

Dan Cohen's Digital Humanities Blog » Blog Archive » The Flawed Agreement Between The National Archives And Footnote, Inc.

I suppose it's not breaking news that libraries and archives aren't flush with cash. So it must be hard for a director of such an institution when a large corporation^[1], or even a relatively small one^[2], comes knocking with an offer to digitize one's holdings in exchange for some kind of commercial rights to the contents. But as a historian worried about open access to our cultural heritage, I'm a little concerned about the new agreement^[3] between Footnote, Inc.^[4] and the United States National Archives^[5]. And I'm surprised that somehow this agreement has thus far flown under the radar of all of those who attacked the troublesome Smithsonian/Showtime agreement^[6]. Guess what? From now until 2012 it will cost you \$100 a year, or even more offensively, \$1.99 a page, for online access to critical historical documents such as the Papers of the Continental Congress.

This was the agreement^[7] signed by Archivist of the United States Allen Weinstein and Footnote, Inc., a Utah-based digital archives company, on January 10, 2007. For the next five years, unless you have the time and money to travel to Washington, you'll have to fork over money to Footnote to take a peek at Civil War pension documents or the case files of the early FBI. The National Archives says this agreement is "non-exclusive"—I suppose crossing their fingers that Google will also come along and make a deal—but researchers shouldn't hold their breaths for other options.

Footnote.com, the website that provide access to these millions of documents, charges for anything more than viewing a small thumbnail of a page or photograph. Supposedly the value-added of the site (aside from being able to see detailed views of the documents) is that it allows you to save and annotate documents in your own library, and share the results

of your research (though not the original documents). Hmm, I seem to remember that there's a [tool^{\[8\]}](#) being developed that will allow you to do all of that—for free, no less.

Moreover, you'll also be subject to some fairly onerous [terms of usage^{\[9\]}](#) on Footnote.com, especially considering that this is our collective history and that all of these documents are out of copyright. (For a detailed description of the legal issues involved here, please see [Chapter 7^{\[10\]}](#) of [Digital History^{\[11\]}](#), "[Owning the Past?^{\[12\]}](#)", especially [the section covering the often bogus claims^{\[13\]}](#) of copyright on scanned archival materials.) I'll let the terms speak for themselves (plus one snide aside): "Professional historians and others conducting scholarly research may use the Website [gee, thanks], provided that they do so within the scope of their professional work, that they obtain written permission from us before using an image obtained from the Website for publication, and that they credit the source. You further agree that...you will not copy or distribute any part of the Website or the Service in any medium without Footnote.com's prior written authorization."

Couldn't the National Archives have at least added a provision to the agreement with Footnote to allow students free access to these documents? I guess not; from the terms of usage: "The Footnote.com Website is intended for adults over the age of 18." What next? Burly bouncers carding people who want to see the Declaration of Independence?

This entry was posted on Monday, January 15th, 2007 at 9:18 pm and is filed under [Archives^{\[14\]}](#), [Copyright^{\[15\]}](#), [Digitization^{\[16\]}](#), [Open Access^{\[17\]}](#). You can follow any responses to this entry through the [RSS 2.0^{\[18\]}](#) feed. You can [leave a response^{\[19\]}](#), or [trackback^{\[20\]}](#) from your own site.

References

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