Let the public disputations become researches into the grounds and nature and ends of government, and the means of preserving the good and demolishing the evil. Let the dialogues, and all the exercises, become the instruments of impressing on the tender mind, and of spreading and distributing far and wide, the ideas of right and the sensations of freedom.

In a word, let every sluice of knowledge be opened and set a-flowing.

JOHN ADAMS
Dissertation on the Canon and Feudal Law
Let the public disputations become researches into the grounds and nature and ends of government, and the means of preserving the good and demolishing the evil. Let the dialogues, and all the exercises, become the instruments of impressing on the tender mind, and of spreading and distributing far and wide, the ideas of right and the sensations of freedom.

In a word, let every sluice of knowledge be opened and set a-flowing.

**John Adams**

*Dissertation on the Canon and Feudal Law*
https://public.resource.org/bears

Cover photographs courtesy of Library of Congress
Civil War Envelope, Lot 14043-6, no. 58, 1861-1863.
Front: Private David Lowry, Call Number AMB/TIN no. 2770.
Back: Unidentified Tin-Type Locket, AMB/TIN no. 2623.

This pamphlet is CC-Zero, No Rights Reserved.
http://creativecommons.org/publicdomain/zero/1.0/
DIGITAL PUBLIC LIBRARY OF AMERICA

THE RIGHT TO BEAR KNOWLEDGE

BRIDGES AND RESERVOIRS

CARL MALAMUD
There has arisen a bright line between government and the rest of our country. A line, or maybe a ditch, a moat, even an ocean, it is a feeling that government is only relevant to those inside the beltway.

The feeling is that government is only relevant to lobbyists from large entrenched interests with offices on K Street, only relevant to a government bureaucracy that is somehow not a part of our country or in touch with the rest of us.

That rhetoric is wrong.

There is also a bright line that has arisen between the capabilities of our government and those of the private sector, a bright line that has led to a reliance on private contractors to do the real work of government, to an outsourcing of democracy, to some spectacularly bad deals.

Take the Government Accountability Office, which maintains the legislative history of every law. They packed those 50 million pages of paper up and sent them, at government expense, to the Thomson Corporation, which digitized them and turned them into a product. Thomson sent those valuable papers back to the government. And, what did the government get in return? A couple logins for a couple of staffers, but even members of Congress must now pay to access this Thomson product.
This is based on a perception that government can only spend money, and it must rely on profiteers to do the real work of government.

That rhetoric is also wrong.

The question before us today is whether government is relevant to a Digital Public Library of America, whether the works of government are relevant to Americans, whether we can jump that wall, whether we should jump the wall.

Take the regulations promulgated by our executive branch, the edicts of government. The Code of Federal Regulations is 170,000 pages of dense text. The regulations of our 50 states are another million pages.

These are rules relevant to every person. These are the OSHA safety regulations that every business owner and factory worker must obey. These are the hazmat transport and storage regulations, the product safety regulations for hearing aids and baby strollers and propane tanks and elevators.

Are these edicts of government available to citizens to inform themselves? Are they available for publishers that wish to make them more readable? Are they available for businesses that must obey them? Are they available to students that wish to learn?

At the state level, Stanford University and the American Association of Law Libraries did a National Inventory of Legal Materials. They found that the regulations of the 50 states are a paragon of unusability, an abomination of bad HTML and atrocious graphics. They found that 26 states assert copyright and prohibit reuse of their regulations.
At the federal level, the Federal Register, the official newspaper of government, is only available going back a few years (although kudos are due to Mr. Ferriero for the amazing transformation he has made in that publication since he took office).

The Code of Federal Regulations, the codification of our rules, is only available in very bad unformatted text or even worse SGML, a technology that became old in the 1970s.

There is an XML version of the CFR that was created by Cornell with considerable cooperation from the Government Printing Office, but those parties agreed that the XML would not be made available so that Cornell could “monetize their investment,” making money on this valuable part of the public domain. The theory is government has no choice, because why would anybody want to make government better unless they can make a profit?

This rhetoric is also wrong! It hurts democracy. Government should not condone this. The American people should not stand for it.

There is one more consideration. The CFR is 170,000 pages, but that is only the visible part. There are many tens of thousands of pages that are incorporated by reference, made part of the official law of the land but only available by paying money to private parties.

We are not talking trivial amounts of money. A mandatory safety standard from Underwriters Laboratories costs $850. A 4-page document about how one must test for lead paint costs $64. The IEEE dictionary
of electronic terms costs $500, and that vocabulary forms the basis for many procurement actions.

Much of the CFR is hidden behind a cash register, a poll tax on access to justice.

You can’t read our Fuel and Gas Code, the Life Safety Fire Code, the Fireworks Safety Standards, or the Water Hygiene Guidelines without an American Express card.

I brought some examples. Here is the mandated standard for Disinfecting Water Mains, for $72.

The Safety Requirements for Window Cleaning, for $60. The Safety Requirements for Wheeled Child Conveyances at $217. The American National Standard for Power Operated Pedestrian Doors costs $40. The Performance Requirements for Hot Water Dispensers is $45 as are the Performance Requirements for Pressurized Flushing Devices, known as Flushometers. The critical hazmat standard for the Welding of Pipelines and Related Facilities is $125, and the standard for the Disinfection of Wells is $72. The Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics is $60 if you want a safe Independence Day.

These regulations are one small part of the information in our government storehouses. Geneology, the law, the economy, science, the arts, all this information is relevant to people in their day-to-day lives. This is useful information. This is information vital to education. Just imagine if law students could see video of Laurence Tribe arguing before the Supreme Court? If engineering students could read the technical safety standards and make them better?
Government information is useful to people, but the reverse is true. People, and institutions like a Digital Public Library of America, can help government make information available, to avoid bad partnerships, to find problems like privacy violations in documents. People can make government better because we are the government, and an informed citizenry is not just a desirable attribute of a democracy, but a prerequisite.

John Adams made that point so eloquently when he said that if we believe that “truth, liberty, justice, and benevolence are the everlasting basis of law and government,” then we must arm our citizens with knowledge. This right to bear knowledge is far more important than the Second Amendment, government information shouldn’t be a conceal-carry privilege for the rich, the knowledge lobby should be far more powerful than the gun lobby.

John Adams said we must “let the public disputations become researches into the grounds and nature and ends of government,” we must “spread far and wide the ideas and the sensations of freedom.” He said that “we must let every sluice of knowledge be opened and set a-flowing.”

That is our job as citizens, that is our government’s job, that is our society’s responsibility as a democracy. That is the opportunity we must face as we build a Digital Public Library of America.
Good morning. I’d like to thank David Ferriero for allowing us to Occupy NARA, and Maura Marx and John Palfrey for their tireless work organizing the DPLA over the last year. Most of all, I’d like to thank Robert Darnton, our prophet who is leading us to the promised land, the Republic of Letters. Bless me Professor, for I have scanned.

When I think about a Digital Public Library of America, two structures come to mind, I keep seeing images of reservoirs and bridges, when I think of the DPLA, I see the Hoover Dam and the Golden Gate Bridge.

If you look at our museums, our archives, our research institutions, there is a tremendous reservoir of knowledge locked up, waiting to be tapped. It is tempting to think that in our world of knowledge born digital, that we are flooded with information, that we need what Clay Johnson calls an information diet instead of more data. Our Internet is only flooded with some kinds of information.

Some of our most important pools of knowledge are not available at all, or available only to those with golden credit cards or positions of privilege in our elite institutions. Knowledge in our world belongs to the 1 percent.

I can give you two examples today of such private reserves, but I’m sure you can think of many more.
The first is law and government. The law—court opinions, statutes, regulations, public safety codes—is the operating system of our society, the rules that make our democracy work, the code that makes America such a special place.

But private fences have enclosed what should be the most public of public domains. Access to justice has become all about access to money.

Let me give you one more example. If you are a creative worker—a writer, a filmmaker, an artist, a scholar—you draw on imagery that has accumulated over thousands of years, imagery you use to create new works of art and scholarship. Creative workers must stand on the shoulders of giants if they are to reach new heights.

But, as any Hollywood filmmaker will tell you, much of that imagery is locked up in a few for-profit collections like Getty Images or Corbis or other operations that have taken public domain materials and built walls and gates around them. Even our museums—even our national Smithsonian Institution—have locked their vaults, allowing the images to be used only by those who stop by the cash register first.

There is a tremendous reservoir of untapped knowledge in America. Knowledge is our country’s most important renewable natural resource, a common pool that should be available to all.

We already have many beautiful museums, bottomless libraries, unique research institutions. What if the DPLA, instead of simply creating yet another institution, created that common reservoir that all could tap into? What if the
Hathi Trust put everything they have into a common pool, a pool that they could in turn draw on to create an even more impressive Hathi Trust?

What if the Internet Archive and the Library of Congress and public libraries and individuals and local historical groups could all draw from those deep wells, all contribute to that common pool?

It is tempting for any one institution to say “I have the answer.” But, what if we shifted the debate, so that it becomes “We all have the answer, here’s my contribution, see what you can do with it. Surprise me!”

I have one more metaphor—and then I’ll stop beating this metaphorical horse—and that metaphor is a bridge, and the specific bridge I think of is a Washington Bridge, a bridge that connects our nation’s capitol to the rest of the country.

When it comes to untapped resources, Washington is surely the deepest well, a vast storehouse locked inside the beltway.

Look at our national cultural institutions—our Library of Congress, the National Library of Medicine, the Smithsonian Institution, the National Agricultural Library, the National Technical Information Service, the National Archives, and many more.

While we have glimpsed a few shining examples of the potential of our national cultural institutions—the American Memory project from the Library of Congress, the pioneering National Library of Medicine—for the most part our resources lay hidden.
Our opportunity is to build a bridge to Washington and that means we need to get much more serious about public works projects for knowledge, we need to start a national digitization initiative that is more than pilots and prototypes.

We need a decade-long commitment to scanning, we need our federal government to understand that it must deploy the Internet corps of engineers, to scan at scale, to become a much more serious contributor to that reservoir of knowledge, to be at the center of that public park that makes access to knowledge a right for all Americans, not a privilege for the 1 percent.

If a self-appointed librarian in an abandoned church like Brewster Kahle can publish 3 million books, how can our federal government not do more?

If Google can scan 10 million books just to feed its search engine, why can’t the federal government do the same to transform our nation’s educational system?

If WestLaw can scan the opinions of our courts and the statutes of our legislatures to maximize shareholder value, why can’t the Judicial Conference of the United States and our nation’s law schools work together to maximize democratic values?

If we can put a man on the moon, why can’t we launch the Library of Congress into cyberspace?

If billions of dollars can be spent to buy access to politicians, why can’t we spend billions of dollars to buy access to knowledge and justice, to promote the useful arts and commerce and science?
That is the challenge that we face, these are the kinds of bridges and reservoirs we can build, the kinds of public works projects that can become the foundation of a Digital Public Library of America, the opportunity we can realize, but only if we work together.