead, a
library’s professional ethics and informative orientation does tend to facilitate a
cooperative relationship between libraries and other libraries, and between libraries and
governmental institutions. This cooperative ethos can be readily observed when
examining the legislative advocacy of librarians.

But in areas where the government’s interests and incentives are not necessarily
so benign, libraries have emerged as advocates for their patrons and constituents. This
trend is most apparent in the library testimony concerning privacy-related issues. These
are issues where the traditional role of libraries as stewards of information and protectors of confidentiality positions them well as experts and advocates.

These advocacy efforts, however, do raise some serious question: Do libraries still act as stewards for the great repository of information that exists in the public record? Can libraries assure patrons of any meaningful kind of confidentiality? Why is the characteristic mode of library testimony in these areas oppositional? In these areas, libraries have been displaced by hegemonic tech companies like Google and Facebook. Although the privatization of these traditionally semi-public library functions has presaged a wave of innovation and automation in information services, those gains have been accompanied by the loss of the confidentiality and integrity that were once guaranteed by the library. Despite this displacement from public life, the librarian can still discern the privacy issues that now plague the provision of information to the public. In addition, and for similar reasons, advocacy on these issues does appear to engage the membership of the major library interest groups, an important consideration when one contemplates the perilous state of the public fisc. This could conceivably give library advocacy a role of heightened significance.

However, library efforts in these areas will be ineffective without a large-scale adjustment. Previous advocacy efforts related to privacy were almost exclusively related to the governmental activities. And while the government is still a threat to individual privacy throughout the world, the biggest and baddest actors are now in the private sector. If librarians can train their traditional expertise upon the activities of these
private information providers, they will be poised to make a difference when the public finally regains control of its information.169

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