

not only have to seek answers about the relationship of lore to law, but we also must ask about ethical imperatives: to whom is the folklorist responsible and how must institutions treat folklorists, as well as the objects of folkloristic research, in a responsible manner? At the risk of ending on a weak pun, we will observe that these questions are not purely academic.

Panel Comments

Alan Jabbour
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The Archive of Folk Song has a longer history than some of the archives that we're dealing with today, and a more complicated history in certain ways. It was founded in 1928. There's a quote that we still toss out occasionally, "to meet a pressing need for the collection of American folksong," or something like this. Its original mission was to collect American folksong and folk music. That mission was rather soon broadened to all the Americas, not just the United States, then to other foreign countries. Soon it broadened to include folklore, oral history, and other related materials that could appropriately be housed there.

Its collections consist, first of all of sound recordings, cylinder recordings, dating from 1890 to the early 1930s, field recordings of American Indian and other materials; disc recordings done on instantaneous disc machines that were portable--portable I'm told in the sense that if you had some porters you could carry it--from the mid-thirties, the early to mid-thirties, up to around 1950; wire recordings from the post war period; and tape recordings, beginning about 1949 and 1950 and coming right up to the present. The Archive also has a very large collection of manuscript materials, the great bulk of which has been transferred to it from other government agencies and projects, most notably WPA materials from the Federal Writers' Project. And there are other miscellaneous materials, a few photographs and such things. The Library of Congress has other, you might say, archival entities which take care of other media. There's the Motion Picture Section in the Library, and there's the Prints and Photographs Division, which has a huge collection of photographs of all sorts. There are other entities, such as the Recorded Sound Section adjacent to the Archive, which focuses on commercial recordings of all sorts and noncommercial recordings of spoken word and the like.

The sources of materials that come in are: staff collecting, beginning from the very beginning in the late '20s and early '30s - Robert W. Gordon and after him John Lomax and Alan Lomax did a huge amount of recording on Library time for the Library of Congress; materials that came to us from other government agencies that concluded we were the best repository of these materials; gifts from institutions both from the United States and abroad -

sometimes gifts through direct correspondence with the archive, sometimes through our State Department, gifts that float in from one place or another. Also there are gifts from individuals, both direct gifts and bequests. There are duplication projects in which the Archive borrows collections of recordings or manuscripts and duplicates them returning the original to the owner. There are exchanges with individuals and institutions; recording projects in which the Archive has provided individuals or institutions with machinery, or tape, or what-have-you in order to carry out work with the understanding that the Archive will get a copy. And then there are outright purchases.

The stipulations on use of materials have varied over the years, too, from the personal experience of the Archive staff tempered with changes in the times, in attitudes towards uses of the material. In general, nowadays, except in the cases of special and highly sensitive collections, research on location is open to any adult. The Library of Congress is a public institution. It considers itself an agent for the public, although it prefers that the public first try public, university, or regional libraries. But it does have a public mission and does not as a result limit itself to, say, strictly scholarly readers. Readers use the materials under supervision. They do not have access to it in such a way that they can duplicate the materials themselves without the knowledge of the staff. The Archive also prepares tapes for researchers who are not at the Library. This practice varies from collection to collection. In general, as collections have come in, some have been submitted with the understanding that fairly free private research could be made on them. Others have come in with the understanding that the research would be only upon consultation with the person who donated the material. So we have to deal with the collections one at a time, estimating each time the problems involved. Finally, there is the matter of publication of materials, which is even more complicated. The Library here recognizes the responsibility to the donor of the materials and also to the informants who provided the materials to the donors. Thus, for example, if somebody wanted to publish a private recording in our collection for which the work was done on government time, thus requiring no permission from the collector, he would, nevertheless, have to obtain permission from the informant himself or next of kin or establish that they could not be located. This is best done through the Post Office. In our own series of documentary LP's, we go through an intricate procedure of trying to locate the informants, though many of them are from the '30s and '40s and very hard to locate.

Without going into any more detail about the archive's own work, I'd like to close simply with a matter which those of you who are archivists ought to know about. President Nixon recently signed a bill extending copyright law to include recorded sound. Those of you who deal with recorded sound, published or otherwise, ought to be familiar with the bill and its provisions. I'll talk about it later if you like. As I recall the date for the initiation of the law's provisions is February 15th 1972. It doesn't affect previous recordings. It affects all recordings made, published after February 15th. The bill is vague, it has not been tested in court yet, so we don't understand the implications of it. It may make subsequent recordings public

domain if they are not copyrighted; that is the analogy with books, where, if you do not copyright a publication, it automatically becomes public domain. The question of course is what constitutes publication. The University of Pennsylvania's archive, which is not represented here today, has been toying with the idea of working out a tape sample of material from their archive to distribute on a very limited basis to other archives and interested scholars. Is this publication? We don't know. The question of the final fixed form is also a problem, because what is subject for copyright here is the recorded sound on that recording, not the performance or the composition. Thus, is it fixed in its final form when you record it from somebody in the field? Or is it when you rechannel it through a stereo, that it is fixed in its final form? There are a number of troublesome provisions that all of us who are archivists ought to be acquainted with if we are dealing with recorded sound.

Frank J. Gillis

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Before discussing such matters as who holds what rights to phonorecorded data and how we protect these rights and handle restricted collections, I should give you some background information on the Archives of Traditional Music. Very briefly, the Archives of Traditional Music at Indiana University is based on a collection which was brought to the University in 1948 by George Herzog, who came to the University at that time as a professor in Anthropology. The collection became part of the campus resources and was first funded by the university in 1954.

The Archives presently contains the following phonorecordings: approximately 6,000 cylinders, 12,000 discs, 125 wires, and 10,000 original tapes. We also have about 6,000 public listening tapes, representing dubs of about one-third of our total number of original master copies. Collections come to us as gifts, for deposit, and through purchase and exchange. The collections are catalogued as a unit, which can be as small as a single 78 rpm disc or as large as hundreds of tapes, and are stored as master copies to be used only for making public listening tapes or fulfilling requests for dubs. With one exception--which I will discuss later--all collections are available for listening in the Archives.

In processing the collections we classify them into three categories: field-collected recordings; commercial, mass-produced recordings; and copies of radio or TV broadcasts. As regards field collections, we sign contracts with collectors which give them, as a maximum, lifetime rights to materials they have collected plus an extension to heirs and/or executors for a period of twenty-five years. We sign separate contracts with institutions that have deposited phonorecordings with us. We also have a contract for the deposit of confidential materials; this contract is used sparingly and only for what we consider to be valid reasons, such as for the purposes of withholding materials which, in the context of a particular time, place, and