

Winter 2007

Go and Tell the World: Charles R. McCarthy and the Evolution of the Legislative Reference Library Movement, 1901-1917

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Professor Healey describes the work of Charles R. McCarthy who, in the early twentieth century, almost single-handedly created the legislative reference library concept. In doing so, he developed radical new forms of reference librarianship, tirelessly promoted the concept of special librarianship, and spread legislative reference services around the country.

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Introduction

¶1 The first fifteen years of the twentieth century were fervent times for librarianship in general and law librarianship in particular. The flowering of professionalism in librarianship, the growth of specialized libraries, and the increasing

* © Paul D. Healey, 2007. This is a revised version of a winning entry in the open division of the 2006 AALL/LexisNexis Call for Papers Competition.

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importance of libraries to institutions and society all transformed the profession in a relatively short period of time.¹

¶2 Given this environment, it was no accident that both the American Association of Law Libraries and the Special Libraries Association were founded during this period. What is less well known is how important the growth of legislative reference libraries during this same period was for the development of librarianship. In this regard, it is important to understand the influence of Charles R. McCarthy, a man who some credit with having created the legislative reference concept out of whole cloth, and whose revolutionary approach to reference and library service affects librarianship to this day. While the legislative reference libraries of the time were not law libraries in form or function, they were close allies, and the innovations championed by McCarthy had a direct effect on how law librarians practiced their craft. An exploration of McCarthy and his work, particularly his influence on the legislative reference library movement, can shed important light on the development of special libraries, on the practice of librarianship, and on the place and function of libraries within their parent institutions.

¶3 A good place to start this exploration, and to get some perspective on the revolutionary nature of McCarthy's work, is in 1911, in Madison, Wisconsin. The 1911 Wisconsin legislature, in which Progressive Republicans dominated both houses of the legislature and acted on a coherent ideology, is considered one of the most impressive in Wisconsin history and, arguably, a model of legislative effectiveness for the entire nation.² The "good government" campaign of the Progressives reached its peak with the 1911 legislature, which enacted such reforms as direct primaries, a civil service law, an overhaul of taxation laws, and the beginnings of the modern welfare system.³ Charles R. McCarthy, writing in his book *The Wisconsin Idea*, said that "[t]he 1911 session was perhaps the most remarkable session ever held in any state, not only in the humanitarian spirit of the laws but also in the daring manner in which great questions were handled."⁴ An often-overlooked factor in the success of the 1911 legislature was the work of the Wisconsin Legislative Reference Library and its creator, Charles R. McCarthy.

¶4 Then and now it is hard to imagine a library as a central source of energy for major social change, but during the 1911 Wisconsin legislative session the Wisconsin Legislative Reference Library was one of the dynamos that drove the Progressive movement.⁵ Charles McCarthy had developed what was intended to be a small collection of books for the use of the legislature into an important legislative tool—so much so that the legislative reference library was one of the surprise

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1. Samuel Rothstein, *The Growth of Reference Services and Special Librarianship and Its Consequences for Legislatures*, 81 *SPECIAL LIBR.* 309, 316 (1990).
 2. Jack Stark, *Useful Lessons From 1911*, *STATE LEGIS.*, July/August 2000, at 60, 60.
 3. Joseph A. Ranney, *The Good Movement in Wisconsin, 1891–1921*, *WIS. LAW.*, June 1994, at 24, 24.
 4. CHARLES R. MCCARTHY, *THE WISCONSIN IDEA* 1 (1912).
 5. Stark, *supra* note 2, at 64.

stars of the Progressive approach to legislation.⁶ While not considered a particularly important innovation when it was created, the legislative reference library ultimately became a key part of the “good government” movement, and McCarthy and his library had a hand in every major piece of Progressive legislation.⁷ It was ultimately McCarthy who intuitively understood the usefulness of the legislative reference library concept to legislators attempting to craft solid legislation, and from this understanding he built a mechanism that not only delivered the information required but also changed the course and terms of librarianship.

¶5 In addition to single-handedly developing and promoting a new kind of library, McCarthy’s methods and work led to the development of special libraries as we know them today, and to a major, indeed radical, enlargement of the concept of reference services. These effects flowed from McCarthy’s dedication to Progressivism, but came to fruition as a result of his dedication to the ideals and potential of librarianship as a profession. He was a true believer in what libraries could be and could do and, as such, was a library innovator and a devout evangelizer for the profession.

The Beginnings of the Legislative Reference Library

¶6 The urge remains strong to find some triggering event or impetus for the evolution of the legislative reference library, other than McCarthy’s own creative energies. There is a myth that McCarthy’s encounter with a legislator at the state library gave him the idea for the library, but this does not seem to be borne out in any verifiable way.⁸ Many writers would agree with John R. Commons who said, “McCarthy entered his duties without a library and without an example.”⁹

¶7 There are some who have implied that McCarthy got his ideas for the Wisconsin Legislative Reference Library from having spent some time studying the New York legislative reference library. Indeed, it is stated in at least one source that he spent time in New York in the summer of 1901, at a point when he was preparing to take up his new job, and was there to receive library training.¹⁰ In fact, McCarthy did visit the New York State Library in Albany for five weeks, but it was in the summer of 1900, not 1901, and the purpose of the visit was to research his dissertation on the Anti-Masonic Party.¹¹ At this point he was not in any way planning to become a librarian or run a legislative reference library and, while he was there, there is no reason to think he was investigating the legislative reference

6. SAMUEL ROTHSTEIN, *THE DEVELOPMENT OF REFERENCE SERVICES THROUGH ACADEMIC TRADITIONS, PUBLIC LIBRARY PRACTICE AND SPECIAL LIBRARIANSHIP* 129 (1955).

7. Ranney, *supra* note 3, at 27.

8. EDWARD A. FITZPATRICK, *MCCARTHY OF WISCONSIN* 41–42 (1944).

9. John R. Commons, *One Way to Get Sane Legislation*, 32 *AM. MONTHLY REV. REVIEWS* 722, 722 (1905).

10. FITZPATRICK, *supra* note 8, at 44.

11. MARION CASEY, *CHARLES MCCARTHY: LIBRARIANSHIP AND REFORM* 18 (1981).

library operations. Indeed, during his trip he wrote frequent letters to his fiancé describing many things, including the weather, social conditions, and his political views, but the letters are silent as to issues such as legislative reference.¹²

¶8 Did McCarthy base his operation in part on the work of Melvyl Dewey in New York? Perhaps, but even those writers who say he did go on to say that McCarthy took up Dewey's idea and developed the prototypical legislative reference service.¹³ Rothstein says that the circumstances under which the Wisconsin Legislative Reference Library came into being leave no doubt that the whole scheme owed more to McCarthy's personal initiative and conception than to any antecedents or outside influences.¹⁴

The New York Legislative Reference Section

¶9 There is no question that legislative reference in its initial form got its start when Dewey went to Albany and became state librarian.¹⁵ In 1890, Dewey established the "Sociology Division" of the New York State Library.¹⁶ This division, eventually run by Dr. Robert H. Whitten, contained the "legislative reference section" of the state library, a section that was considered the first of its kind and which was the result of a number of new ideas in librarianship.¹⁷ One was the concept of specialized collections to serve a specific user group. Another was the effect that information could have on particular processes.¹⁸

¶10 The action of setting up such a library was linked to the intelligent legislation problem.¹⁹ The need to improve the quality of legislation at the source was already recognized in the 1890s, and so, within that context, was the new idea that librarians could meet the information needs of legislators. This was librarianship responding to the needs and pressures of library users at the time. According to Casey, "[b]oth Dewey's and McCarthy's ideas of library organization were grounded in the efficiency craze of the time."²⁰

¶11 Under Dewey, the New York State Library sought to be a legislative library.²¹ As conceived by Dewey, this involved developing resources along legislative and administrative needs and organizing resources for use in addressing

12. McCarthy's personal correspondence from this period, which makes no mention of legislative reference issues, is included in CHARLES MCCARTHY PAPERS (State Historical Society of Wisconsin, microfilm edition 1982).

13. Michael Burns, *The Legislative Reference Movement in Ohio: From Progressive Ideal to Session Satisfying*, 32 U. Tol. L. Rev. 485, 488 (2001).

14. ROTHSTEIN, *supra* note 6, at 127-28.

15. Rothstein, *supra* note 1, at 311.

16. Clinton R. Woodruff, *Legislative Reference Work and Its Opportunities*, 2 BULL. AM. LIBR. ASS'N 278, 279 (1908).

17. Rothstein, *supra* note 1, at 312.

18. *Id.*

19. *Id.*

20. CASEY, *supra* note 11, at 20.

21. Woodruff, *supra* note 16, at 279.

legislative problems.²² Part of the unique approach that Dewey took to his concept of legislative reference was the development of publications that served legislators' needs.²³ In 1890, the New York State Library began publishing a comparative study of state legislation that sought to inform legislators how other states were tackling social problems.²⁴ In 1891, it began publication of bulletins on state legislation, moving on to a review of legislation in 1901, and a set of governor's messages starting in 1902.²⁵ That Dewey's legislative reference work consisted mostly of compiling these sources is seen by most scholars as a bibliographic service and not really radical or even entirely new.²⁶

¶12 In addition to compiling and publishing information, the legislative reference section sought to provide reference services to legislators. In 1892, the section began notifying legislators that it would collect and provide any materials needed for legislation.²⁷ The librarians then waited for legislators to come to the library with their reference requests. They did not.²⁸ The library, true to the ethos of librarianship at the time, was not aggressive about marketing its services or promoting its reference resources to the assembly.²⁹ Legislators, for their part, were generally too busy to search out the services of the library. A gap existed that neither party had either the energy or motivation to bridge, with the result that the New York Legislative Reference Section remained a useful but not particularly dynamic part of the legislative process.

¶13 Was the New York Legislative Reference Section truly a legislative reference library, as such libraries would come to be known? This question sits squarely on much larger questions of the role of libraries and the appropriate actions of librarians. Obviously people such as Dewey and Robert H. Whitten, the subsequent director of the New York Legislative Reference Section, thought that it was, and also believed that Dewey should get credit for having originated the legislative reference library movement.³⁰ Unfortunately, they have little company in this view.

¶14 Some writers are charitable in crediting Dewey with first conceiving of a legislative reference service, but then go on to say that its true creator was McCarthy.³¹ Others point out that the first legislative reference library was in New York, but that it consisted of library work, not special library work,³² or that New

22. *Id.*

23. Rothstein, *supra* note 1, at 312.

24. FITZPATRICK, *supra* note 8, at 48.

25. *Id.*; Ernest Bruncken, *The Legislative Reference Bureau*, NEWS NOTES CAL. LIBR., Feb. 1907, at 96, 97.

26. Rothstein, *supra* note 1, at 312.

27. Bruncken, *supra* note 25, at 97.

28. FITZPATRICK, *supra* note 8, at 48.

29. ROTHSTEIN, *supra* note 6, at 127.

30. *E.g.*, Robert H. Whitten, *Two Decades of Comparative Legislation*, 3 BULL. AM. LIBR. ASS'N 296, 297 (1909).

31. *E.g.*, Burns, *supra* note 13, at 498.

32. *E.g.*, John A. Lapp, *The Growth of a Big Idea*, 9 SPECIAL LIBR. 157, 157 (1918).

York's section was the forerunner rather than the progenitor of the legislative reference library.³³ Still others simply say that the legislative reference library movement started with McCarthy and are divided on whether the New York Legislative Reference Section was even a forerunner of the legislative reference library as conceived by McCarthy.³⁴ Samuel Rothstein says that Charles McCarthy provided the distinct and radical change in service that became the legislative reference library.³⁵ All of these writers agree that McCarthy is the one who took the legislative reference library concept a step further and made it a real special library.

¶15 From the beginning there was a marked, and noticed, difference between McCarthy's Wisconsin Legislative Reference Library operation and that of others, such as New York. For those in favor of the Progressive approach, an active legislative reference library became an important institution. George Woodruff complained in 1908 that most state libraries were "inert" and not participating in making democracy efficient. He said that the state library was an important factor in the development of an effective democratic government.³⁶ Instead, many state libraries furnished only books, but the establishment of facilities was not enough to meet legislative needs. Woodruff was one of many who pointed out that New York had simply set up a collection and offered its services to the legislature, but the result was that no one used the library.³⁷

McCarthy and His "Wisconsin Idea"

¶16 The Wisconsin Legislative Reference Library had an almost accidental genesis. The Wisconsin State Library had outgrown its space in the state capitol, and a new building was built for it some distance away. When the library moved from the capitol, M.F.A. Hutchins, the chair of the Free Library Board, decided that the legislature should be provided with a small reference collection that would remain in the capitol building.³⁸ A librarian, to be called the Wisconsin state documents librarian, was needed to manage the small library for the legislature.³⁹

¶17 Charles McCarthy was in Wisconsin at the time, having just finished a Ph.D. in history, but having not found a job. McCarthy's early life has been well chronicled, including the publication of two biographies.⁴⁰ As a youth he endured a struggle up from poverty, but he showed great tenacity. His hard work had led to attending Brown University, where John D. Rockefeller Jr. befriended him. From

33. ROTHSTEIN, *supra* note 6, at 127; Rothstein, *supra* note 1, at 312.

34. Compare FITZPATRICK, *supra* note 8, at 47 ("The work of Dewey in New York was not the forerunner of McCarthy's ideas.") with Rothstein, *supra* note 1, at 312 ("New York's legislative reference section is the forerunner rather than the progenitor of the legislative reference library.").

35. Rothstein, *supra* note 1, at 312.

36. Woodruff, *supra* note 16, at 279.

37. *Id.* at 280.

38. Bruncken, *supra* note 25, at 97.

39. CASEY, *supra* note 11, at 28.

40. CASEY, *supra* note 11; FITZPATRICK, *supra* note 8.

there he did a stint in the army, a stretch as a college football coach, and then went to Wisconsin for graduate work.⁴¹ Through connections between Hutchins and the University of Wisconsin, McCarthy was recommended for the new position of state documents librarian.⁴²

¶18 McCarthy began work in October 1901 with what was essentially a start-up operation. Because the legislature would not be in session for another year, he had time to organize and build the legislative reference library. It is certain that by the time he was involved in this work he had a clear idea of what he wanted to do and of the potential for the legislative reference library. In a telling letter to John D. Rockefeller Jr. in February 1902, he told about his appointment and described his vision for the job.⁴³ He said that he was “in fact a sort of legislation expert for the Wisconsin Legislature,”⁴⁴ and that “[m]y work in the future is an entirely new thing.”⁴⁵ He went on: “I see before me a field between the theoretical work of the University and the practical work of the legislature that has never been touched.”⁴⁶ We can conclude that McCarthy had a vision for what his position was and what it could do.

¶19 In any event, McCarthy hit the ground running, using the time between his entering into the position and the beginning of the next legislative session to build both a collection and a concept of active service. John R. Commons commented that “[b]y the time the [legislative] session met in 1903 he had, not what could be called a library, but an up-to-date, live set of aids to lawmakers.”⁴⁷ The deprecation of the idea of a library in this quote can be understood to mean not that the legislative reference library was insufficient as a library, but that McCarthy had evolved the operation into something beyond the common understanding of what a library was at the time and what it could do. According to Ranney, during the first few years of its existence, McCarthy’s energy and the Progressives’ need for information to fuel the engine of reform resulted in an expansion of the library well beyond what the legislature had originally envisioned.⁴⁸ This is not to say that the legislature was complaining of ultra vires activities taking place in the legislative reference library. To the contrary, the Wisconsin Legislative Reference Library enjoyed exceptional esteem and support from the legislature.⁴⁹

¶20 Very quickly after the legislative reference library began operating, McCarthy started to get notice for his work. Within a few years he was being

41. See generally FITZPATRICK, *supra* note 8.

42. CASEY, *supra* note 11, at 22; Rothstein, *supra* note 1, at 313.

43. Letter from Charles R. McCarthy to John D. Rockefeller Jr. (dated “Feb 28, 1901” but must actually be 1902), *microformed in* CHARLES MCCARTHY PAPERS, *supra* note 12.

44. *Id.* at 2.

45. *Id.* at 1.

46. *Id.* at 2.

47. Commons, *supra* note 9, at 722.

48. Ranney, *supra* note 3, at 27.

49. ROTHSTEIN, *supra* note 6, at 132.

described as “widely known as the chief exponent of a new approach to legislative reference.”⁵⁰ This emergence by McCarthy as the proponent of a new form of librarianship is especially striking because the enabling law for the library only contemplated a small collection for legislators. It was on his own initiative that McCarthy began offering legislators extensive assistance.⁵¹ By 1905, Commons could comment that “already other states have heard of this work and are making inquiries.”⁵²

¶21 Much of McCarthy’s effect arose from almost tireless efforts to promote and effectuate the work of the legislative reference library. The first task at hand as he began his work in 1901 was the creation and organization of the library itself, to which he applied himself with notable vigor. In the 1901–02 report of the Wisconsin Free Library Commission, McCarthy was reported to have generated an analytical list of all state documents, gathered a nearly complete set of all state publications, created an index of nearly 275 items on agriculture, made efforts to get bills and reports of potential interest from other states, completed a collection of material on primary election law, generated an index of the three hundred bills from the last two sessions of the legislature, and worked on indexing all bills from the last five sessions.⁵³ This is a very notable set of accomplishments for a new operation with a small staff. The 1903–04 report of the Free Library Commission included the creation of a nearly complete file of Wisconsin documents and other materials.⁵⁴

¶22 McCarthy’s first and perhaps keystone effort outside the walls of the legislative reference library was to approach legislators and get them to use the library.⁵⁵ This made an immediate impression. The first circular McCarthy sent to legislators in November 1902 outlined what information would be gathered and what the legislative reference library would do for them. It invited inquiries and suggested topics of legislation.⁵⁶ He received more than a hundred requests in return.⁵⁷ Once the legislative session began, McCarthy carefully sought out legislators to discover what information they needed and to show them the library.⁵⁸ The effect of the proactive nature of his approach to legislative reference service cannot be overemphasized. McCarthy adopted a policy of far-reaching assistance, aggressive in seeking opportunities for service and meticulous in supplying needed infor-

50. Bruncken, *supra* note 25, at 97.

51. ROTHSTEIN, *supra* note 6, at 129.

52. Commons, *supra* note 9, at 723.

53. Wis. Free Library Comm’n, Wisconsin Free Library Commission Biennial Report 1901–1902, at 18–20 (1902), *microformed in* CHARLES MCCARTHY PAPERS, *supra* note 12.

54. Wis. Free Library Comm’n, Fifth Biennial Report of the Free Library Commission of Wisconsin 20–23 (1904), *microformed in* CHARLES MCCARTHY PAPERS, *supra* note 12.

55. Woodruff, *supra* note 16, at 280.

56. FITZPATRICK, *supra* note 8, at 45.

57. Commons, *supra* note 9, at 723.

58. *Id.*

mation in the most readily useable form.⁵⁹ In the process McCarthy held himself responsible not just for collecting and collating data, but also for its validity.⁶⁰

Activities of the Legislative Reference Library

¶23 McCarthy developed eleven ideals for a legislative reference library.⁶¹ These were both functional and philosophical, and they laid out the pattern that he sought to impose on a functioning library. The ideals were:

- a convenient location;
- a well-trained flexible librarian;
- accessible compact materials;
- a complete index of past bills from the state;
- records of vetoes and platforms;
- digests of every law before the legislature;
- it must be nonpartisan;
- the director should know political science and economics;
- legislative draftsmen should be trained as draftsmen;
- librarians should actively seek information needs from legislators; and,
- information should be obtained ahead of time.⁶²

¶24 In *The Wisconsin Idea*, McCarthy sets out his philosophy and explains his view of the role of the legislative reference library. He states that the demands of the library “were of a peculiar nature which could not be readily met by the ordinary library material or methods.”⁶³ He went on to explain what he thought was necessary to make a functioning legislative reference library. He felt that a large library was too general and too cumbersome, and that a law library was too specialized, although a law library should be near by.⁶⁴ He saw that legislators needed a specialized library dedicated to their purposes and providing a special level of service.⁶⁵ He pointed out that a trained librarian is necessary, as was one who was tactful and could meet an emergency.⁶⁶

¶25 This points to a key aspect of McCarthy’s philosophy and personality. McCarthy was loyal to the legislature and the process of legislating above all else. His position was not a political appointment.⁶⁷ He declared the legislative refer-

59. ROTHSTEIN, *supra* note 6, at 130.

60. *Id.* at 131.

61. Marion Casey, *Charles McCarthy’s “Idea”: A Library to Change Government*, 44 LIBR. Q. 29, 37 (1974).

62. *Id.*

63. MCCARTHY, *supra* note 4, at 214.

64. *Id.* at 216.

65. *Id.*

66. *Id.*

67. CASEY, *supra* note 11, at 29.

ence library to be clerical, subordinate, and technical in nature, working only to satisfy the needs of legislators as they did their jobs. This approach diffused complaints that the legislative reference library was trying to do too much.⁶⁸

¶26 McCarthy supervised all aspects of the work of the research division at all times. He worked all hours and went anywhere to get information. He was legendary for leaving no stone unturned in finding information. McCarthy wrote or wired every possible source for materials on a topic, and took trips to faraway places if necessary to research a topic. No legislator was an imposition and he tried to anticipate what was needed.⁶⁹

¶27 According to Burns, McCarthy's staff did three things: gathered and indexed relevant information, drafted legislation, and networked and shared information with other states.⁷⁰ McCarthy himself explained it a bit differently. In a 1906 address to the American Library Association, McCarthy divided the work of the legislative reference library into three divisions: the comparative (gathering materials), the critical (analyzing and interpreting), and the constructive (drafting).⁷¹ He emphasized that drafting legislation was not the same as dictating it, and that as a result the drafting bureau served the legislature.⁷²

Gathering Information

¶28 One of the ways in which McCarthy expanded the legislative reference library concept was by recognizing the need for collecting new types of materials.⁷³ In addition to traditional reference materials, he actively acquired legislative bills from Wisconsin and other states, documents explaining legislative movements, newspapers, party platforms, and political literature.⁷⁴ He was a strong believer in the value of being able to compare legislation and other political information from as many jurisdictions as possible. McCarthy explained in *The Wisconsin Idea* that he sought to collect and index the history of legislation and legislation from other jurisdictions, clipped newspapers from across the country and assembled indexed books of the clippings, kept a record of past state legislation, and analyzed how laws had worked.⁷⁵ His methods were considered radical. He would prepare digests, assemble packets and booklets by tearing up works to get the parts he needed, write letters of inquiry, consult experts and provide lectures, and even go on field trips to get information.⁷⁶

68. FITZPATRICK, *supra* note 8, at 49.

69. CASEY, *supra* note 11, at 33.

70. Burns, *supra* note 13, at 485.

71. Charles R. McCarthy, *The Future of the State Library*, 9 NAT'L ASS'N STATE LIBR. 20, 24 (1906).

72. *Id.* at 27.

73. FITZPATRICK, *supra* note 8, at 62.

74. *Id.*

75. MCCARTHY, *supra* note 4, at 215.

76. Rothstein, *supra* note 1, at 313. Perhaps the farthest field trip McCarthy took in pursuit of legislative information was a trip to Japan in 1909. CASEY, *supra* note 11, at 34.

¶29 Even more radically, he held his department responsible not just for collecting and presenting data, but also for its validity. He would sometimes have experts review comparable legislation before presenting it to legislators.⁷⁷ There was real disagreement among legislative reference libraries at the time about the extent to which legislative reference librarians should be responsible for the validity of the information supplied. Generally, legislative reference libraries established as adjuncts of general libraries took the conservative approach that they should not.⁷⁸ Those that sprang up as new creations inspired by McCarthy's work tended to take the position that they should guarantee validity.⁷⁹ Brigham raised the issue in a way that put the force of McCarthy's personality at the center of the controversy: "Should librarians just amass information, or need they look for a McCarthy to perform legislative functions?"⁸⁰ It can be argued that this question has not really been answered one hundred years later.

¶30 As far as the information to be collected was concerned, McCarthy felt that books were generally out of date, so the legislative reference library must have newspaper clippings, magazine articles, court briefs, and letters.⁸¹ McCarthy described the material in a legislative reference library as "scrappy." As a result books and magazines had to be torn up and their contents arranged by topic and minutely indexed.⁸² "Anything is permissible in the index that will in the quickest way hunt down the given fact, answer a question."⁸³ Thus the legislative reference library provided not an exhaustive study of a topic but a concise presentation of it.⁸⁴ McCarthy would cut up books and other sources, clip and paste the information, have a digest created, and then have the contents printed as a small book, usually one for each side of an issue.⁸⁵ The legislative reference library collected laws from other states and all over the world. The collected legislation was organized by topic and constantly updated.⁸⁶

¶31 This process was more interactive than most library services. Legislators would identify problems and refer them to the legislative reference library. Experts would research and analyze the issues and send the information to the legislators. When requested, experts would then draft bills as directed by legislators.⁸⁷

77. *Id.*

78. ROTHSTEIN, *supra* note 6, at 135–36.

79. *Id.*

80. Johnson Brigham, *Legislative Reference Work Without an Appropriation*, 1 BULL. AM. LIBR. ASS'N 200, 203 (1907).

81. MCCARTHY, *supra* note 4, at 217.

82. *Id.*

83. Bruncken, *supra* note 25, at 103.

84. Matthew S. Dudgeon, *The Wisconsin Legislative Library*, 16 YALE REV. 288, 291 (1907).

85. CASEY, *supra* note 11, at 34.

86. *Id.*

87. Burns, *supra* note 13, at 487.

The Drafting Function

¶32 Clearly one of the most controversial aspects of McCarthy's work was the drafting of bills for legislators.⁸⁸ McCarthy saw expert assistance as part and parcel of progressive ideals relating to sound legislation. Because of this, it was his vision for the legislative reference library that it should be the primary source of draft legislation for the legislature. In essence, McCarthy was saying that his legislative reference library would find the information that legislators needed to propose legislation, get the information to the legislators, and then draft the legislation that they desired.⁸⁹ To his credit, McCarthy was very concerned that bill drafting only happen as the result of a specific request by a legislator, that the bill drafting process be free of political influence, and that bills drafted by the legislative reference library would pass constitutional muster.⁹⁰

¶33 McCarthy's idea was to have skilled draftsmen, unaffected by the politics of the legislature, who would draft bills at the request of legislators and to their precise specifications.⁹¹ McCarthy required that legislation be drafted only upon a signed written request, and that all successive drafts and supporting documentation be retained. In this way he hoped to avoid implications of any kind that the drafting activity was not neutral and servile in nature.⁹²

¶34 Bill drafting was the one aspect of the library's work that librarians generally had a hard time adjusting to.⁹³ Because McCarthy was not a trained librarian, he was not limited by preconceptions of what a librarian's appropriate role should be. While bill drafting appears to have been part of McCarthy's vision for the legislative reference library from the beginning, bill draftsmen were not employed by the Wisconsin Legislative Reference Library until 1907.⁹⁴ From the beginning McCarthy was concerned that the bill drafters be protected from actual or perceived influence. In a 1908 letter to Henry Legler of the Free Library Commission, McCarthy explained the problem of having drafting done in the reference room and proposed the creation of a separate drafting division of the legislative reference library.⁹⁵

¶35 Certainly McCarthy's assistants carried this view with them as they moved across the country. Bruncken connected the legislative reference library movement to improving legislation and saw legislative drafting as an important aspect of the

88. Jeffrey A. Coonjohn, *A Brief History of the California Legislative Counsel Bureau and the Growing Precedential Value of Its Digest and Opinions*, 25 PAC. L. J. 211, 215 (1994).

89. Burns, *supra* note 13, at 487.

90. Ranney, *supra* note 3, at 27.

91. Dudgeon, *supra* note 84, at 291.

92. MCCARTHY, *supra* note 4, at 218.

93. See, e.g., John E. Brindley, *The Legislative Reference Movement*, 7 IOWA J. HIST. & POL. 132, 140 (1909).

94. FITZPATRICK, *supra* note 8, at 51.

95. Letter from Charles R. McCarthy to Henry Legler, Free Library Commission (Nov. 13, 1908) (proposing separate drafting bureau), *microformed in CHARLES MCCARTHY PAPERS*, *supra* note 12.

legislative reference library,⁹⁶ while Dudgeon said that the legislative reference library should avoid influencing legislation and only draft when requested.⁹⁷

¶36 It is clear that McCarthy created the watershed in legislative drafting, but that most librarians felt more comfortable restricting their work to reference services rather than drafting.⁹⁸ The New York legislative reference library was the home base of the critics of drafting in legislative reference libraries. As summarized by Brigham, the legislative reference library in New York gathered information but did not verify it or draft legislation, while the Wisconsin Legislative Reference Library not only gathered information, but also evaluated it and drafted legislation.⁹⁹

¶37 Perhaps the most eloquent voice against evaluating and drafting was Robert H. Whitten, director of the New York legislative reference library. He felt that such libraries should do “library work” and should avoid activities that were legislative in nature, including passing judgment on the value of an item or drafting.¹⁰⁰ Whitten felt that legislative reference work was mostly concerned with comparative legislation, and saw the legislative reference library and drafting bureau as two distinct functions.¹⁰¹ Under his conception of the legislative reference library, the drafting bureau would use the legislative reference library but not be part of it.¹⁰² Whitten focused on the special purpose of the legislative reference library as the strictly library function of collecting and organizing printed material.¹⁰³ As a tactical idea, Whitten felt that drafting bureaus were a good idea but would be slow to catch on, while the legislative reference library movement would spread more rapidly if it didn’t include drafting bureaus.¹⁰⁴ Whitten was not alone in these views. Other writers at the time, such as Brindley, agreed that legislative drafting should not be a function of the legislative reference library.¹⁰⁵

¶38 Drafting legislation is the one innovation of McCarthy’s that did not take root as part of legislative reference libraries. Most states have legislative drafting services today, but they are not connected to, or part of, the legislative reference library. However, from an historical perspective, this may be a distinction without a difference, as the issue is one of administration rather than service. The spectrum of services that McCarthy sought to provide—aggressive reference, specialized materials, and impartial bill drafting—have been uniformly adopted by jurisdictions in the United States and indeed around the world.

96. Ernest Bruncken, *Defective Methods of Legislation*, 3 AM. POL. SCI. REV. 167, 178 (1909).

97. Dudgeon, *supra* note 84, at 291.

98. Coonjohn, *supra* note 88, at 215.

99. Brigham, *supra* note 80, at 200.

100. *Id.*; Whitten, *supra* note 30, at 297.

101. Robert H. Whitten, *Comparative Legislation and Legislative Reference Work*, 9 NAT. ASS’N STATE LIBR. 33, 36 (1906).

102. *Id.*

103. *Id.*

104. *Id.*

105. Brindley, *supra* note 93, at 140.

The Growth of the Movement

¶39 For McCarthy it wasn't enough to set up a well-run legislative reference library to serve the Wisconsin Progressive movement. His zeal was for the overall goal of enhancing legislation nationwide, and in addition to his work in Wisconsin he tirelessly promoted the legislative reference library across the country. As a result, there is no question that McCarthy helped other states establish their own legislative reference services.

¶40 The first hard evidence of this crusade is McCarthy's address to the Portland conference of the National Association of State Libraries in 1905. In that address, he described the work being done in Wisconsin and listed the eleven principles of a legislative reference library.¹⁰⁶ By then he had also branched out his concept of the legislative reference library to other levels of government. The Baltimore municipal reference library was a direct outgrowth of a visit to that city by McCarthy in 1905.¹⁰⁷ This was the first municipal legislative reference library in the country, and the enabling ordinance provided for research and collection of materials for municipal use along the McCarthy model.¹⁰⁸ In 1905 McCarthy visited with the governor of New Jersey to explain the legislative reference library concept and push for its creation in that state.¹⁰⁹ His reputation was also spreading, and offers to take his work elsewhere were arising. In 1906, and again in 1910, McCarthy turned down the chance to head the U.S. congressional legislative reference library.¹¹⁰

¶41 In 1908 McCarthy addressed the American Library Association at its Annual Conference. His topic was the legislative reference library as a city business investment.¹¹¹ He stated that a legislative reference library was the best investment a city could make. He outlined the basic tenets of his philosophy on legislative reference libraries, including that comparative data is beneficial, that efficiency requires pushing information to users, and that getting information out to users is just as important as collecting it.¹¹² He made some interesting analogies to other activities that one suspects were a bit radical for the time, and perhaps even a bit

106. Charles R. McCarthy, *Wisconsin's Legislative Reference Department*, 30 LIBR. J. conf. supp. 242, 244 (1905).

107. Samuel H. Ranck, *Municipal Reference Libraries: Should They Be Established and Maintained as a Part of the Public Library of a City, or as an Independent Department or Organization?* 34 LIBR. J. 345, 345 (1909).

108. Mary S. Wallis, *The Library Side of the Department of Legislative Reference, Baltimore*, SPECIAL LIBR., Dec. 1910, at 73, 73; Horace E. Flack, *Department of Legislative Reference of Baltimore*, 35 MUN. ENGINEERING 156, 156 (1908).

109. *Colby Proposes Bureau of Bills*, TIMES (Trenton, N.J.), Dec. 24, 1906, microformed in CHARLES MCCARTHY PAPERS, *supra* note 12; CASEY, *supra* note 11, at 42.

110. Letter from G.W. Scott, Custodian, Law Library of Congress, to Charles McCarthy (Apr. 4, 1906), microformed in CHARLES MCCARTHY PAPERS, *supra* note 12; CASEY, *supra* note 11, at 42.

111. The address was printed in the conference proceedings as Charles R. McCarthy, *The City Library as a Business Investment*, 2 BULL. AM. LIBR. ASS'N 191 (1908).

112. *Id.* at 193.

scandalous to librarians. He likened pushing information to advertising,¹¹³ and said that he wanted libraries to be “germ spreaders.”¹¹⁴ In this he was saying that librarians should actively spread information. “We want teacher librarians.”¹¹⁵

¶42 By this time the legislative reference library movement was growing and picking up speed. According to Woodruff, by 1908 legislative libraries were operating in New York, Wisconsin, Indiana, Michigan, Nebraska, California, and North Dakota.¹¹⁶ Throughout this period McCarthy engaged in extended evangelism with states, cities, and universities. As Brindley noted, “The rapidity with which the general movement has grown during the last five years has in no small degree been due to the efforts of Dr. McCarthy.”¹¹⁷

¶43 McCarthy did not work alone, and he did not evangelize alone. In addition to a constant flow of information, ideas, and requests, McCarthy sent seasoned colleagues to work in other states. In 1905, California started a legislative reference library without legislative action.¹¹⁸ At the request of the state librarian, McCarthy sent Robert Campbell and Ernest Bruncken to California.¹¹⁹ They kept in touch about the workings of the legislative reference library there.¹²⁰ By 1906, Indiana also had a legislative reference library with McCarthy’s assistant, C.B. Lester, in charge.¹²¹ Gale Lowrie was a protégé of McCarthy who went to Ohio to head up that state’s legislative reference library.¹²² In addition to their work, most of these men also became voices for the legislative reference library movement in their own right.

¶44 Those who weren’t actually sent by McCarthy were often trained by him. Nebraska organized its legislative reference library in 1906, and the librarian, A.E. Shelden, spent three weeks in Madison in preparation.¹²³ In 1909, John Lapp of Indiana spent August visiting the Wisconsin Legislative Reference Library, as did J.L. Gillis of California.¹²⁴ While there, Gillis hired Robert Campbell to replace Ernest Bruncken who had taken a position in Washington, D.C.¹²⁵

¶45 McCarthy also saw the need for formal librarian training for those working in this new form of library. A course was organized in the University of Wisconsin library school to teach legislative reference, and C.B. Lester was called back to

113. *Id.* at 194.

114. *Id.* at 195.

115. *Id.*

116. Woodruff, *supra* note 16, at 281–82.

117. Brindley, *supra* note 93, at 135.

118. ROTHSTEIN, *supra* note 6, at 133.

119. CASEY, *supra* note 11, at 42; Commons, *supra* note 9, at 723.

120. *Id.*

121. FITZPATRICK, *supra* note 8, at 66.

122. CASEY, *supra* note 11, at 40.

123. McCarthy’s mentor at Brown, E. Ben Andrews, was then chancellor of the University of Nebraska and chairman of the Library Commission. FITZPATRICK, *supra* note 8, at 66; Addison E. Shelden, *Legislative Reference Department*, NEB. LIBR. BULL., Nov. 1906, at 3, 4.

124. *Legislative Reference Library*, 5 WIS. LIBR. BULL. 101, 102 (1909).

125. *Id.*

teach it.¹²⁶ Said Howe, “From this laboratory men and women are graduating into similar reference bureaus in cities and states around the country.”¹²⁷

¶46 An interesting example of McCarthy’s charisma was his effect on Charles Williamson, one of the great library educators of the twentieth century. Williamson was a graduate student in economics at the University of Wisconsin from 1905 to 1907, and his first involvement with libraries was with McCarthy at the Wisconsin Legislative Reference Library.¹²⁸ Williamson’s enthusiasm for McCarthy’s work was such that he wrote to an attorney in Cleveland, Ohio, recommending a legislative reference library for the city.¹²⁹ Williamson suggested that McCarthy speak to groups in Cleveland to promote the idea.¹³⁰ McCarthy offered Williamson a job, hoping that he would dedicate his career to the legislative reference library movement.¹³¹ Said Williamson, “At the time I left Madison I was on the point of taking up work with Dr. McCarthy, as he advised me to do, and becoming a legislative reference librarian.”¹³² In the end, however, Williamson left Madison to study librarianship at Columbia instead of working at the Wisconsin Legislative Reference Library. But it was McCarthy’s influence that provided Williamson with his first library experience and most likely pointed him toward his career as a library educator.

¶47 McCarthy’s proselytizing was assisted by numerous other voices that took up the call. The legislative reference library received much newspaper publicity in 1905–06. Such writers as Matthew Dudgeon recognized that the Wisconsin legislative reference department was the pioneer among the departments in the various states.¹³³ At the federal level, the establishment of the Congressional Research Service came from efforts by Wisconsin Senator LaFollette and others who were familiar with McCarthy’s work.¹³⁴

¶48 The practice of legislative reference work in Congress and in state legislative libraries was modeled on McCarthy’s Wisconsin model. The main feature of the service was the provision of extensive and expert assistance to provide information rapidly and in a condensed, useable form. Eventually McCarthy’s model was adopted by a variety of foreign countries, including Britain and Australia.¹³⁵

¶49 Between 1903 and 1913, the legislative reference library movement grew at an amazing rate. By the end of those ten short years, the movement was

126. FITZPATRICK, *supra* note 8, at 67.

127. FREDERIC C. HOWE, WISCONSIN, AN EXPERIMENT IN DEMOCRACY 48 (1912).

128. PAUL A. WINCKLER, THE GREATEST OF GREATNESS: THE LIFE AND WORK OF CHARLES C. WILLIAMSON (1877–1965), at 41 (1992).

129. *Id.*

130. *Id.* at 42.

131. *Id.*

132. *Id.*

133. Dudgeon, *supra* note 84, at 290.

134. Rothstein, *supra* note 1, at 314.

135. W. Boyd Rayward, *A Model of a Changing Profession: The Past and Future of Parliamentary Librarianship*, in PARLIAMENTARY LIBRARIES AND THE FUTURE 16, 18 (1988).

so developed that C.B. Lester could declare: “There is unanimity between the states on the policy of having a legislative reference library but much diversity in method.”¹³⁶ Woodruff said that “Charles McCarthy, by his ‘teaching and preaching’ has successfully spread the idea to state authorities and the people at large,” and that “McCarthy’s inspiring crusade is bearing abundant fruit in a demand for the establishment of similar bureaus or departments” in other states.¹³⁷

The Effect of McCarthy’s Work on Librarianship

¶50 McCarthy’s arrival at librarianship as a career was motivated more by his desire to serve government than a gleaming faith in the information professions.¹³⁸ His interest in politics, in turn, seems to have been ignited by the egalitarian ethos of the Wisconsin Progressive Movement. It was his faith in the Progressives and in service to their ideals that led him to take a new approach to information services, which in turn allowed him to develop a new approach to librarianship.

The Progressive Movement

¶51 The Progressives arose out of the conditions of their times. Increasing concentrations of wealth and power in America, contrasting with poverty and slums, led first to a Populist Movement among the poor in the 1890s and then to the Progressive Movement among the middle class in the 1900s and 1910s.¹³⁹ The Progressive Movement sought to improve society through legislation, believing that carefully crafted laws could effect positive social change.¹⁴⁰

¶52 Up until this point most legislation had been seen as the product of special interests and lobbying. This problem was especially dire among citizen legislators—men with no training in law or the drafting of legislation and with very little knowledge of things outside their own profession and the concerns of their corner of the state—who were sent to the state capitol to legislate on behalf of their constituents. As McCarthy pointed out, such people were often overwhelmed by the legislative process and with the broad scope and sheer volume of issues that had to be understood and ultimately voted on.¹⁴¹

¶53 Citizen legislators were at the mercy of lobbyists who offered to help them with drafting, and were often unable to discern the self-interest crafted into the resulting legislation. The result was a flood of poorly crafted legislation that was often overturned by the courts. Into this breach the Progressives sought to inject a

136. Clarence B. Lester, *The Present Status of Legislative Reference Work*, 7 BULL. AM. LIBR. ASS’N 199, 200 (1913).

137. Woodruff, *supra* note 16, at 279–80.

138. ROTHSTEIN, *supra* note 6, at 129.

139. Burns, *supra* note 13, at 485–86.

140. *Id.*

141. MCCARTHY, *supra* note 4, at 23.

careful and deliberative approach to legislation.¹⁴² They wanted to include societal facts and social science as the basis of enlightened legislation, and to assure that legislators, not lobbyists, were in control of the process.

¶54 These concepts were in play from the inception of legislative reference libraries. As Bruncken put it in 1907, "It is the purpose of the legislative reference bureau . . . to bring expert knowledge and skill within the reach of those charged with the business of legislation."¹⁴³ Legislators were seen as having unique information needs. Bruncken divided user needs in libraries between those of scholars, citizens, and legislators. He posited that scholars know the literature better than librarians do, and so for them the strength of the collection is key.¹⁴⁴ They wish to find the information that they know exists within a vast collection. Citizens need the help of the reference librarian and need assistance knowing what is in the library.¹⁴⁵ Legislators, on the other hand, need current, digested information pushed to them at their time of need.¹⁴⁶ This requires services in addition to conventional reference.

¶55 It is, of course, impossible to separate McCarthy's motivating philosophy from his actions and words. It was this philosophy that appears to have brought forth this new approach to legislative reference. Rothstein is clear about this, saying that McCarthy's personal conception, initiative, and zeal led to the development and influence of the Wisconsin Legislative Reference Library,¹⁴⁷ and that the development of legislative reference work in Wisconsin evolved out of McCarthy's on-the-job approach to serving legislators.¹⁴⁸

¶56 A touchstone of this philosophy was that it was grounded not in librarianship, but in the power of Progressivism to change government. In other words, McCarthy's promotion of legislative reference work arose out of his desire to improve government, rather than any interest in the development of reference work per se.¹⁴⁹ McCarthy's goal was to bring scientific method to legislation.¹⁵⁰ To do this he knew both that the legislative reference library needed to provide specific kinds of information that would be useful, and that the information had to be offered directly to legislators, rather than waiting for them to come looking for it. There is some evidence that McCarthy knew that business and other special librarians were offering direct service of a type not seen in libraries before.¹⁵¹ Essentially this was an incarnation of the *big idea* of special libraries, that they could be an

142. Burns, *supra* note 13, at 487.

143. Bruncken, *supra* note 25, at 98.

144. *Id.* at 102.

145. *Id.* at 103.

146. *Id.*

147. Rothstein, *supra* note 1, at 313.

148. ROTHSTEIN, *supra* note 6, at 128.

149. *Id.* at 129

150. Burns, *supra* note 13, at 484.

151. Rothstein, *supra* note 1, at 312.

information bureau, rather than a repository, and could gather, condense, combine, and interpret results for their users.¹⁵²

McCarthy's Effect on Special Libraries

¶57 While McCarthy may have been focused on the idea of a legislative library as a tool for effective legislation, his model for the library had a broad effect across librarianship. Not only did it inspire a debate among librarians about the place and nature of reference librarianship in general, but it also coincided with, and led the way in, the evolution of special librarianship. This was no small issue. The growth of special libraries was the outstanding feature of librarianship in the first two decades of the twentieth century.¹⁵³ The decade from 1908 to 1918 had seen the growth of this new professional, which Lapp called a “librarian-specialist,” whose job was to gather, condense, and interpret information for users. “A special library is more than a mere library or a mere special collection of books.”¹⁵⁴

¶58 Legislative reference libraries were the first well-known application of the special library idea.¹⁵⁵ The term “special library” came to be used in a new sense; not just a specialized collection, but also a new form of reference service.¹⁵⁶ The emphasis on aggressive reference service was the *big idea* that made special libraries different. It meant that special libraries functioned as an intelligence bureau rather than just a repository of information.¹⁵⁷ Special librarianship required special skills, including interpreting and analyzing information for users. Special librarians placed a premium on saving time for the user, and would adapt information in order to supply it quickly and efficiently.¹⁵⁸ There is little doubt that the legislative reference librarians were the most influential in launching the special library movement and did the most to establish its character.¹⁵⁹

¶59 From the forming of the Special Libraries Association in 1909, legislative reference was the dominant force in the organization.¹⁶⁰ Indeed, legislative reference dominated the special libraries literature prior to World War I. Municipal reference work was a direct outgrowth of the legislative reference library,¹⁶¹ and from the legislative reference library and municipal reference the idea spread to specialized agencies and business.¹⁶² According to Rothstein, “McCarthy and his followers were the first to incorporate in practice—and did much to spread—the concept of amplified service that was the distinctive feature of special librarianship.”¹⁶³

152. *Id.* at 313; ROTHSTEIN, *supra* note 6, at 126.

153. ROTHSTEIN, *supra* note 6, at 123.

154. Lapp, *supra* note 32, at 157.

155. *Id.*

156. *Id.* at 123–24.

157. *Id.*

158. *Id.* at 125.

159. ROTHSTEIN, *supra* note 6, at 126.

160. Lapp, *supra* note 24, at 157.

161. *Id.* at 158.

162. ROTHSTEIN, *supra* note 6, at 136.

163. *Id.* at 139.

McCarthy's Effect on Reference

¶60 The effect of Charles McCarthy's aggressive new approach to reference services in libraries would be hard to overstate. As Rothstein put it, "In so far as legislative reference service represented a distinct and radical change in the conception and practice of reference service, its inception . . . has been identified by an overwhelming majority of writers on the subject with the work of Charles McCarthy in the Legislative Reference Department of Wisconsin."¹⁶⁴

¶61 American libraries went through a professionalization at the end of the nineteenth century. Dewey's "modern library idea" of librarians as active providers rather than passive guardians of information was coming to the fore and with it the advent of real reference work.¹⁶⁵ At first this was just guidance on using the library and finding books, but then reference became established as a separate department.¹⁶⁶ Early conceptions of reference provided minimal assistance to readers so as to promote self-dependence. The idea of giving direct answers to questions was a radical extension of service.¹⁶⁷

¶62 McCarthy's activist approach to reference as the best way to serve the legislature gave the idea of active and even aggressive reference both form and substance. Within the information needs of the legislature he had both a license and reason to pursue this new course. The example he provided was so successful, and the resulting paradigm so quickly taken up by others, that all librarians were forced to re-examine their concepts of reference and their approach to providing service.

Conclusion

¶63 The Wisconsin Progressives came into power around the turn of the twentieth century and flowered over the next fifteen years, until in 1914 the "stalwart" Republicans and the Democrats, both more conservative than the Progressives, ousted them from power.¹⁶⁸ With that sea change came the release of a pent-up attack on McCarthy and the legislative reference library, based mostly on his close alignment with the Progressives and his perceived influence on the legislature and the legislative process. McCarthy and the legislative reference library survived this attack, largely because of the true care he had taken to maintain the political independence of the library and its drafters. By this time the legislative reference library movement was in full bloom across the country, and McCarthy's vision was a reality.¹⁶⁹

164. ROTHSTEIN, *supra* note 6, at 127–28.

165. Rothstein, *supra* note 1, at 310.

166. *Id.*

167. *Id.* at 311.

168. Stark, *supra* note 2, at 63.

169. Unfortunately, McCarthy's life was not long. He continued in his position until 1921 when he died from peritonitis and a perforated ulcer, untreated because of his fear of doctors. See generally FITZPATRICK, *supra* note 8; CASEY, *supra* note 11.

¶64 McCarthy's energy and vision transformed what reference librarians do in providing information. He took the antecedents of the legislative reference library concept and gave it both structure and impetus. Almost single-handedly he created the legislative reference library movement and spread it throughout the country. In the process he moved reference librarianship to a new level and made possible the real practice of what became special librarianship.

¶65 The three aspects of service to the legislature that McCarthy envisioned—collecting specialized information, pushing it aggressively to legislators, and neutral drafting of requested legislation—are concepts that are now firmly ensconced in democratic legislatures around the world. His conception of what was a special library is similarly intact and thriving a hundred years later. Most important, his innovations in reference service are now so routinely part of reference librarianship that their origins are in danger of being forgotten.

¶66 Whether McCarthy saw librarianship as a means to an end or an end in itself, he clearly saw that it could engage and use a set of information tools that would transform how users encountered and benefitted from information. His effect on legislative bodies worldwide is undeniable, as is his effect on libraries. His ultimate success came because he developed a new way of doing things, but also because he believed so strongly in both his cause and his methods that he actively evangelized his work as a better way for legislatures and libraries to work.