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Law Libraries and Laboratories: The Legacies of
Langdell and His Metaphor*

Richard A. Danner**

Law librarians and others have often referred to Harvard Law School Dean C.C. Langdell’s statements that the law library is the lawyer’s laboratory. Professor Danner examines the context of Langdell’s statements through his other writings, the educational environment at Harvard in the late nineteenth century, and the changing perceptions of university libraries generally. He then considers how the “laboratory metaphor” has been applied by librarians and legal scholars during the twentieth century and into the twenty-first. The article closes with thoughts on Langdell’s legacy for law librarians and the usefulness of the laboratory metaphor.

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** Rufty Research Professor of Law and Senior Associate Dean for Information Services, Duke Law School, Durham, North Carolina.
The work done in the [Law] Library is what the scientific men call original investigation. The Library is to us what a laboratory is to the chemist or the physicist, and what the museum is to the naturalist.\footnote{1}

**Introduction: Law Librarians, Langdell, and the Laboratory**

\[1\] Law librarians are fond of the idea “that law is unique among disciplines in the way in which its bibliographic sources constitute a separate body of knowledge accessible and useful only to those within the law school,”\footnote{2} and frequently describe the law library “as the laboratory—or, more intimately, the heart—of the law school,”\footnote{3} a metaphor first suggested by Christopher C. Langdell near the beginning of his twenty-five-year tenure as Harvard Law School’s first dean.

\[2\] The laboratory metaphor\footnote{4} has been used to argue not only for the law library’s importance but also for its distinctiveness from other libraries, based on the proposition that “[l]aw libraries are essentially different in kind from general research libraries; a law library is not really a library, but rather a laboratory.”\footnote{5} He found that the “insistence on the exclusivity of legal research methodology is rooted in a Langdellian view of the scientific nature of the study of law.”\footnote{6} Law librarian references to Langdell’s metaphor go back at least to 1918 when, in a discussion of instruction in legal research, Fred Hicks wrote that the law librarian’s “library is the laboratory for the course, and his office or even the library itself the logical place for holding classes.”\footnote{7} The references continued throughout the twentieth century and into the twenty-first.

\[3\] It is not surprising that law librarians and others have found Langdell’s comments on the library’s central role in legal education to be important and provocative. Langdell is the primary figure in the history of legal education, and his approach to law study focused on reading and analysis of the original sources of the common law: the published reports of appellate cases, materials found in the library. Despite his lasting influence, however, Langdell said and wrote little regarding his ideas on legal education, law as a science, or the role of the law library. What he had to say about libraries was specifically about the Harvard Law Library and is found in annual reports to the president of Harvard College, an 1886 address to the Harvard Law School Association,\footnote{8} and an 1894 issue of the *Harvard Graduates’*
The library as laboratory metaphor appears twice in his small body of published works, initially in his 1873–1874 annual report, then with slightly greater elaboration in the 1886 address.

¶4 This article examines what Langdell said about the law library, the changing educational environment at Harvard after 1870, and the implications of his comments about the importance of the Harvard Law Library. What did Langdell mean when he compared the law library to the laboratories used by the “scientific men” of the natural sciences? Did he mean to emphasize the importance of law libraries in the ways suggested later by law librarians, or did he characterize the library as a laboratory merely as part of his arguments to establish law as a scientific discipline? Are law libraries significantly different from other research libraries? Was he alone in his view that the law library was the lawyer’s laboratory?

¶5 The following section focuses on the Harvard Law Library during the twenty-five years of Langdell’s deanship. It briefly describes the state of the library prior to Langdell’s appointment as dean in 1870 and the changes he instituted; it then examines Langdell’s published comments about the law library during his tenure as dean; the career of John Himes Arnold, who served as law librarian under Langdell for nearly all of his deanship; and the impacts on the law library of the case method of instruction. The next section of the article provides broader context for Langdell’s impact on the law library through discussions of the role played by Harvard president Charles W. Eliot and the influences of changing perceptions of university libraries in the last quarter of the nineteenth century. The article then looks at later uses of the laboratory metaphor outside of law, as well as by legal scholars and law librarians. It concludes with thoughts on Langdell’s influences and the usefulness of metaphors for law librarians.

The Harvard Law Library in the Late Nineteenth Century

Langdell at Harvard

¶6 Langdell studied law at Harvard from 1851–1854. Like other students before him, he served as law librarian from 1852–1854, performing well enough to earn tuition remission in 1853–1854.11 His successor as dean, James Barr Ames, would write that the student Langdell “was so constantly in the law library and so late at night, that some of the students used waggishly to say that he slept on the library table.”12

10. Langdell, supra note 1, at 63, 67.
12. James Barr Ames, Christopher Columbus Langdell, in LECTURES ON LEGAL HISTORY 467, 471 (1913). Warren wrote that “it has been well said of him that: ‘He browsed among the reports as a hungry colt browses among the clover. The year books in particular enthralled him.’” 2 WARREN, supra note 11, at 179. More recently, Richard Neumann observed that “[a]s a student and as a teacher, Langdell’s attachment to books and libraries seemed so guileless as to be endearing.” Richard K. Neumann, Osler, Langdell, and the Atelier: Three Tales of Creation in Professional Education, 10 LEGAL COMM. & RHETORIC: JALWD 151, 174 (2013).
The law school relied on student librarians until Langdell himself appointed the first full-time librarian in 1870. His own tenure as student librarian came during a lengthy period of decline for the library following the death of Dane Professor of Law Joseph Story in 1845 and Simon Greenleaf’s resignation from the faculty in 1848. Between Story’s death and Langdell’s return to Harvard in 1870, expenditures for books averaged less than $1000 per year, and many of the volumes purchased were textbooks supplied to students.

In 1861, the law library became the subject of a dispute between a visiting committee for all university libraries and the law school visiting committee over missing volumes and the general condition of the law library. The university library visiting committee criticized the performance of the student librarian and found that the janitor John Sweetnam was acting as “executive officer of the Law Library as well as the factotum of the Law School.” Samuel Batchelder described the pre-1870 law library as a place occupied only by a “handful of enthusiasts,” who rented stools from the janitor and “knew enough and cared enough to use the library in a continuous and systematic way.” It was difficult to find books on the

In a 1933 article highly critical of Langdell’s approach to legal education, Jerome Frank used the stories about Langdell’s love for the library as evidence both of the dean’s limited vision and his general strangeness. Not only had “law school law come to mean ‘library law,’” but he himself “had an obsessive and almost exclusive interest in books.” For Langdell: “The raw material of law . . . was to be discovered in a library and nowhere else; . . . A great part of the realities of the life of the average lawyer was unreal to him.” Jerome Frank, Why Not a Clinical Lawyer-School?, 81 U. Pa. L. Rev. 907, 908 (1933) [hereinafter Frank, Clinical]; see also Jerome Frank, A Plea for Lawyer-Schools, 56 Yale L.J. 1303, 1304 (1947) [hereinafter Frank, A Plea] (referring to Langdell’s “neurotic escapist character”); Jerome Frank, What Constitutes a Good Legal Education, 19 A.B.A. J. 723 (1933) [hereinafter Frank, Good Legal Education].

For a full list of students who were employed as librarian, see J.H. Arnold, The Harvard Law Library, 16 Harv. Graduates’ Mag. 230, 240 (1907). The employment of law students as librarians was not unique to Harvard. See, e.g., Hobart Coffee, The Law Library, in 4 The University of Michigan: An Encyclopedic Survey 1397, 1399 (Walter A. Donnelly, ed., 1958) (noting that at Michigan a permanent librarian was first appointed in 1883. Prior to the appointment, “the main duties of the student-librarian . . . were to open and close the Library and keep order in the reading room. . . . He was a custodian, pure and simple.”); see also Christine A. Brock, Law Libraries and Librarians: A Revisionist History; or More Than You Ever Wanted to Know, 67 Law Libr. J. 325, 347 (1974) (“There were three sources from which law schools drew their first law librarians—students, janitors, and old men . . ..”).


See Joel Parker, The Law School of Harvard College 41–47 (1871).

Martin, supra note 15, at 32 (quoting the 1861 visiting committee). The Centennial History notes that in 1855 the Harvard Corporation withdrew from the law faculty the power to establish regulations for the library, “and from that time the library rules were made in theory by the Corporation, in practice by the janitor.” Centennial History, supra note 14, at 23. On Sweetnam, see also Samuel F. Batchelder, Old Times at the Law School, 90 Atl. Monthly 642, 654–55 (1902). On the performance of the student librarians and janitor, see generally Martin, supra note 15, at 30–33.
shelves, and those who hoped to study in the library were subject to interruption by moot courts and occasionally by real court proceedings. For Batchelder, those interruptions, plus some students’ heavy use of the “almost universal ‘chaw’ of tobacco [with] no receivers for the ensuing liquidation” made the library “a decidedly uncomfortable work-room.” Nonetheless, the library was regularly praised by the law school’s visiting committees for much of the period prior to Langdell’s return.

§9 After leaving Harvard in 1854, Langdell practiced law in New York. He rarely appeared in court but developed a reputation as “an industrious worker and brilliant briefwriter [sic],” who spent most of his time in the New York Law Institute Library.

§10 In January 1870, Langdell returned to Harvard as Dane Professor of Law and was named the law school’s first dean in September. He taught contracts using the case method, “requir[ing] students to read original sources rather than textbooks, to analyze particular controversies rather than general propositions, to formulate their own interpretations in response to questions, and to respond to hypotheticals and opposing views.” He published the first part of his contracts casebook in October 1870.

§11 Langdell would later characterize the library at the time of his appointment to the faculty as “nearly a wreck.” In the year of his return, a law school visiting committee report citing deficiencies in the library was published in a Boston newspaper. Langdell found that no professor since Greenleaf had taken personal interest in the library; books purchased were selected by booksellers rather than school personnel; and little attention was paid to binding and repair. Most important, perhaps, he observed “a degree of freedom from restraint in the use of the library. . . . It was kept open constantly from 9 A.M. to 9 P.M.; and yet there was no one to exercise any supervision or control over those who might choose to resort to

18. Batchelder, supra note 17, at 654.
19. See William P. LaPiana, Logic and Experience 9 (1994); 2 Warren, supra note 11, at 336–38. Warren concluded that “[t]he prevailing ideas that the Law Library was brought into existence later under the Langdell regime, and that it was not of much account prior to that time, are readily dispelled by the constant enthusiastic praise of the Library made in the Annual Reports to the Overseers.” 2 Warren, supra note 11, at 335.
21. Langdell became Dane Professor on January 6, 1870, and was elected dean on September 27. Harvard had recently started requiring each professional school to have a dean to perform administrative tasks. Although there is little doubt that Langdell was President Eliot’s choice for the post, there were probably also no viable alternatives. Charles W. Eliot, Langdell and the Law School, 33 HARV. L. REV. 518, 518 (1920).
it.” He concluded that “the condition of the library had come to be so ruinous . . . that some radical change in its administration was imperatively called for.”

**Langdell’s Writings about the Law Library**

¶12 It is well known that Langdell wrote little and said little publicly regarding his ideas either about substantive legal issues or about the study of law. His primary published works include several contributions to *Bouvier’s Law Dictionary*; casebooks and related materials published between 1870 and 1883; and law journal articles, published mostly from 1888 to 1906.

¶13 Langdell also published several short commentaries late in his career. These included the text of an address offered at the first meeting of the Harvard Law School Association in 1886, comments about the law school in an 1894 issue of the *Harvard Graduates’ Magazine* devoted to the twenty-fifth anniversary of Charles Eliot’s tenure as Harvard president, and remarks to the Harvard Law School Association marking the twenty-fifth and final year of his deanship in

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25. See Langdell, *supra* note 9, at 494. LaPiana speculates that because of the publicity regarding the shortcomings of the library, Langdell’s interest in books and libraries might have been a consideration in his appointment to the faculty. LaPiana, *supra* note 19, at 10–11. Despite its condition at the time of Langdell’s arrival, Harvard remained the largest academic law library in the country, and had been at least since the days of Story and Greenleaf. In a 1987 article, Kent Newmyer wrote:

[Story] realized that to write books one needed books and accordingly made a great library the first order of business at the Law School. Complete runs of federal and state court reports and federal and state statutes were secured. Treatise literature old and new, in all areas of law and equity, from England, the Continent, and even the Far East was procured. Long before Christopher Columbus Langdell advertised the library as the laboratory of law, Story and Greenleaf operated on that premise.


26. *John Bouvier, A Law Dictionary Adapted to the Constitution and Laws of the United States of America* (12th ed. 1868). The articles were on alimony, condonation, divorce, nullity of marriage, promise of marriage, and separation *a mensa et thoro*.

27. Perhaps the most complete bibliography of Langdell’s writings was compiled by Bruce Kimball for his 2009 biography of Langdell. See *Bibliography, in Kimball, supra* note 22, at 353, 385–89. An earlier version is at Kimball, *supra* note 14, at 331. Kimball also reports that a large store of Langdell’s unpublished works is available at the Harvard Law Library, although “some 3,000 papers” were discarded in 1941. Kimball, *supra* note 14, at 281. The Harvard finding aid states: “The bulk of the collection consists of Langdell’s handwritten notes and drafts for lectures, articles, and some of the case briefs that would appear in his books,” as well as some correspondence, “the bulk of which is between Langdell and Joseph R. Webster and dates to Langdell’s pre-Harvard private practice.” C.C. (Christopher Columbus) Langdell Research Notes and Correspondence, 1852–1902: Finding Aid (2008), http://oasis.lib.harvard.edu/oasis/deliver/findingAidDisplay?_collection=oasis&inoid=4926&inoid=4926&histno=0. For a thorough discussion of how later scholars have used Langdell’s writings and other sources, see generally Kimball, *supra* note 14.

28. *Professor Langdell’s Address, supra* note 8.

29. Langdell, *supra* note 9, at 490.
1895.30 Much of what he said about legal education is found in these later articles and in the preface to his contracts casebook. Those sources (other than the 1895 remarks31), along with discussions of law library concerns in his annual reports to the Harvard president, also provide the primary sources for his thoughts on the role and importance of the library.

**Annual Reports**

¶14 Langdell’s first annual report as dean does not mention the library. In his second report, for 1870–1871, Langdell identified several library problems to which he had attended during the year.32 Among these was a lack of supervision of the library, particularly in the evenings, which meant that access to the collections was unrestricted. This was solved with the appointment of a permanent librarian who (or whose assistant) would be in attendance during all hours the library was open.

¶15 Of greater importance to Langdell, however, were the problems he saw with the physical arrangement and accessibility of the collection. When he arrived, the entire collection was shelved in a single alphabetical arrangement, fully accessible “to all persons,” with “no systematic attempt to provide duplicates of such books as were in constant use.”33 In summer 1870, he divided the law library collections into a general library and a working library. The general library was closed to students, but books could be retrieved on request and access to the stacks could be granted when the librarian was present. A railing separated the general collection from the new working library, which included duplicate copies of “the most important English reports, of the Massachusetts reports, of the reports of the Supreme Court of the United States, of all the most important New York reports, of the most important Digests and abridgements, and of a good number of standard treatises.”34

¶16 The following year, Langdell noted that these changes “were of so radical a character that they have produced a very complete revolution in the Library in almost every particular.” Although they had caused “more or less temporary inconvenience and embarrassment . . . the Library is now in an eminently satisfactory

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31. The published versions of his 1895 remarks to the Harvard Law School Association do not mention the library. See id.


33. Id. at 63.

condition.”35 Were the problem of insufficient funding resolved, “the Library bids fair to resume the position which it occupied twenty-five years ago, namely, that of being the finest law library in the United States.”36

¶17 In 1871, Langdell ended the practice of using library funds to purchase textbooks for students,37 something he attributed to the school’s earlier sense of itself as the model of a law office. Because “students who studied in offices did not have to purchase any books, so the Law School adopted and continued the practice of furnishing every student with a copy of the text-books which he had occasion to study.”38 Bruce Kimball listed as one of Langdell’s accomplishments as dean “the transformation of the library from a textbook dispensary to a resource for scholarship.”39 Richard Neumann noted Kimball’s comment, but pointed out that

35. C.C. Langdell, The Law School, 48 ANN. REP. PRESIDENT & TREASURER HArV. COLl. 1871–72, at 60, 63–64 (1873). Warren recounts some of the student unhappiness over the railing’s effects on access to other books. 2 wARRen, supra note 11, at 486–87; see also THe Law School of Harvard College, supra note 24, at 563 (“Free access to the books is an absolute necessity.”). As late as 1875, an article in the Harvard Advocate bemoaned the amount of time lost by students requesting access to books kept “behind the bar” and urged free access to the entire collection. See THe Law School Library, 20 Harv. AdvOc. 86 (1875). For a description of the arduous process necessary to check out a book in the Harvard College Library at this time, see Robert E. Brundin, Justin Winsor and the Liberalizing of the College Library, 10 J. lIBR. hISt. 57, 64 (1975).

Franklin Fessenden later described the library at the time Langdell returned in 1870 in a more positive light:
Access to the shelves of the library was free and unobstructed. As some of the professors and lecturers used published treatises in books as the bases of their lectures, students were allowed to take such textbooks from the building for the purpose of study. There was a large number of copies of these books in the library for such use.


36. Langdell, supra note 35, at 64. In 1908, Charles Warren would point out that the changes Langdell implemented conformed generally to those recommended by the 1861 and 1870 visiting committees. See 2 wARRen, supra note 11, at 336–84, 484–86; see also Martin, supra note 15, at 32 (stating that when he became dean, “Langdell vindicated the [1861] Library Committee.”).

37. Langdell, supra note 35, at 65.

38. Langdell, supra note 9, at 493. Terry Martin attributed the custom of providing free textbooks to law students to Asahel Stearns, who became Harvard’s first professor of law in 1817. Martin, supra note 15, at 31. In 1907, law librarian John H. Arnold estimated that the law library’s reported holdings in 1869–1870 of 15,000 volumes included more than 3000 student textbooks. Arnold, supra note 13, at 234; see also Bruce A. Kimball, Students’ Choices and Experience During the Transition to Competitive Academic Achievement at Harvard Law School, 1876–1882, 55 J. lEGAL edUC. 163, 164 (2005) (“[T]he library was regarded as a dispensary of textbooks that students borrowed and rarely returned, necessitating an annual restocking of the shelves with the same volumes.”). The law library was probably more generous than the university in supplying textbooks to students. Until the practice was ended just prior to Langdell’s return, the university purchased textbooks at wholesale prices, adding the costs to student bills. KENNETH J. BROUGH, SChOLAR’S WOrKSHOp: EVOLVINg ConCePtIONS OF LIBRARY SERVICE 62–63 (1953).

The University of Iowa Law Library also rented textbooks to students who could not afford to purchase them from 1870 to 1924, and ordered and sold them from 1892 to 1914. Ellen J. Jones, The University of Iowa Law Library: The First 141 Years, 1868–2009, in The History of the Iowa Law School, 1865–2010, at 343, 357 (N. William Hines ed., 2011).

“[i]n Langdell’s time, it was scholarly only as a repository of case law, which was beginning to be compiled into searchable commercial reporters.”

¶18 In his 1872–73 report, Langdell bluntly stated: “The most essential feature of the School, that which distinguishes it most widely from all other schools of which I have any knowledge, is the library. . . . [W]ithout the library, the School would lose its most important characteristics, and indeed its identity.” He was pleased with the administration of the library (“So far as is known, not a single volume was lost during the year, even temporarily.”), its completeness, and the quality of the collections, but seems to have been proudest of the working library, which now contained almost 1300 duplicate volumes of books in most constant use, and “double[d] the working capacity of the library.”

¶19 In 1873–1874, he noted that the heavy use of the library testified not only to “the industry of the School” but to “the kind of work that is in vogue”; he then closed the report with the classic statement of the laboratory metaphor quoted earlier: “The work done in the Library is what the scientific men call original investigation. The Library is to us what a laboratory is to the chemist or the physicist, and what the museum is to the naturalist.”

¶20 The following year, Langdell cautioned that library use was “constantly increasing,” bringing wear to the books, making the work of the librarian “very laborious,” and “caus[ing] a considerable inconvenience to all who use the Library.” The problems arose primarily from “the number of books consulted, and from the fact that the same book is frequently wanted by several persons at the same time.” In 1875–1876, he again highlighted the need for “large additions . . . to the books outside the railing.”

¶21 Beyond a mention regarding the “architectural shortcomings of Dane Hall” in 1878–1879, Langdell did not again discuss the library in his annual reports until 1889–1890. Then, summing up the changes during the twenty years of his deanship, Langdell remembered that when he returned to Harvard “the library was so nearly a wreck that it required to be reconstructed almost from its foundations.” Now it was “believed to be larger (referring only to law-books proper, and excluding

42. Langdell, supra note 1, at 67.
43. C.C. Langdell, The Law School, 50 ANN. REP. PRESIDENT & TREASURER HARV. COLL. 1874–75, at 73, 76 (1876). As solutions, Langdell noted the importance of both the growing library of duplicates and the ability to produce reprints of selected cases. Id. “But this device did not cure the inevitable ill. Illustrative cases which no case book of possible dimensions could contain must still be referred to and read.” CENTENNIAL HISTORY, supra note 14, at 101.

The importance of the working library would diminish in the twentieth century. In 1934, librarian Eldon James noted that, while the bulk of the library’s collections were housed in Langdell Hall, “[i]n Austin Hall, there is only a working library of English and American material amounting to about 25,000 volumes.” Am. Ass’n of Law Libraries, Proceedings of the Twenty-Ninth Annual Meeting, 27 LAW LIBR. J. 51, 157 (1934) (remarks of Eldon James) (emphasis added) [hereinafter James Remarks].

statutes), more complete, and in a better condition than any other [academic] law library in the United States.”46 Two years later, he announced the addition of “another copy of every set of English and American reports which is used to any considerable extent,” and that “[w]e have also availed ourselves, and are still availing ourselves, of every good opportunity to purchase another copy of every set of American reports of which another copy is at all needed.” One result of the continuing efforts to add more duplicate reports was that the lower floor of the library stack area would “have to be given up entirely to reports; and hence all treatises and statutes will have to be relegated to an upper and less accessible floor.”47 Langdell expressed no regrets about this “relegation.”

OTHER WRITINGS

¶22 In an 1886 address to the Harvard Law Association on the occasion of Harvard College’s 250th anniversary,48 Langdell referred for the second time to the library’s role as laboratory. Building on what he wrote in his 1873–1874 report to the president of Harvard, he noted:

We have also constantly inculcated the idea that the library is the proper workshop of professors and students alike; that it is to us all that the laboratories of the university are to the chemists and physicists, the museum of natural history to the zoologists, the botanical garden to the botanists.49

Tellingly, Langdell also said that since accepting his appointment as dean, “I have not concerned myself with legal education outside the Harvard Law School; but I have tried to do my part towards making the teaching and the study of law in that school worthy of a university.”50 To accomplish that goal, he had needed to show both that law is a science and that the materials of that science are found in printed books: “the ultimate sources of all legal knowledge.”51 Accordingly “the law library has been the object of our greatest need and most constant solicitude.”52


48. See Professor Langdell’s Address, supra note 8.

49. Id. at 51. Howard Schweber has noted that the examples emphasize taxonomical sciences. See Howard Schweber, The “Science” of Legal Science: The Model of the Natural Sciences in Nineteenth-Century American Legal Education, 17 LAW & Hist. Rev. 421, 459 (1999) (“Botany and zoology were the prototypical taxonomical sciences . . . .”). William LaPiana writes that in 1886 “Langdell was still the Baconian scientist, examining the cases, extracting principles from them through inductive reasoning, and then ordering the principles to aid understanding.” LaPiana, supra note 19, at 56.

50. Professor Langdell’s Address, supra note 8, at 48.

51. Roscoe Pound would later describe this as a “proposition . . . that the law was to be learned through study of the authoritative legal materials themselves, not by study of what others had written about them, no matter how learned or eminent those others might be.” Roscoe Pound, The Law School: 1817–1929, in The Development of Harvard University 472, 493 (Samuel Eliot Morison ed., 1930). Paul Carrington found Langdell’s premise to be “very questionable . . . assert[ed] in the face of considerable contrary evidence.” Paul D. Carrington, American Lawyers 279 (2012).

52. Professor Langdell’s Address, supra note 8, at 50.
¶23 In 1894, the *Harvard Graduates’ Magazine* marked the twenty-fifth anniversary of President Eliot’s appointment with articles by several Harvard deans. Langdell’s contribution noted the law library’s early glories and its deterioration between the death of Story in 1845 and the start of Eliot’s tenure as president in 1869. He then described some of the changes made in the library under his deanship and the growth of collections, noting particularly that the library now held “at least three copies of all important English and American reports.”

**Langdell’s Librarian**

¶24 John Himes Arnold was the third full-time librarian appointed by Langdell, succeeding William Abbot Everett (1870–1871) and Abraham Walter Stevens (1871–1872). Arnold was appointed in 1872 and remained in the position until 1913, through the deanships of Langdell and James Barr Ames, and into that of Ezra Ripley Thayer. He came to his position with little knowledge of law or libraries, reputedly telling his successor Edward Adams that “[h]e knew about as much about law books . . . as a cow.”

¶25 When Arnold retired, however, Dean Thayer wrote that his name would always be linked with those of Langdell and Ames: “Working in the closest cooperation with them, and like them utterly devoted to the interests of the School, he did so much to build up the present library that it stands today as a monument to him.” In his report for 1892–1893, Eliot praised Arnold’s efforts and “remarkable knowledge of legal bibliography and of the best ways to buy law books both old and new.” In an article about Arnold’s devotion to the library and efforts to build its collections, Joseph Beale concluded: “The library has been his life. In its service he...
¶26 Beale described Arnold’s apprenticeship in law book buying under Langdell, emphasizing the small funds available for the library when he arrived at Harvard as well as how “Langdell’s canny Scotch thrift saved what money there was from being wasted.” Arnold was trained to spend his money wisely at auctions and on visits to booksellers in the United States and abroad. “He has remained throughout an indefatigable searcher and a careful buyer.” In 1930, Roscoe Pound credited Arnold with “the present primacy of the Library among the law libraries of the world.” Eldon James, who served as law librarian from 1923 to 1942, wrote that “to John Himes Arnold, for 40 years Librarian of the Harvard Law School, more than to any other single person, the credit for the development of the Library must go.” Charles Warren gave “chief credit” for growth in the library collections after 1870 to Arnold’s “indefatigable labors and expert skill,” but noted that Arnold himself praised Langdell for his “constant interest and affection for [the library,] . . . his great knowledge of the literature of the law, and his willingness to devote much time to consideration of the needs of the Library . . . .” Robert Anderson, who began working in the library in 1892, noted that Langdell closely supervised book purchases: “No books were bought until the Dean could be convinced that they were actually needed and were going to be used.”

¶27 In 1902, Arnold was awarded an honorary degree by Harvard, which he displayed with his byline in a 1907 article about the library. On his retirement, the Law School Association voted to present his portrait to the school. His biography, based on Beale’s 1913 article, was included with those of the law faculty members in The Centennial History of the Harvard Law School, published in 1918.

¶28 We know little about Arnold’s relationship with Langdell. Warren wrote that in 1891 Langdell described Arnold as “a Librarian whose devotion to the School knew no limits.” Yet Warren indicated that the comment was made in reference to Arnold’s “making of the catalogue,” not in acknowledgment of his work in the library but for compiling the Quinquennial Catalogue of Officers and

60. Joseph H. Beale, How Mr. Arnold Collected the Law Library, Harv. Graduates’ Mag., Sept. 1913, at 38, 41, reprinted in large part in Centennial History, supra note 14, at 189; see also Adams, supra note 57, at 95 (“certainly [Arnold] is the first real librarian of a law school in this country . . . the Dean of the profession, the Nestor of law librarians.”).
61. Beale, supra note 60, at 38. On Arnold’s apprenticeship, see also Martin, supra note 15, at 36.
63. Pound, supra note 51, at 500.
64. James Remarks, supra note 43, at 161. James also noted the contributions of Langdell and Ames.
65. 2 Warren, supra note 11, at 489.
66. Arnold, supra note 13, at 235.
68. Arnold, supra note 13, at 241.
69. Beale, supra note 60, at 41.
71. 2 Warren, supra note 11, at 495.
Students, 1817–89, which had been published in 1890. In his final report as dean in 1893–1894, Langdell mentioned the death of assistant librarian George Arnold, John’s brother, who had worked at the law school since 1872. None of the annual reports made personal mention of the contributions of John Arnold.

Pound noted that as dean Langdell served as “executive organ and educational leader” of the law school, “assisted by the Librarian after 1872.” Terry Martin wrote that Arnold served as secretary of the school, while “his staff served as assistant secretaries, reading scholarship applications to Langdell, taking attendance in class, and tabulating grades at examination time.” Over time, the dean’s administrative work increased and “the growth of the Library made it impossible for the Librarian, even with a competent and efficient assistant, to go on doing the work of secretary to the dean.” Even so, Arnold was relieved of his secretarial duties only in 1896, after Ames had succeeded Langdell as dean and a full-time secretary was appointed.

**Library Impacts of the Case Method and the Casebook**

In a report prepared for the Survey of the Legal Profession in 1953, Albert Harno wrote: “Measured by perceptible standards, progress in the legal education in America up to 1870 is disappointing.” Steve Sheppard’s review of nineteenth-century American legal education notes that the courses offered to law students “assumed a variety of forms, occasionally including spontaneous questioning of students, but more often asking for no more than recitation of prepared readings from the treatises.”

The recitation method required more student participation than lectures. However, unlike the case method, which required students to prepare for class by

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72. Id. at 156.
75. Martin, *supra* note 15, at 35. When the law school got its first telephone, it was installed in the library. *Id.* at 36. For a full description of the library staff’s role supporting the dean and faculty (whose desks were within the Austin Hall library), see Anderson, *Harvard Law School Library, supra* note 34, at 281–85.
77. *Id.*
80. Harvard president Eliot later described lectures in law as “the unaided lecture in the least desirable form.” CHARLES W. ELIOT, *UNIVERSITY ADMINISTRATION* 178 (1908) (N.W. Harris Lectures for 1908).
reading original sources—the cases themselves—the recitation method asked students to read and memorize commentary on the law found in published treatises. Instructors assigned chapters to be read in advance. In class “students were called on to recite what they had leaned and to answer questions about it.” Cases might be used to illustrate points made in the works they studied. Law schools using the case and recitation method purchased multiple copies of practitioner treatises and lent them to students, a practice that continued at Harvard until Langdell’s arrival. By the 1860s, lectures had replaced the text and recitation method as the primary means of instruction at Harvard, but text and recitation continued to be employed at other law schools, notably at Yale.

Langdell introduced the method of teaching from cases to Harvard in fall 1870, using a preliminary version of his contracts casebook; the first formal edition was published by Little, Brown and Company in 1871. Harno wrote that “case

81. On the connection to using practitioners as part-time instructors, Langbein pointed out that the text and recitation method “effectively transferred the responsibility for coverage from the instructor to the treatise writer. The instructor simply assigned the stuff and then paced the students in recitation sessions, but did not have to be a master of what he taught.” Langbein, supra note 79, at 55.

Schlegel wrote that university-affiliated law schools staffed with full-time academic faculty “sprang up like mushrooms after a rain during the years around 1890.” John Henry Schlegel, Between the Harvard Founders and the American Legal Realists: The Professionalization of the American Law Professor, 35 J. LEGAL EDUC. 311, 313 (1985); see also William R. Johnson, Schooled Lawyers: A Study in the Clash of Professional Cultures 124 (1978) (“A law school which introduced the case method while still relying on practitioners to staff its faculty found itself criticized because only career law professors trained in the approved method could use the case method successfully.”); Laura I. Appleman, The Rise of the Modern American Law School: How Professionalization, German Scholarship, and Legal Reform Shaped Our System of Legal Education, 39 NEW ENG. L. REV. 251, 274–75 (2005) (attributing the hiring of full-time law professors focused on teaching and research to the influences of German educational methods at Harvard and other universities). However, but for the dean, Yale “would not have its first full-time faculty member until Arthur Corbin in 1903, a generation after Eliot and Langdell had begun moving the Harvard Law School to the model of a full-time faculty.” Langbein, supra note 79, at 63.

82. Langbein, supra note 79, at 55.

83. Frederick C. Hicks, History of the Yale Law School Through 1815, at 150 (2001). Hicks originally published his history in four short installments between 1935 and 1938. This and later references are to a compilation edition published in 2001.

84. As noted above, Langdell quickly ended the practice of purchasing library copies of textbooks for loan to students. Langdell, supra note 35, at 65.

85. Kimball, supra note 22, at 130. Rothstein notes that for universities generally, American scholars returning from study at German universities “brought back the use of the lecture and the seminar as teaching devices more appropriate for the pursuit of higher education than the cramping textbook and recitation method hitherto enthroned by tradition.” Samuel Rothstein, The Development of Reference Services Through Academic Traditions, Public Library Practice, and Special Librarianship 8 (1955).

86. Hicks describes the “Yale System,” which was employed well into the twentieth century, with excerpts from publications of the period describing and justifying the approach. Hicks, supra note 83, at 148–51. Only in 1912 did the law faculty formally endorse the use of the case method in all three years of the program for those instructors who preferred it; earlier it was used only in upper class courses. Id. at 245–47; see also George Chase, The New York Law School and the Harvard Law Review, 26 AM. L. REV. 155, 156–57 (1892) (describing the recitation method at New York Law School).
study and case instruction as an exclusive all-absorbing educational method came in with Langdell.” Erwin Griswold found that, for Langdell,

“the law” was to be found in books. The library of the law school was its laboratory. And the books in which “the law” could be found by the resourceful student were the decisions of courts which spoke with authority. For convenience, and to save wear and tear on the library books, these cases were gathered together into case books. But it was cases that the student studied. 

### At Harvard

§33 In the first full edition of his contracts casebook, Langdell stated that to meet his goals as a teacher of law, it was necessary “to make a series of cases, carefully selected from the books of reports, the subject alike of study and instruction.” Sending students to the library to read the cases “was quite out of the question with a large class, all of whom would want the same books at the same time.” Not only would the library have insufficient copies of books to meet the demands of a large class, but

[a]s [a student] would always have to go where the books were, and could only have access to them there during certain prescribed hours, it would be impossible for him to economize his time or work to the best advantage; and he would be liable to be constantly haunted by the apprehension that he was spending time, labor, and money in studying cases which would be inaccessible to him in after life.

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87. **Harno, supra** note 78, at 54 (citing several earlier instances of using cases for instruction in university law schools); *see also* Sheppard, *supra* note 79, at 25–31. Willard Hurst noted that Langdell was the first to “shape the whole program of a leading law school” with the method. J. Willard Hurst, *The Growth of American Law* 261 (1950).

The case method also fit in with Eliot’s reforms at Harvard: Eliot’s contribution to modern professional education consisted of a struggle on two fronts: against the expository lecture tradition in the schools, on the one hand, and against the independent apprenticeship outside the schools, on the other. The development of laboratory, clinical, and case method instruction in the professional schools (“cultivating the mental powers of close attention through prolonged investigations at close quarters with the facts, and of just reasoning on the evidence”) dealt a fatal blow to both the lecture and treatise academies and the apprentice system. Neither of the latter could guarantee direct student participation in the professional project as well as systematic and comprehensive instruction.


88. Erwin N. Griswold, *Law Schools and Human Relations*, 1955 Wash. U. L.Q. 217, 219. After describing the kinds of cases Langdell selected for his contracts casebook, Paul Carrington observed that “[t]he casebook was in Langdell’s mind a sort of analogue to the laboratory, a place for the testing of hypotheses.” Carrington, *supra* note 51, at 280. Ed Rubin described casebooks as “a portable selection of the primary sources that revealed the principles of common law; if the library was the law student’s laboratory . . . then the casebook was a sampling of its contents, like a box of specimens that students could carry to class and study at home.” Edward Rubin, *Should Law Schools Support Faculty Research?,* 17 J. Contemp. Legal Issues 139, 157 (2008).

In addition, “the cases which are useful and necessary for this purpose at the present day bear an exceedingly small proportion to all that have been reported. The vast majority are useless, and worse than useless, for any purpose of systematic study.”

90. For Langdell, the law library might be lawyer’s laboratory and printed books “the sources of all legal knowledge,” but the case method of instruction required selected cases packaged in casebooks.

¶34 By 1879, Langdell had compiled casebooks on contracts, sales of personal property, equity pleading, and equity jurisdiction. Because the case method was used only at Harvard, the other casebooks published before 1891 were compiled by Harvard professors James Barr Ames (bills and notes, partnership, pleading at common law, torts, and trusts), John Chipman Gray (property), and William A. Keener (quasi-contracts). Even as other law schools adopted the case method, there was little market for commercially published casebooks compared to the markets for court reports, textbooks, and treatises. As a result, most early casebooks were compiled and published locally by individual instructors.

¶35 What were the impacts of the case method and casebooks on the Harvard Law Library? Langdell pointed out in his contracts casebook preface that sending an entire class of students to the library to read cases “was quite out of the question.” Yet even with casebooks available for some courses, Langdell’s and Eliot’s annual reports regularly described heavy use of the library. Austin Hall, the first building constructed specifically for Harvard Law School, opened in 1883. Eugene Wambaugh noted how the case method contributed to the need for a new building:

It is to the case system, rather than to any increase in the number of students, that one must attribute the next change—the removal from Dane Hall and the building of Austin Hall. The case system had caused, or at least had encouraged, a great growth in the library

90. LANGDELL (1871 ed.), supra note 89, at vi.
91. See Professor Langdell’s Address, supra note 8, at 50.
93. For discussion of the early market for commercially published casebooks and costs, see id. at 97–99, ¶¶ 6–9. Langdell’s own casebooks on contracts and sales were published by Little, Brown; those on equity jurisdiction and equity pleading were privately published. Konefsky and Schlegel found that the “ultimate triumph” of the case method became apparent only after West saw a large enough market to publish a series of casebooks. Alfred S. Konefsky & John Henry Schlegel, Mirror, Mirror on the Wall: Histories of American Law Schools, 95 HARV. L. REV. 833, 837 (1982) (citing The American Casebook Series, 2 AM. L. SCH. REV. 276 (1909)).
94. LANGDELL (1871 ed.), supra note 89, at vi. In 1880, President Eliot noted that faculty reliance on library books for course readings was also problematic elsewhere at Harvard, but he praised law professors for creating casebooks to overcome the problem, while facilitating study of original sources and “emancipat[ing] the student from treatises and other secondhand authorities.” Charles W. Eliot, President’s Report for 1879–80, ANN. REP. PRESIDENT & TREASURER HARV. COLL. 1879–80, at 3, 16 (1881).
95. In 1893, Lloyd McKim Garrison wrote that, at Harvard, “[t]he number of cases to be read has made it necessary for the professors to prepare numberless ‘case-books.’ . . . In the courses in which these case-books do not exist, such as Constitutional Law, the resources of the library are often severely taxed.” Lloyd McKim Garrison, Methods of Instruction at American Law Schools III: The Law School of Harvard University, 6 COLUM. L. TIMES 194 (1893).
and in the use of books by the students. It became the students’ course of business to spend the whole day in the reading room. It was desirable to have a seat in that room for each student.96

The case method seems therefore to have contributed to Harvard students’ heavy dependence on the library both as a place to study and to use the collections, primarily the duplicate reports Langdell purchased. The importance of the law library at Harvard in the late 1880s was described in correspondence published in the Columbia Law Times. Describing his daily work at Harvard in 1887, a law student identified as M. pointed out: “The work room of the school is in the library itself. On all sides are reports, digests, text books, and statutes. Every student has unrestricted access to these books. Duplicate copies and sets are held in reserve in the inner fire proof stack.”97

Library Use at Columbia

¶36 Demands on the library were heavy at Columbia even prior to adoption of the case method in 1892. In 1889, a Columbia law student described “the inconvenience attendant upon the use of the law library, so long as the present system exists of leaving the books of reference thrown upon the table . . . . The number of readers is entirely disproportionate to the number of books at their disposal.”98 The same year, Theodore Dwight, who led the Columbia law school for more than thirty years, noted with pride that “[t]he library is open to all students every secular day in the year . . . from eight o’clock in the morning until ten o’clock at night. The law students in large numbers make use of the books, not merely in law, but in history and political science.”99

¶37 The use of the Columbia library in 1892 could be compared with that in the 1870s, as described by Thomas Fenton Taylor:

The law library consisted of but a few hundred volumes in a room supplied with one long table and not over twenty chairs. The books used during the day were left on the table, where by night as many as one hundred volumes might have accumulated. There were, on the average, not more than ten students using the library at one time. The room was usually empty; but just before or after a recitation it was a popular resort. The order was not good, loud conversations—often on politics—were carried on, tobacco was freely used, and there was no place to leave hats or coats. Many of the students never used the library. Those serving in offices hurried to the School just as recitations began, and left the instant they were finished.100

¶38 In 1892, George Chase, who left Columbia to found New York Law School after William Keener arrived from Harvard and introduced the case method,101 noted that it was impossible for the library of a large law school “to enable all the

97. Correspondence, 1 COLUM. L. TIMES 24, 24 (1887) (letter from M., describing a law student’s daily work at Harvard).
98. See Correspondence, 2 COLUM. L. TIMES 180, 182 (1889) (letter from Del.).
members of a class to read the same cases on the same day.” The introduction of the case method at Columbia increased students’ difficulties in locating cases assigned for class. The *Columbia Law Times* reported on a “movement toward a less selfish and more systematic use of the volumes in the library,” which was embodied in an agreement signed by many of the students:

\[\text{We, the undersigned, recognizing the difficulty in obtaining needed reports under the present system in vogue in the library, and having been frequently under the necessity of making a long search over the tables for such books, do hereby agree, for the purpose of mutual benefit, not to remove from the shelves for our personal use more than six books at a time, and to return to its place each book as soon as we, individually, have finished it.}\]

\[\text{¶39 By 1898, George Kirchwey, who would succeed Keener as dean in 1901, found the law library to be of greater importance than the lecture hall: “To-day the lectures are but incidents in the work of the day, gathering and coordinating work already done and stimulating to further labor—the real workshop of the school, the library, being thronged with earnest students from morning till night.”}\]

According to Kirchwey, Columbia students came to the library to read more than cases:

\[\text{As the sources of the law, [Columbia] finds the reports the most fruitful and stimulating as well as the most authoritative collection of material for study and discussion, but she does not make a fetish of them. Cases, text-books, lectures, briefs, statutes, the wisdom of the wise, the folly of the foolish—all is grist for her mill.}\]

**Debates at ABA Meetings**

\[\text{¶40 As more schools considered adopting the Harvard model, the case method was debated in legal journals and at meetings of the American Bar Association (ABA). The implications for library collections and on study space were mentioned only rarely, however.}\]

\[\text{¶41 In an early article presenting the merits of the case method, Sydney Fisher, who had attended Harvard Law School, pointed out that “the case system, like many other good things in this world, is rather expensive.” A law school needed study space for the students and, while it might not require “a very large assortment of text-books, yet the English reports, the United States reports, and the reports of every State, are absolutely essential. There should be two copies of every volume; and if the students were very numerous, there might have to be three copies.” Fisher}\]

102. Chase, *supra* note 86, at 157. Despite his opposition to the case method, Chase did not disparage the casebooks used by its advocates: “To avoid this difficulty, I have for some time been engaged, with my associates, in preparing a collection of leading cases upon the various leading topics of chief importance.” *Id. See also* George Chase, *To the Editor of the Harvard Law Review*, 1 COUNSELMOR 82 (1891).

103. Editorial, 6 COLUM. L. TIMES 17, 17 (1892).

104. Notes, 6 COLUM. L. TIMES 18, 18 (1892).

105. George W. Kirchwey, *The Columbia Law School of To-Day*, 10 GREEN BAG 199, 201 (1898).

106. *Id.* at 209.

107. *See Schlegel, supra* note 81, at 314–15 (describing the “missionaries” who brought the case method to other law schools).
concluded that “[t]he expense of the system is always made a serious objection to it; and the only answer is that medical colleges, chemical laboratories, and other apparatus of good education are also expensive.”

The ABA’s Standing Committee on Legal Education issued major reports on university legal education in 1879, 1891, and 1892, as more law schools began to use the case method. The Section of Legal Education was formed in 1893 and the same year began offering papers and reports at ABA annual meetings.

The Committee on Legal Education's lengthy 1892 report focused on the components of “a proper course of study for American Law Schools” and included comments from representatives of the law schools. Iowa’s Emlin McClain, who opposed exclusive reliance on the case method, pointed out:

The study of cases will be greatly facilitated by putting into the hands of students volumes of selected cases reprinted for their use on particular subjects. In a large school this is the only practicable method of enabling students to successfully pursue this kind of study. No matter how large the law library may be, it cannot contain enough duplicate sets of reports to enable all the students within a reasonable time to consult particular cases to which their attention is directed.

In 1894, McClain’s colleague Martin Joseph Wade made a similar point to the Section of Legal Education:

An ordinary law library with the reported cases of all the States and the English common law reports is not adequate to the needs of an ordinary law student. With 225 students in the University of Iowa, it is impossible for them to get the books they want. I think there should be a collection made of the leading cases and published in convenient volumes so that each student may have one, and thus save him the necessity of waiting his turn in the library to get a book that he may want.

Also in 1894, Yale Law School professor Simeon Baldwin delivered a paper on “Law Libraries and How to Use Them.” Baldwin was opposed to reliance on the case method, and Yale did not formally endorse the case method for use in all

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112. *Id.* at 317.

113. *Id.* at 374 (comments of Emlin McClain).


three years of its program until 1912. In his 1894 paper, however, Baldwin sounds much like Langdell in emphasizing the need for a law library to hold comprehensive collections of American and English reports (in duplicate if necessary) and the importance of books and the cases they contain for the science of law:

Our profession is not only explained, like other sciences, in books. For the American and the Englishman it is made by books. It is made up of or from the opinions of Judges in reported cases. Every such report fills to us the place of the specimen to the naturalist. But he may often meet a hundred specimens, in a summer’s walk, each like the other in all important characteristics. We can turn to but one case for the introduction of this or that rule or doctrine into our law, or for its best statement or clearest application.

¶46 In 1894, Section of Legal Education chair Henry Wade Rogers offered a “review of the state of legal education,” which pointed out that few law schools provided much information to prospective students about their libraries:

Very many of the Law Schools are content to make no statement of the number of volumes in their libraries. The statement put forth by some of them reads something like this: “The school has a fine and steadily-increasing library of the best of law books. This is expected to be soon greatly enlarged.” This saves the labor of an exact inventory, and seems to answer the inquisitiveness of the average student not yet accustomed to cross-examine.

¶47 Over the next few years, however, there were signs of increasing recognition of the library’s importance. In 1895, James Bradley Thayer told the Section of Legal Education that university legal education required “that generous libraries shall be collected at the universities suited to all the ordinary necessities of careful legal research; and it also means gathering at some one point in the country, or at several points, the best law library that money can possibly buy.” In a 1900 paper, Michigan dean Harry Hutchins found that a notable result of the changes in legal education was that “the library of the law school has become its workshop. The student early gets the notion, the value of which the practitioner can certainly appreciate, that nothing should be taken by him second-hand, but that he should go to the sources for the verification of propositions.”

¶48 In 1902, tracking the first ten years of the Section of Legal Education, chair Ernest Huffcut referenced Rogers’s 1894 comments about law school libraries, finding “encouraging” evidence of progress in law library development:

From all the sources of information available I estimate that there are now twenty-five schools possessing libraries exceeding five thousand volumes each, and of these there are twelve that number from five to ten thousand, nine that number from ten to twenty thousand, one from twenty to thirty thousand, two from thirty to forty thousand, and one

117. See HICKS, supra note 83, at 245–47. Baldwin’s biographer called the 1912 faculty decision to allow the case method in all classes “the severest defeat of all the years he had been associated with the Law School.” FREDERICK H. JACKSON, SIMEON E BEN B A LDWIN 128 (1955).
118. Baldwin, supra note 115, at 433.
119. Henry Wade Rogers, Address Before the Section of Legal Education, 17 ANN. REP. A.B.A. 389, 406 (1894). Rogers provided information regarding libraries at those schools that published it.
120. James Bradley Thayer, Address Before the Section of Legal Education, 18 ANN. REP. A.B.A. 409, 427 (1895) (as chair, listing the things needed for university legal education).
upwards of sixty thousand. In 1894 our Chairman was able to name but six schools whose libraries exceeded five thousand volumes.122

¶49 In 1977, historian Harold Hyman told an audience of law professors that the “new style law libraries” of the late nineteenth century “fit perfectly Langdell’s basic concept that law was a science, and the law library, the law practitioner’s and student’s laboratory.”123 Eventually, however, some criticized how the case method affected library use. In 1938, William R. (Bob) Roalfe wrote: “Unquestionably conditions are radically wrong in the law schools where the libraries are merely convenient places in which students may read their case books . . . .”124 Tom Woxland found that the case method had become antithetical to the central role of the library proclaimed by Langdell. For Woxland, “the case method . . . was designed to get the students back to the law’s primary sources, and the library had always been the repository of those sources.” Yet reliance on casebooks for instruction eventually “made library research . . . largely irrelevant in modern legal education” and turned law libraries into “study halls for students carrying casebooks, rather than working collections heavily researched by student-scholars.”125 Others disagreed. In 1951 attorney Laurent Frantz, who would become an editor with Bancroft-Whitney, wrote:

Langdell himself recognized the library implications of his methods much more rapidly than did many of his imitators. Among the first steps in his reform program [was] the launching of the most spectacular library expansion program in the school’s history . . . . The case method revolution converted the library from a minor appendage of legal pedagogy into its central organ.126

¶50 Anthony Chase argued that “Eliot and Langdell both know [sic] well enough that the law library was not the proper workshop of professional legal education nor were the printed books which were, in effect, the laboratory manuals of case method teaching to be found in the library.”127 Students prepared for class with their casebooks, not the books shelved in the library.

123. Harold M. Hyman, No Cheers for the American Law School—A Legal Historian’s Complaint, Plea, and Modest Proposal, 71 LAW LIBR. J. 227, 228 (1978). In a follow-up comment, he noted the connections between Langdell’s educational reforms, the bar’s concerns regarding reporting of cases, the impacts of West Publishing Company, and “professional librarianship,” pointing out that the first edition of the Dewey Decimal System was published during the first decade of Langdell’s deanship at Harvard. Id.
125. Thomas A. Woxland, Why Can’t Johnny Research—or It All Started with Christopher Columbus Langdell, 81 LAW LIBR. J. 451, 456 (1989). Despite his concerns, Woxland also found Langdell to be “the pivotal figure [both] in the history of law school pedagogy [and] in the development of the modern law school library . . . . It was his vision that the library should become the central organ of the law school, rather than a superfluous appendage.” Id.
Harvard and the Changing Environment of University Libraries

President Eliot’s Role with the Law School and Library

¶51 Any consideration of Langdell’s impacts at Harvard and on legal education must acknowledge both the educational environment at Harvard under the forty-year presidency of Charles W. Eliot and Eliot’s role in what Langdell accomplished.128 The changes at the law school aligned with Eliot’s own interest in scientific analysis and his background as a scientist, and mirrored those in other departments and schools at Harvard during his long tenure as president.129

¶52 Eliot hired Langdell as Harvard’s first law school dean within a year of his own return to the university and always credited Langdell, not his own influence, for the changes instituted in the law school in the 1870s. He had known Langdell when both were Harvard students, recalling later that Langdell “told me that law was a science: I was quite prepared to believe it. He told me that the way to study a science was to go to the original sources. I knew that was true, for I had been brought up in the science of chemistry myself.”130 Samuel Batchelder described the student Langdell’s early enthusiasm for this proposition:

To his cronies he would dilate on this conviction with all the strength and fascination of his budding powers. Law was a science—a branch of human reasoning co-ordinated, arranged, and systematized. . . . At least one of his listeners has told how, standing before the fireplace at dusk, young Langdell would expound the scientific basis of law, totally forgetting in his intellectual enthusiasm the frugal bowl of bread and milk he had prepared for his physical supper.131

128. Eliot served as Harvard president from 1869 to 1909. Prior to his presidency he presented his views on university and professional education in Charles W. Eliot, The New Education, 23 ATL. MONTHLY 199 (1869). On Eliot’s appointment as Harvard president and early interactions with the law school, see 2 Warren, supra note 11, at 354–62. On Eliot generally, see David S. Clark, Tracing the Roots of American Legal Education—A Nineteenth-Century German Connection, 51 RABELS ZEITSCHRIFT FÜR AUSLÄNDISCHES UND INTERNATIONALES PRIVATRECHT 313, 319 (1987) (“Of the two men [Langdell and Eliot], Charles Eliot was easily the more important.”). See also Anthony Chase, The Birth of the Modern Law School, 23 AM. J. LEGAL HIST. 329, 346 (1979) (“Eliot . . . saw the changes which took place in legal education around 1870, and which are associated with Langdell’s name, as part of something rather more complex. Historians and theorists of legal education have generally been unwilling to do so.”).

129. Anthony Chase wrote:

Eliot was actively engaged in initiating and supporting reform in three different areas of the university—in the undergraduate science curriculum, in the law school and in the medical school. In all three areas, his reform efforts had the same objective: that of teaching students the methods and modes of analysis by which scientists, lawyers and doctors did their work rather than merely imparting information which a man in possession of those methods and analytic tools could readily obtain.

Chase, supra note 128, at 342–43.

130. President Eliot’s Address, in HARVARD LAW SCH. ASS’N, supra note 8, at 60, 61. Later, he wrote: “Professor Langdell’s method resembled the laboratory method of teaching physical science, although he believed that the only laboratory the Law School needed was a library of printed books.” CHARLES WILLIAM ELIOT, A LATE HARVEST: MISCELLANEOUS PAPERS WRITTEN BETWEEN EIGHTY AND NINETY 54 (1924). In 1920, he observed that Langdell’s “method of teaching was a direct application to intelligent and well-trained adults of some of their methods for children and defectives.” Eliot, supra note 21, at 523 (referring to the teaching methods of Maria Montessori and others).

131. Batchelder, supra note 11, at 438–39. “Himself a scientific man, [Eliot] was ready to subscribe to the proposition that the law is a science. He accepted, too, the corollaries [sic] that law must be studied from the original sources, namely, the reports . . . .” Id. at 439.
Eliot not only hired Langdell and appointed him dean, but himself “guided the internal transformation of the [law] school in conformity with his view of a properly rigorous academic environment.”

According to Anthony Chase, “Eliot, more than anyone else during the next fifteen years, not only defended the Law School and the case method but was in a position to do so effectively.” In his history of American legal education, Robert Stevens found that Langdell “frequently seemed unaware of the revolution he was engendering,” and that it was because of Eliot’s efforts that Harvard’s method was eventually accepted at other schools.

Roscoe Pound wrote that “one who reads the annual reports of Langdell in comparison with those of Eliot must feel a conviction that Langdell’s work was only part of a large and far-reaching plan of University development.” Eliot’s own reports to Harvard’s overseers often highlighted matters raised in Langdell’s reports or elaborated on what the dean had written; sometimes his comments anticipated what Langdell would write later.

In his 1870–1871 annual report, before Langdell said it in print, Eliot wrote: “Law is emphatically a science, with a method and a history; it has a language of its own, and a voluminous literature.” The thought that law students were simply “‘Reading Law’ is therefore an absurdly inadequate description of legal study wisely conducted.” In this environment the law school’s “rich Library is an indispensable aid to the student.”

In 1873, Eliot established his own law library metaphor. After noting that the law school’s “unsurpassed library makes [students] thoroughly familiar with the use of the tools of the profession,” he wrote: “The [Harvard]
Corporation recognize that the library is the very heart of the School.”

Like Langdell’s laboratory metaphor, the heart metaphor is also cited by law librarians and others. The following year, when Langdell first used the laboratory metaphor in his own annual report, Eliot argued that the usual comparisons between training in medicine and in law were fallacious. For law students, “the law library, and not the court or the law office, is the real analogue of the hospital for medical students.”

¶56 In 1889–1890, when Langdell offered a detailed look at the twenty years of his deanship, Eliot’s own report referred the overseers to Langdell’s comments, highlighting the dean’s description of the law library that “will interest any one [sic] who habitually uses a professional library.” In 1890–1891, Eliot wrote in greater detail about the library, first noting the need for a larger reading room.

138. Charles W. Eliot, President’s Report, 48 ANN. REP. PRESIDENT & TREASURER HARV. COLL. 1872–73 at 3, 16, 17 (1874). He also highlighted the hiring of “a responsible and competent librarian (not, as formerly, a student) who devotes his whole time to the delivery and care of the books.” Id. at 17.

139. See especially Beatrice A. Tice, The Academic Law Library in the 21st Century: Still the Heart of the Law School, 1 UC IRVINE L. REV. 157 (2011). In 1962, Myron Jacobstein wrote that, at least in terms of budgets, “the law library is not the heart of the law school, but it is treated like an appendix and is the first item to be cut.” J. Myron Jacobstein, The Role of the Law Schools in the Education of Law Librarians, 55 LAW LIBR. J. 209, 211 (1962); see also Jill Mubarek, Diane Sapienza & Robert Shimane, Gerontology and the Law: A Selected Bibliography, 73 LAW LIBR. J. 255, 270 (1980) (“When the first modern American law school was founded a century ago, at Harvard under Christopher Columbus Langdell, the law library was deemed the heart of the school.”).

In 1940, the ABA Council of Legal Education and Admissions to the Bar published a list of “factors for consideration in approving law schools . . . for its own guidance, and that of schools applying for approval.” STANDARDS OF THE AMERICAN BAR ASSOCIATION FOR LEGAL EDUCATION: FACTORS BEARING ON THE APPROVAL OF LAW SCHOOLS BY THE AMERICAN BAR ASSOCIATION 2 (1940). The factors included a statement that “[i]t is a basic principle of legal education that the library is the heart of a law school,” id. at 6, which appeared in later editions of the pamphlet published between 1943 and 1952. In 1957, the statement changed to “[i]t is a basic principle of legal education that the library is the laboratory of a law school . . . .” STANDARDS OF THE AMERICAN BAR ASSOCIATION FOR LEGAL EDUCATION: FACTORS BEARING ON THE APPROVAL OF LAW SCHOOLS BY THE AMERICAN BAR ASSOCIATION 7 (1957). The reference to “laboratory” remained until new standards were promulgated in 1972. See generally Glen-Peter Ahlers, The History of Law Libraries in the United States: From Laboratory to Cyberspace 91–101 (2002).

140. Charles W. Eliot, President’s Report, 49 ANN. REP. PRESIDENT & TREASURER HARV. COLL. 1873–74, at 3, 27 (1875); see also Clark, supra note 128, at 326 (“Eliot favored a classroom laboratory method, with its inductive reasoning process. . . . Instructors and students were to work together in developing general principles from concrete cases.”).


142. Charles W. Eliot, President’s Report for 1889–91, ANN. REP. PRESIDENT & TREASURER HARV. COLL. 1890–91 at 3, 20 (1892). Eliot expressed concern on several occasions over the impacts of the new method of instruction on the law library facilities. In 1876–1877, he noted that the library’s room was “already uncomfortably small for the number of readers who resort to it [and] it ought to be secured in a fire-proof building.” Charles W. Eliot, President’s Report for 1876–77, ANN. REP. PRESIDENT & TREASURER HARV. COLL. 1876–77, at 3, 31–32 (1878). The following year he praised Langdell for an “inexpensive addition to the library-room [that] will probably make it possible to postpone for a time the erection of a new building.” Charles W. Eliot, President’s Report for 1877–78, ANN. REP. PRESIDENT & TREASURER HARV. COLL. 1877–78, at 3, 38 (1879). Still, by 1879–1880 he found the building to be “inadequate in every respect,” perhaps particularly for the library, which was “exposed to destruction by fire,” and could properly accommodate “neither professors nor students.” Charles
and then turning to what he termed “the consumption of valuable books, due simply to the incessant use of them by the numerous students. It is not a large proportion of the books of the library which are being destroyed; but it is the books most referred to by the teachers.” The problem persisted despite “a considerable provision of duplicates.”

Eliot then acknowledged the importance of the library to the law school:

> It is necessary to keep the library good at whatever cost; for it is the principal means of instruction. It must be confessed that the standard of the School is high in regard to the comfort and convenience of its students and their free access to books; but these are characteristic merits of the School . . .

§57 The following year, after describing an enlargement of the library reading room reported by Langdell, he pointed out that “[t]he library and reading-room constitute the sole laboratory which the Law School needs; and it is the intention of the Faculty to keep that one laboratory in the most servicable [sic] condition possible.”

§58 When Langdell left the deanship, Eliot spoke at the Harvard Law School Association celebration of the dean’s accomplishments. He cited three “memorable achievements” of Langdell’s deanship: the first and “most extraordinary . . . the introduction and acceptance of a new mode or method of teaching law”; the second, his early advocacy of “the appointment as teachers of law of young men who had no experience whatsoever in the active profession”; the third, “the extraordinary pecuniary success of the Law School,” which included administration of “a more ample and better maintained library than any other of the [Harvard] professional departments.” In 1901, after noting the library’s growing collections, Eliot

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144. Id.


146. President Eliot’s Address, in Harvard Law Sch. Ass’n, supra note 8, at 70, 71, 72. In 1913, Eliot wrote to A.V. Dicey that “[t]he Law School is the most successful department of the entire University and enjoys a reputation throughout the nation which is higher than that of any other Department.” Letter from Charles W. Eliot to A.V. Dicey (May 2, 1913), in C.W. Eliot Papers, Harvard University Archives, quoted in Gordon, supra note 131, at 130 n.22.
wrote that “[t]he chief distinction of the Harvard Law School—after its professors—is its admirable library.”

¶59 In a 1920 tribute to Langdell in the Harvard Law Review, Eliot elaborated on Langdell’s role with the law library, noting that the dean “regarded a well-selected, well-kept, and ample library as the one essential piece of apparatus for any law school, and especially for the Harvard Law School he hoped for.” As Eliot described them, Langdell’s library principles called for “protection and safe management for the library” and for enlarging the collection, mostly to supply duplicates of reports and other books in high demand. He also pointed out that “it was not till 1873, when Mr. John Hines Arnold became librarian, that the future of the Law School library conducted on Langdell’s principles was assured.”

Changing Perceptions of University Libraries

¶60 Eliot and Langdell assumed positions of leadership at Harvard at a time when American universities were beginning to change in ways that dramatically affected the roles libraries would play to support both curriculum and research. In his book, Scholar’s Workshop, Kenneth Brough described a new “conception of the library as a central and vitalizing force” in American universities in the late nineteenth century. Historian Arthur Bestor characterized the period after 1875 as one in which American scholarship was transformed. Prior to that time, scholarship in the United States was not closely or directly associated with college teaching or with libraries at colleges or universities. To pursue their research, serious scholars took it upon themselves to build their own collections of books, supplemented for some areas of study by the libraries of specialized societies.

¶61 Between 1875 and 1900, new structures for scholarly and scientific research developed in American universities, influenced by the approaches of German universities. In the United States, universities began to accept greater responsibility

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149. Id.
150. Brough, supra note 38, at 23.
152. Samuel Rothstein found research activity in the mid-nineteenth century to be insignificant, with no structures in place for “the promotion, training, and support of scholarship. What scholarship existed at the mid-century was the scholarship of the gifted amateur.” Rothstein, supra note 83, at 7. On the role of society libraries, see Edward G. Holley, Academic Libraries in 1876, 37 Coll. & Res. Libr. 15, 26–28 (1976).
153. Bestor, supra note 151, at 168–69; see also Alexandra Oleson & John Voss, Introduction, in The Organization of Knowledge in Modern America, supra note 151, at 7, 10 (In studying the late nineteenth century “efforts to build a new order of learning . . . one can scarcely overlook the imprint of the German ideal of scholarship—or more properly the American image of it.”); Mark Bartholomew, Legal Separation: The Relationship Between the Law School and the Central University in the Late Nineteenth Century, 53 J. Legal Educ. 368, 378 (2003) (“The arrival of Christopher Columbus Langdell as dean of the Harvard Law School signaled the arrival of German education in the legal lecture hall.”).
for research and the development of knowledge. As Edward Holley put it, higher education moved “from a classically oriented and culturally elitist posture, to a more vocational, scientific, and democratic stance.” These changes “revolutionized the matter of providing the faculties and resources for research” and led to “the development of well-equipped scientific laboratories (for research and not mere demonstration), of great collections of specimens and artifacts, and of libraries” on university campuses. In addition, at Harvard (and at other universities) “great changes in instructional methods were underway. . . . [T]he student was ‘encouraged and required to consult authorities for himself, to compare the opinions of different writers and draw his own conclusions.’” Such methods were not unlike those Langdell introduced at Harvard Law School.

Library use increased, requiring expanded collections for study and research, creating the need for newer and larger facilities to house them, and spurring the creation and refinement of classification systems and catalogs to use the collections effectively. Changes in the curriculum and greater emphasis on research also forced libraries to grant students access to the growing collections of books traditionally shelved in closed stacks, separated from reading areas. In a study of nineteenth-century library architecture, John Boll found that during the first three-quarters of the century, library designers “were united in separating the public from the bulk of the collection”; by the 1850s, they often were advocating use of railings or counters, such as Langdell installed at Harvard. By the 1870s, the physical

154. Holley, supra note 152, at 16.
155. Bestor, supra note 151, at 172. In his 1908 lectures on university administration, Eliot discussed some of the similarities in the roles played by laboratories, libraries, and museums at modern universities. See Eliot, supra note 80, at 250–53.
156. Brundin, supra note 35, at 63. Rothstein notes that growing appreciation for the role of libraries in supporting research was not limited to universities influenced by German-trained scholars. Rothstein, supra note 85, at 11 (citing comments about the importance of the library by President Timothy Dwight of Yale, which was “relatively remote from German influence in the nineteenth century.”).
157. As Bestor put it: “A catalog becomes a necessary finding tool, not a mere record of holdings. Classification and cataloging were the first great problems of the new library profession.” Bestor, supra note 151, at 176.
159. Boll, supra note 158, at 403. Boll concluded, however, that in practice, even in the early nineteenth century, “librarians were not as meticulous in denying public access as the theoreticians desired.” Id. at 404.
barriers began to be removed at college libraries, even as they continued to be used in public libraries.\textsuperscript{160}

\textsuperscript{63} In his study of the state of academic libraries in 1876, Holley discussed the leading role of Harvard University librarian Justin Winsor (1877–1897) in efforts to improve student access to the books.\textsuperscript{161} Winsor has been called the “chief apostle” of the idea that books were collected to be used, not merely preserved.\textsuperscript{162} Yet Winsor and others had to be mindful that greater access to library stack areas increased risks of damage and loss.\textsuperscript{163} In an 1879–1880 review of methods of instruction at Harvard, President Eliot noted that the faculty’s reliance on library books for course readings was problematic, presenting “grave inconvenience” to students and ensuring that the books themselves would be “destroyed in a few years by excessive use upon a number of pages perhaps inconsiderable in proportion to the whole bulk of the volumes.”\textsuperscript{164} Once at Harvard, Winsor initiated a program of stack privileges, issuing admission cards to sixty students. Previously, no students were admitted to the book stack areas.\textsuperscript{165} As discussed above, on assuming the deanship of the law school, Langdell ended free access to the law library’s general collection but installed a working collection of the books, mostly reports, that were most in demand. Law students could request entry to the general collection at a time when the librarian was present.\textsuperscript{166}

\begin{itemize}
\item \textsuperscript{160} Id. at 406.
\item \textsuperscript{161} Holley, \textit{supra} note 152, at xx.
\item \textsuperscript{162} Brough, \textit{supra} note 38, at 28. Winsor’s predecessor, John Langdon Sibley, Harvard librarian from 1856 to 1877, despite his many accomplishments, is remembered for the apocryphal story of his meeting President Eliot one day in Harvard Yard. Upon being asked where he was going, Sibley supposedly “replied with some enthusiasm that all the books were in the library but two and he was on the way to fetch those.” Holley, \textit{supra} note 152, at 15. For another telling of the story, suggesting that it “illustrates not the librarian’s personal attitude, but the attitude of an age,” see John Y. Cole, \textit{Storehouses and Workshops: American Libraries and the Uses of Knowledge}, \textit{in The Organization of Knowledge in Modern America}, \textit{supra} note 151, at 364, 366.
\item Holley also discusses the leading role of Otis Hall Robinson, librarian at the University of Rochester (1868–1889). Robinson is credited with the idea of dealing with the library users’ tendency to remove catalog cards from their drawers, and then put them back in the wrong order or not return them at all, by punching a hole in the lower left corner of each card, then running a rod through the holes to prevent removal of the cards. \textit{See Otis Hall Robinson (1835–1912), Rochester University Librarian}, \textit{Library History Buff Blog}, Dec. 3, 2010, http://libraryhistorybuff.blogspot.com/2010/12/otis-hall-robinson-1835-1912-rochester.html.
\item While serving as superintendent of the Boston Public Library prior to his appointment at Harvard, Winsor had argued that “to insure a certainty of the book being in its place, it is necessary to exclude the public from the shelves for the reason that most prowlers among shelves do not restore books they have taken down to the exact place from which they took them.” \textit{Justin Winsor, Library Buildings, in Public Libraries} 465, 466 (1876).
\item Eliot, \textit{supra} note 94, at 16.
\item Brundin, \textit{supra} note 35, at 62.
\item Langdell, \textit{supra} note 35, at 64. The Yale Law Library was less restrictive. In his 1894 paper before the ABA Section of Legal Education, Simeon Baldwin stated that “[t]he cardinal rule in library administration . . . is to give every student as free access to the shelves as is reasonably possible. . . . At Yale, we have never found it necessary to exclude our own men from free access to all the books we own, with the exception of a few rare volumes or editions.” Baldwin, \textit{supra} note 115, at 435. In 1899, a Yale student wrote: “As a practical help in our law work, I might note that we have direct access to the library shelves,—a great help in looking up cases. This item will be appreciated by those who are obliged to get their books through the intervention of a librarian.” \textit{Correspondence}, \textit{3 Colum. L. Times} 16, 17 (1889) (letter from Yale law student Z.).
\end{itemize}
The Laboratory Metaphor

§64 Langdell twice called the law library a laboratory: in his 1873–1874 annual report to the president of Harvard and again in his 1886 address to the Harvard Law School Association. The first reference was published in 1875 in one of the annual reports from President Eliot and the Harvard deans and directors, compiled for the Board of Overseers. The 1886 comments were published in local newspapers and in a volume compiled by the Law School Association and reprinted in the American Law Review and the Law Quarterly Review.

Applied to Other Libraries

§65 Langdell was not alone in characterizing libraries as laboratories. Nor were the comparisons limited to law libraries. Recognition of the library’s growing importance for instruction and research spawned new metaphors to describe its role in the university and elsewhere. Samuel Rothstein connected the popularity of what he termed the laboratory “catchphrase” to its corollary that in the late nineteenth century libraries should no longer to be viewed as a mere “store-houses of books.” Rather, “[t]he concept of the library as a laboratory implied its use as a tool for investigations.” By the turn of the century, the laboratory idea was used to describe both public and academic libraries. In 1897, John Cotton Dana wrote: “The [public] library is no longer looked upon as a storehouse of learning, to be used by the few already learned. . . . It is accordingly widening its business of book distribution by the addition of the powers possible to it as a laboratory of general learning.”

167. See Professor Langdell’s Address, supra note 8.
168. See 3 LAW Q. REV. 124 (1887); 21 AM. L. REV. 123 (1887). Langdell also made only three references to the idea that law is a science: first in the preface to his 1871 contracts casebook, then in the two instances where he also compared the law library to the laboratory. See Appendix 2, in KIMBALL, supra note 22, at 349. Steve Sheppard described the 1886 talk as “Langdell’s most specific recorded consideration of law as a science,” Sheppard, supra note 79, at 60 n.275, while Robert Stevens calls it the “most coherent exposition of [Langdell’s] own particular scientific theory,” STEVENS, supra note 134, at 53. Bruce Kimball noted that “Stevens’s implication [was] that Langdell prepared it for publication in the Law Quarterly Review of London” but added that “[s]ince there is no evidence that Langdell expected the analogy to go beyond the local HLS audience to which it was originally addressed, Stevens’s implication seems to exaggerate Langdell’s intent.” Bruce Kimball, A Young Christopher Langdell, 1826–1854: The Formation of an Educational Reformer, 52 J. LEGAL EDUC. 189, 212 (2002) (citing STEVENS, supra note 134, at 53).

Kimball examined Langdell’s “published works, his letters, and about ten thousand pages of loose or bound manuscripts” and found no other comparisons of law and science. Appendix 2, in KIMBALL, supra note 22, at 350. He concluded that the references were so few as to be anomalous, and noted that each had been offered “in a popular rather than a technical statement,” which led him to suggest that the references could have been inserted on those occasions for the benefit of President Eliot. Id. at 351. The same might be said of the references to the library as laboratory.

170. ROTHESTEIN, supra note 85, at 13 (quoting HERBERT B. ADAMS, THE STUDY OF HISTORY IN AMERICAN COLLEGES AND UNIVERSITIES 46 (1887)).
171. JOHN COTTON DANA, 51 APPLETON’S POPULAR SCI. MONTHLY 242, 245 (1897). Dana continued: “The store house idea must be discarded at once. What is wanted is a workshop, a place for readers and students, not a safety-deposit building.” Id. at 247.
¶66 Brough argued that an understanding of the library’s central role became firmly rooted at Harvard in the 1870s. In his first report as Harvard University librarian, Winsor wrote: “Books may be accumulated and guarded . . . but if books are made to help and spur men on in their own daily work, the library becomes a vital influence; the prison is turned into a workshop.” In 1877–1878, he elaborated, stating that “a great library should be a workshop as well as a repository. It should teach the methods of thorough research, and cultivate in readers the habit of seeing the original sources of meaning.” In 1879, Winsor broadened his concept to encompass the idea of the library as laboratory:

The library will become the important factor in our higher education that it should be. Laboratory work will not be confined to the natural sciences; workshops will not belong solely to the technological schools. The library will become, not only the storehouse of the humanities, but the arena of all intellectual exercises.

¶67 The laboratory metaphor was also employed on at least three occasions by Harvard history professor Ephraim Emerton. In an 1883 essay, Emerton wrote that “[l]ibraries must become the laboratories in these sciences in which the head plays the most important part. The library must cease to be the store-house for books and become the working-place where the historian, the philosopher, and the philologist of the future are to get their most effectual training.” In an expanded version of his essay published the following year, Emerton used language that echoed Langdell: “What the library is to physical science, that the library must be to moral science. The library must become, not a store-house of books, but a place for work. Books must exist not so much to be read as to be studied, compared, digested . . . .” In 1899, arguing for better library facilities at Harvard, Emerton noted among the newly common phrases used to describe the library’s importance, “[e]specially the laboratory figure has been worked with effect to show that the Library is no longer a mere storehouse of books, but a great workshop, wherein scholars of all grades, teachers and learners alike, have their places.”

172. Brough, supra note 38, at 23–24. Brough also notes later references to the central role of the university library at Chicago, Columbia, and Yale. Id. at 24.

173. Justin Winsor, To the President of the University, ANN. REP. PRESIDENT & TREASURER HARV. COLL. 1876–77, at 109, 109 (1878). In 1876, prior to the first meeting of the American Library Association, Melvil Dewey employed the workshop metaphor, adding to it the conception of the librarian’s educational role:

The time was when a library was very like a museum, and a librarian was a mouser in dusty tomes.
The time is when the library is a school, and the librarian is in the highest sense a teacher, and the visitor is a reader among the books as a workman among his tools.


174. Justin Winsor, To the President of the University, ANN. REP. PRESIDENT & TREASURER HARV. COLL. 1977–78, at 104, 105 (1879).


178. Ephraim Emerton, A Blot in the “Scutcheon,” 7 HARV. GRADUATES’ MAG. 509, 509 (1899), quoted in Brough, supra note 38, at 32. His other examples were “laboratory of the humanities”; “heart of the university”; brain of the academic body.” Id.
a university library must be “the daily workshop of those sciences whose material is necessarily chiefly to be drawn from books.”

¶68 Citing later uses by Melvil Dewey and by university presidents in the early 1900s, Brough claims that by 1900, “[t]he laboratory figure had become the most popular metaphor used to describe the library.” He noted Langdell’s 1886 reference to the library as laboratory, but not the dean’s earlier use of the metaphor in the 1873–1874 annual report and suggested that the idea originated with Winsor’s 1879 *Library Journal* article.

### Early Applications in Law

¶69 Whether or not it was first, Langdell’s description of the law library as a laboratory in his 1873–1874 report was surely one of the earliest uses of the comparison in law or elsewhere. Yet although his second use of the metaphor in 1886 was more widely published than the first in an annual report, it was rarely cited by late-nineteenth-century legal educators. Even as discussions of the merits of the case method became more frequent in the late 1880s, the metaphor was mentioned only rarely in law journal articles or at ABA meetings.

¶70 The first mention may have been in an 1888 letter regarding the “purpose of law schools” published in the *Columbia Law Times*, in which Harvard law student G.E. Foss paraphrased Langdell’s metaphor: “The single case is to the student what the experiment is to the chemist, or the specimen to the botanist. The law library is the laboratory and the workshop of the law student.” The preface to the 1891 fourth edition of Melville Bigelow’s treatise, *Elements of the Law of Torts*, pointed out that the text was “a guide to the authorities, and the student should therefore take it with him to his laboratory, the law library, and there carry on his work. He should [see] the cases given in the text as examples, and go as much further into the Reports as possible.”

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179. Id. at 510.

180. BROUGH, supra note 38, at 31–33. Christine Brock later commented that during this period even “the Harvard athletic director aspired to be a scientific man and announced that the gymnasium was a laboratory where he was seeking to find the law as to the physical side of man’s nature.” *The Proposed Legal Education Library*, 71 LAW LIBR. J. 619, 629 (1978) (comments of Christine Anderson Brock) (citing Laurence Veysey, *The Emergence of the American University* 174 (1965)).

Nardini found that by 1908 the laboratory metaphor may have begun to fall out of favor. Nardini, supra note 169, at 131–32 (citing W.E. Henry, *The Library as Educational Equipment*, 13 PUB. LIBR. 291, 292–94 (1908)) (noting that such statements as “The library is the laboratory of the humanities” were not only “grossly false, but injuriously so,” because they diminished the library’s importance to the educational process).

181. BROUGH, supra note 38, at 31.

182. Id. at 31–32. Winsor was not at Harvard but still at the Boston Public Library when Langdell’s 1873–1874 report was published in 1875. In his 1886 remarks, Langdell himself employed Winsor’s original workshop metaphor. “We have also constantly inculcated the idea that the library is the proper workshop of professors and students alike . . . .” Professor Langdell’s Address, supra note 8, at 50–51.


184. Melville M. Bigelow, *Elements of the Law of Torts: For the Use of Students*, at v (4th ed. 1891). Bigelow taught at Boston University Law School, which Steve Sheppard suggests was
¶71 In 1892, Christopher Tiedeman saw the library as having a limited role as laboratory. He acknowledged that study of cases was essential for “teaching how law is evolved, or how to extract the law from adjudicated cases, or how to apply it to new cases.” Yet reading cases in the library was not the way to learn “what is the law, what are the principles, general and special, which give logical shape to all systems of jurisprudence.” Comparing the work of the lawyer to that of the scientist, Tiedeman wrote: “If the chemist or physicist, or biologist, wants to learn what is already known about their [sic] respective sciences, he goes to the treatises in which are recorded the results of the investigations of others. . . . He goes to his library, instead of to his laboratory.”

The library and laboratory served different purposes both for scientists and for lawyers.

¶72 In 1894, Langdell’s disciple William Keener offered his own version of the metaphor, arguing not that the library was a laboratory but rather that “the case is, to the student of law, both a laboratory and a library.” For Keener: “The facts of the case correspond to the specimen, and the opinion of the court announcing the principles of law to be applied to the facts correspond to the memoir of the discoverer of a great scientific truth, and constitute the library.” Although not presented as criticism of Langdell, Keener’s idea seems to contradict his mentor’s. If the case itself is both laboratory and library, how can the library be the lawyer’s laboratory?

Early Criticisms

¶73 The first decades of the twentieth century legal literature also saw few references to the laboratory metaphor. The preface to a 1901 treatise on women and the law noted that “[a] law library is both a mine of raw material and a laboratory for the work of analysis and comparison, but unless one knows what to expect and how to look for it, such a library seems nothing more than an accumulation of tiresome volumes.” In 1908, Horace Wilgus noted that there was no intrinsic reason not to offer evening instruction in law, in part because it requires “no laboratory but the library.”

¶74 Some writers cited the metaphor to justify the importance of the law library. In 1905, the dean of the John Marshall Law School wrote: “Unlike medicine founded in 1872 “under the direction of Harvard expatriate Nicholas St. John Green, as a refuge from the ‘particularly technical and historical’ instruction across the river.” Sheppard, supra note 79, at 31.

185. Christopher G. Tiedeman, Methods of Legal Education III, 1 YALE L.J. 150, 153 (1892). Tiedeman also noted:

Like the student of the different sciences, the law student must learn how to make original investigations for himself, and diagnose, so to speak, the principles of law from the cases in actual litigation. . . . But the instructors of these sciences have not discarded the treatise; they have only supplemented the use of the treatise with the resort to the laboratory and operating room.

Id. at 156.


188. 1 GEORGE JAMES BAYLES, WOMAN AND THE LAW, at v–vi (1901).

and scientific branches of learning, the law can be taught only through the printed page and the living voice. . . . The library is its laboratory, the teacher its expositor—the two factors that, combined with a sound method of instruction, make up a good school.”  

In a 1925 book review, Michigan professor Edwin C. Goddard wrote: “The law library is the lawyer’s laboratory. To know the apparatus of that laboratory and how to use it is of importance to every lawyer.”  

In another book review, Tulane professor Leonard Oppenheim wrote: “Perhaps it is dealing in clichés to point out that the library is the lawyers’ laboratory or that legal bibliography concerns itself with the tools of the profession, but that does not detract from the correctness of such statements.”  

Others, however, challenged the validity of comparisons between scientific and legal research and between laboratories and libraries. In his 1914 report to the Carnegie Foundation on the common law and the case method, Josef Redlich discussed the inaccuracy of “the analogy between legal science and physical science so frequently drawn by modern American lawyers,” and then added in a footnote: “The same may be said of the comparison, so frequently made, between the law library with its thousands of volumes and the laboratory of the chemist and the research institute of the physiologist.” For Redlich:  

The [science of positive law] is not an applied science in the sense that chemistry, for instance, is . . . . [Natural phenomena] are the result of forces of nature that are to be investigated. Judicial decisions, on the other hand, are special acts of the will, which have been reached by a process of logical interpretation from a more general declaration of the will, contained in each positive legal principle.

In his 1921 report for the Carnegie Foundation, Alfred Reed cited Redlich for suggesting that “a superficial analogy between law and the physical sciences, between the case method and laboratory work” might have facilitated adoption of the case method.  

Discussing research in American law schools at the 1925 meeting of the Association of American Law Schools (AALS), Edwin Patterson commented:  

In the laboratory sciences, the term “research” has, I think, a commonly accepted meaning, namely, an investigation of the data of the science under a high degree of human control, control exercised with a particular problem in view, so that the conditions may be varied, in order to determine the factors in the particular results. But law schools have no such laboratories in this sense, because the data of juristic science are human conduct, and we have no way of measuring human conduct in the law school laboratory under conditions of adequate control.

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194. Id. at 55 n.1.


Patterson noted that a previous speaker “seemed to intimate that the data of our science are the law books, but I don’t agree with that. Sometimes we speak of the law library as the law students’ laboratory. I think that is misleading.” In 1927, Jacob Landman wrote: “[J]udicial decisions are products of the mind that have been formed by a process of logical interpretation and may vary from one set of facts to another. Certainly, then, the laboratory is not analogous to the law library.”

¶77 In 1951, Patterson again argued that the comparison between what lawyers do in the library and scientists in their laboratories was inaccurate:

A judicial decision is not a controlled experiment of the kind that one can make in physics or chemistry, because one cannot repeat the judicial “experiment” with the same or varying conditions. At best one can say that reported cases are the reports of “experiments” made by others. . . . As Professor Hans Kelsen has pointed out, a basic difference between law and the natural sciences is that the “data” of positive law, the acts of officials, ordinarily carry with them a statement of their significance.

He added: “Yet in none of these discussions was it recognized that a rule or principle of law is primarily normative or prescriptive in meaning, whereas scientific propositions are either true or false upon the basis of empirical observations.”

¶78 Others saw Langdell’s emphasis on the library as evidence of his limited vision of the law and lack of interest in the society in which law was created and lawyers practiced. In 1923, E.F. Albertsworth noted that a possible cause for what he considered to be “imitative and apocryphal reasoning of courts is to be seen in the teachings of law teachers, who tell their students that the ‘law library is the laboratory of the student,’ and not the economic and social conditions of the times. . . .” The most persistent critic in this vein was probably Jerome Frank. At a 1933 ABA annual meeting panel with Roscoe Pound and Arthur Vanderbilt, Frank stated:

[The law schools] must repudiate the absurd notions that the heart of a law school is its library, that what distinguishes one law school from another is the number and kind of books on its library shelves, that the library is the lawyer’s laboratory, that the “living founts” for the lawyer are to be found in inert paper covered with printer’s ink. They must learn to see that libraries and books are on the outer edge of matters lawyerlike, and that at the center is the conduct of human beings.

197. Id.
199. Patterson, supra note 187, at 4.
200. Id.; see also Wai Chee Dimock, Rules of Law, Laws of Science, 13 YALE J.L. & HUMAN. 203, 210 (2001) (because he forgot “that the rise of modern science had begun with an explicit repudiation of book-learning, a repudiation of a scholastic tradition based on exegesis and syllogism, Langdell saw no tension at all between the laboratory and the library.”); Jennifer S. Taub, Unpopular Contracts and Why They Matter: Buying Langdell and Enlivening Students, 88 WASH. L. REV. 1427, 1463 (2013) (posing “other more suitable metaphors. Law is an art, a social science, a profession, a system to perpetuate hierarchy, a set of rituals, a system of signs, an expression of values, and more.”).
202. Roscoe Pound, Jerome N. Frank & Arthur T. Vanderbilt, What Constitutes a Good Legal Education, 7 AM. L. SCH. REV. 887, 900 (1933) (address of Jerome N. Frank); see also Frank, Clinical,
¶79 As late as 1951, Frank argued that “law schools go astray when they still follow Langdell in considering the library the student’s sole laboratory. It is, of course, one of his laboratories. But his chief laboratories should be the courts (particularly the trial courts), the legislative committees, the administrative agencies, and the law offices.”

More Recent Applications

¶80 References to the metaphor were frequent throughout the twentieth century and into the twenty-first. Many later references offered neither praise nor criticism for Langdell or his comment. Deans and others stressed the importance of a well-stocked library/laboratory in competing for the best students and faculty.

A 2014 article noted that “[f]ocusing on library resources is particularly appropriate since the library was at the heart of the Langdellian model.”

supra note 12, at 908 (1933); Frank, Good Legal Education, supra note 12, at 723; Frank, A Plea, supra note 12, at 1304 (referring to Langdell’s “neurotic escapist character”). Frank also belittled Langdell’s love of books. See supra note 12.

203. Jerome Frank, Both Ends Against the Middle, 100 U. PA. L. REV. 20, 26 (1951). In 1936, the chief justice of the Mississippi Supreme Court urged lawyers to adopt “the methods of thought and action of the sociological jurist,” stating that “[i]n order to do this you must discard the theory that ‘the law library is the (sole) laboratory of the student.’ The law library is an indispensable part of that laboratory, but another indispensable part of it is a knowledge of social and economic conditions.” Sydney Smith, The State and the Social Process, 9 MISS. L.J. 147, 155 (1936); see also Sydney Smith, The State and the Social Process, 35 BRIEF 297, 310 (1936). Smith cited a 1906 article by James Henderson, stating “[w]e may not go all the way with the late Professor Henderson . . . but we can agree with him that Reformation does not come from a law library, which has its useful function in conservatism; it comes from a complete mastery of the real world, and a moral judgment as to what ought to be and is not yet” (citing Henderson, Review (1906) 2 AM. J. SOCIOLOGY 847).


One dean used the laboratory analogy to argue for more secretarial help. See James K. Logan, Law School Dean’s Report, 11 U. KAN. L. REV. 1, 8 (1962) (“We have a dire need of more secretarial assistance. At present the Law School has only two classified civil service personnel to perform all of the office secretarial work of the entire school. Our laboratory is the library. We work with words.”); see also David S. Romantz, The Truth About Cats and Dogs: Legal Writing Courses and the Law School Curriculum, 52 U. KAN. L. REV. 105, 115 n.57 (2003) (“Langdell, equating the law library with the scientist’s laboratory, helped secure and bolster the law library.”).

¶81 The metaphor continued to be cited in criticisms of Langdell’s views of law as a science. John Henry Schlegel found that Langdell’s approach succeeded in part because of “the aura of modern science that was curiously attached to the idea that to look at real cases in the classroom and library was to look at specimens of law under ‘laboratory’ conditions.” In 2004, Rob Atkinson wrote: “Law, for [Langdell and other formalists] was a science, but a very peculiar, self-enclosed science. The data of that science were in the books of law, mostly the reports of judicial decisions; the lawyer’s laboratory was the library, a library with no windows and highly artificial lighting.”

¶82 Others criticized the metaphor for its suggestion that legal education required no more than the study of cases in books. James Kirby wrote that “[u]nder Langdell’s views . . . [t]he library is our only laboratory, despite its sterile isolation from so many of the human problems of the world . . . outside the library, into the society in which the law operates and the impact of law upon human behavior.” Brannon Denning asked: “How were students to be trained to look past mere paper rules for the law in action if law schools were still peddling Langdellian nostrums like the idea that appellate cases were the elements of law and the library its laboratory?” Lisa Eichorn saw that “Langdell’s method of education omitted one important scientific ingredient: the practical experiment. Langdell’s legal scientist lacked clinical experience.”


207. Rob Atkinson, Growing Greener Grass: Looking from Legal Ethics to Business Ethics, and Back, 1 U. ST. THOMAS L.J. 951, 979 (2004); see also RICHARD A. COSGROVE, OUR LADY THE COMMON LAW 30 (1987) (“For all the emphasis on law as science, Langdell’s declarations had the curious result of limiting the field of legal inquiry rather than expanding it.”); Ronald Benton Brown, A Cure for Scholarship Schizophrenia: A Manifesto for Sane Productivity and Productive Sanity, 13 NOVA L. REV. 39, 53 (1988) (“Langdell’s thesis [was] that the law was a natural science which could be studied by scientific methods in the library which he considered to be the equivalent of the scientific laboratory. Few would still cling to that antiquated model . . . ”); Rudolph J. Gerber, Legal Education and Combat Preparedness, 34 AM. J. JURIS. 61, 63 (1989) (“Though Langdell confused science as an empirical and as a rational activity, he never wavered in his belief.”); John Henry Schlegel, Langdell’s Auto-da-fe; 17 LAW & Hist. REV. 149, 149 (1999) (“[Langdell] seems to be confused, for the laboratory of an empirically based science of law would needs be focused, not in the library, but in the courts, legislatures, agencies, and law offices where the law in action is made.”).


210. Lisa Eichhorn, Writing in the Legal Academy: A Dangerous Supplement, 40 ARIZ. L. REV. 105, 109, 138 (1998); see also John J. Costonis, MacCrate Report: Of Loaves, Fishes, and the Future of American Legal Education, 43 J. LEGAL EDUC. 157, 160 (1993) (“The casebook and the library, not the law office or courtroom, were the law school’s laboratory. . . . Langdell’s vision ended by being indifferent, if not hostile, both to the university and to the bar.”); Martin Levine, Four Visions of the Law School: Law and Aging as a New Legal Field, 31 J. LEGAL EDUC. 424, 436 (1981–1982) (“The law library, Langdell notwithstanding, is not the law’s only laboratory. Lawyers must master data on society, beyond the scope of case reports.”); Edward Rubin, What’s Wrong with Langdell’s Method, and What
Uses by Law Librarians

¶83 Law librarian references to the metaphor have been plentiful, often to support arguments for the centrality of the library’s role to legal education. In 1919, E.E. Willever concluded his history of the Cornell Law Library with: “[t]he working tools of our laboratory must be kept up regardless of the ever increasing cost of legal publications.”211 In 1954, Marian Gallagher wrote that the law library “is not a library in the ordinary sense, but a laboratory equipped for the research essential to everyday preparation for class or practice.”212 Miles Price argued in 1960 that a law library differed from other professional school libraries because of its holdings, which made for its “uniqueness . . . as a laboratory, with such highly specialized types of books as to require special knowledge and techniques for their effective utilization in serving the clientele.”213

¶84 Morris Cohen said in 1973: “We are all familiar with the truism that the law library is the laboratory of the legal profession and the center of virtually all legal scholarship. As such, it offers the basic resources for the conduct of any serious inquiry into the law. . . .”214 George Grossman found that Langdell’s premise that the materials of law as a science are contained in printed books “place[d] the law library at the heart of legal education and legal research. In this view, law books are all that legal scholars have to resort to, or, as the saying goes, the law library is the ‘laboratory’ of the legal profession.”215 Robert Giblin noted that Langdell “installed the law
library as the core for his curriculum . . . [d]esignating the law library as the principal resource of the law school for the learning of and relating to the law.” 216 Louis Brown referred to “Langdell’s notion . . . that all of the science of law is contained in the library.” 217

¶85 In 1987, Bob Berring noted that “[w]hen Christopher Columbus Langdell stated that the library was the laboratory of the law and that law books were the ‘stuff’ of legal research he was stating a proposition that was not only descriptive but prescriptive.” 218 He later wrote: “After all, the whole corpus of legal education is constructed around Dean Langdell’s theory that the law library, the place where the law student conducts research, is the laboratory of the law.” 219

¶86 In the twenty-first century, well after dependence on access to print books in the law library had diminished, law librarians continue to cite the metaphor to show the importance of the library. In 2005, Berring wrote: “Ever since Dean Christopher Langdell . . . declared that the law library was the laboratory of the law . . . the law library has notionally been at the center of legal education.” 220 In 2010, quoting the laboratory metaphor, Michael Slinger and Rebecca Slinger wrote:

Dean Langdell articulated a new role for the law library. He argued that the law library should be placed in a position of paramount importance within the law school because the practice and study of law was dependent on access to the written law as posited by courts and legislators and as commented upon by legal experts such as law professors. 221

221. Michael J. Slinger & Rebecca M. Slinger, The Law Librarian’s Role in the Scholarly Enterprise: Historical Development of the Librarian/Research Partnership in American Law Schools, 39 J.L. & EDUC. 387, 400 (2010). Some librarians were less ambitious in their claims for the metaphor. See Steven M. Barkan, Deconstructing Legal Research: A Law Librarian’s Commentary on Critical Legal Studies, 79 LAW LIBR. J. 617, 636 (1987) (“Jurisprudence has moved far from the Langdellian position that viewed law as a science and considered the library to be the laboratory of the law. But the structure of legal research tools . . . has not changed since Langdell’s time.”); Current Comments, AALL NEWSL., Aug. 1986, at 27, 27 (quoting Jack Ellenberger as describing his position as head of a prominent law firm library as being the “head of a working laboratory for the construction of legal precedents and arguments.”); Richard A. Danner, Law Librarians Should Define Information System Needs, SYLLABUS (ABA Section of Legal Education and Admissions to the Bar), Dec. 1989, at 6, 6 (“If the library was the lawyer’s laboratory in the early years of the Harvard Law School, it remains so today.”); John W. Fisher II, The Legacy of Your Gifts: Remarks by Prof. Camille R. Riley, W. VA. LAW. Dec. 1992, at 6, 7–8; see also Fisher, supra note 204; McCray Pearson, supra note 204; Oates, supra note 204.

The metaphor was also cited by librarians in other countries. See, e.g., Yemisi Dina, Academic Law Library Collections in Africa: Comparative Notes on Nigeria and South Africa, 30 INT’L J. LEGAL INFO. 454, 454 (2002) (“Unlike other disciplines where the library is just one of a number of supporting overhead services provided to enable the researcher and student to do their work, the law library is like a laboratory, thus making it an essential service to legal research.”); Juergen Christoph Goedan, Legal Comparativists and Computerized Legal Information Systems, General Problems and the Present German Status of Computerized Legal Information, 14 INT’L J. LEGAL INFO. 1, 2 (1986) (“For centuries,
In 2011, Beatrice Tice argued that Langdell viewed the library as a repository of information in which “information was to be provided in a structured and professionally supervised setting with an ambience of scholarly erudition that garnered respect. As such, the library was also expected to play an influential part in all of the activities of the law school.”\footnote{Tice, supra note 139, at 165.} Although “the full scope of Langdell’s vision of a centrally influential academic law library” was not immediately realized at Harvard under his deanship,\footnote{Id. at 171.} now, in the twenty-first century, “[t]he indefinable ambience of the law library as an environment for work of great consequence—as the ‘laboratory of the law school’—is felt and understood by those who use the library, even in the information age.”\footnote{Letter from Steven P. Anderson, President, Am. Ass’n of Law Libraries, & Darcy Kirk, Am. Ass’n of Law Libraries Rep. to the ABA Section of Legal Educ. & Admissions to the Bar, to Barry A. Currier, Managing Dir. of Accreditation & Legal Educ., Sec. of Legal Educ. & Admissions to the Bar, Am. Bar Ass’n (Jan. 31, 2014) [hereinafter Anderson & Kirk Letter].}

In January 2014, a letter commenting on proposed changes to the ABA Standards from Steven Anderson, president of the American Association of Law Libraries (AALL), to the ABA said: “In the formative years of legal education, Christopher Columbus Langdell referred to the library as the laboratory of the law. With legal education in a state of flux, the innovation championed by law library directors makes this even truer today.”\footnote{Letter from Steven P. Anderson, President, Am. Ass’n of Law Libraries, & Darcy Kirk, Am. Ass’n of Law Libraries Rep. to the ABA Section of Legal Educ. & Admissions to the Bar, to Barry A. Currier, Managing Dir. of Accreditation & Legal Educ., Sec. of Legal Educ. & Admissions to the Bar, Am. Bar Ass’n (Jan. 31, 2014) [hereinafter Anderson & Kirk Letter].

Two articles in the Summer 2013 issue of Law Library Journal featured the laboratory metaphor: Genevieve Blake Tung stated: “Firm in the conviction that ‘law is to be learned almost exclusively from the books in which its principles and precedents are recorded, digested, and explained,’ Langdell and Harvard president Charles William Eliot praised libraries as the laboratories of legal science.” Genevieve Blake Tung, Academic Libraries and the Crisis in Legal Education, 105 Law Libr. J. 275, 281, 2013 Law Libr. J. 14, ¶ 15. David Walker noted that, because Langdell saw law as a science, “the law library served as the lawyer’s laboratory, and appellate cases published in reporters were the materials with which the lawyer would conduct his experiments.” David C. Walker, A Third Place for the Law Library: Integrating Library Services with Academic Support Programs, 105 Law Libr. J. 353, 356, 2013 Law Libr. J. 17, ¶ 9.

Commenting in the Spring 2014 issue of LLJ on Yale Law professor Simeon Baldwin’s 1894 thoughts about how law libraries should be used, Theodora Belniak suggested that Baldwin was “[a]dopting a Langdellian approach of ‘library as laboratory.’” Theodora Belniak, The History of the American Bar Association Accreditation Standards for Academic Law Libraries, 106 Law Libr. J. 151, 161, 2014 Law Libr. J. 9, ¶ 32 (citing Baldwin, supra note 115, at 433). Baldwin’s paper remains interesting today, but despite his comments on the importance of the law library, which are well presented by Belniak, he did not adhere to Langdell’s belief in the case method of instruction.
Conclusion: Langdell, Metaphors, and Law Libraries

Langdell and the Harvard Law Library

¶89 In his 1920 tribute to Langdell in the Harvard Law Review, Charles Eliot made clear that to Langdell “books had a kind of sacrosanct character. They were to be handled carefully, preserved from dust and heat, and never defaced by pencil marks or words written in the margins of the pages.”226 Throughout his deanship, Langdell was presumably free to choose books needed to develop the Harvard law library collection as he saw fit. As Eldon James told an audience of librarians in 1934,

it must be remembered that the Harvard Law School Library is not the law library of Harvard University. That is, it never has been charged with the duty of collecting, preserving, cataloguing and making available for use whatever legal publications may come into the possession of the University. It is merely a departmental library, the library of the Harvard Law School.227

¶90 As dean, Langdell did not overindulge his passion for books. In his 1908 history of the law school, Warren reported Langdell’s claim that in 1873–1874 (due in part to a gift) more money had been spent on books than in any earlier year.228 Warren’s table of expenditures for library books shows that $4,141.60 was spent in 1873–1874, a total higher than what was spent in the four previous years. Yet annual expenditures for books quickly dropped to about where they had been previously and were not as high again until 1891–1892. The table shows significant increases in expenditures for books only after Langdell left the deanship in 1895.229 The library’s holdings increased from 16,907 volumes in 1877–1878 to 35,615 in 1894–1895; they then rose dramatically to 102,826 by 1906–1907.230

¶91 On Langdell’s retirement from teaching in 1900, Dean Ames wrote that “[h]e found here the wreck of a library. He leaves a library without peer among the law libraries of the world.”231 Yet Langdell’s emphasis on case law and his desire to furnish students with multiple copies of important American and English reports led to shortfalls in other parts of the collections.232 According to James,

226. Eliot, supra note 21, at 522. Eliot went on to note that librarian John Arnold “shared these sentiments of the Dean, especially in regard to books which had been obtained at high cost and could not certainly be replaced.” Id.
228. 2 Warren, supra note 11, at 489 n.2 (citing Langdell, supra note 1, at 67).
229. Id. at 492–93.
230. Id. at 491–92.
231. James Barr Ames, The Law School, ANN. REP. PRESIDENT & TREASURER HARV. COLL. 1899–1900, at 168, 172 (1901). In 1899, several years after Langdell stepped down as dean, Albert Venn Dicey of Oxford College wrote that the Harvard Law Library “constitutes the most perfect collection of the legal records of the English people to be found in any part of the English-speaking world.” A.V. Dicey, The Teaching of English Law at Harvard, 76 CONTEMP. REV. 742, 743 (1899). Eldon James would later note that “the Anglo-American field . . . was the first side of the library to be developed and into it Mr. [John] Arnold put almost exclusively the full energy of his first twenty-five years as librarian.” James Remarks, supra note 43, at 158.
232. Terry Martin described Langdell’s collection development plan: “(1) to acquire in triplicate the basic Anglo-American reports, sending the librarian to England when necessary; (2) to fill the general collection as cheaply as possible by attending auction sales and visiting bookseller’s
he Library possessed almost nothing in the field of legislation, even Anglo-American legislation, until after 1892. Dean Langdell held the firm opinion that books of statute law were not law books “properly so-called” and that, therefore, they should not be allowed a place on the shelves of a law library. After the Faculty had voted in 1892 to include legislation in the Library’s collections, books of legislation not only from the United States and the British Empire, but from other countries as well were acquired in large numbers.233

¶92 In his 1967 history of the law school, Sutherland noted: “There is more to the law than lawsuits; more to it than opinions. . . . But in 1870 the great rush of legislation, state and national, was mostly in the future.” As a result, “Langdell was training young men in the law as he had seen it, not as it would be in a day which he and his contemporaries foresaw dimly, . . . if at all.”234 Others have suggested that legislation was a source of law during the time Langdell was active at Harvard.235 Historian Thomas Garden Barnes concluded that “[l]egislation, [Langdell] felt, was a nuisance, the intervention of non-legal purpose in the law which would corrupt the ‘axioms’ of the ‘science’ and should be tailored (or butchered, if necessary) to fit the cases.”236

¶93 In 1968, John Dawson wrote that, despite their early strengths, Harvard’s foreign law collections did not benefit from Langdell’s interest in the library: “An expanded ambition to include the law of the world that was not expressed in English,
had to await the appointment of Ames as dean in 1895.”237 In his 1920 reminiscence, Eliot noted that when Ames wished to expand the collection to include more books on Roman law, Langdell was reluctant, “but was ultimately convinced that a great law library should include even that somewhat remote or detached subject.”238 By 1907, librarian John Arnold proudly described Harvard’s collections as rich and extensive, not only in Anglo-American case law and statutory law, but in trials, legal periodicals, civil and foreign law, and treatises.239 ¶94 In 1982, Terry Martin praised the growth of the library collections during Langdell’s time, but offered at best grudging approval for his overall contributions to the library.240 Martin praised the role of Langdell’s successor as dean, James Barr Ames:

It was Ames’ ambition to build the greatest law library in the world, for the use of scholars everywhere. He freed the Librarian from other administrative duties except for those directly related to the Library. He put no limits on the directions in which the collections should grow and persuaded the faculty and students that building a great library was a proper use of school funds.241 ¶95 Martin’s comments on Ames mirror those in Ames’s biography in the 1908 Centennial History of the law school, which noted that “Langdell had greatly increased the library, both in number of books and in quality during his deanship, and had wonderfully improved it considering the small funds available for its extension.”242 Ames provided little evidence of his enthusiasm for the law library in his annual reports to the president, which generally offered less narrative than Langdell’s and usually provided little comment beyond recording the number of

237. Dawson, supra note 25, at 105. Robert Anderson recalled that “Dean Langdell took very little if any interest in our foreign law books, which . . . had been kept in a poorly lighted, unheated store-room.” Ames, on the other hand, “actively undertook the task of bringing this collection up to date.” Anderson, Harvard Law School Library, supra note 34, at 286.

Yet on the basis of the collections developed under Story, the article on law libraries in the Bureau of Education’s 1876 report on the state of libraries in America noted that “[p]erhaps no library in this country has such a rich collection of works on early Roman law and the commercial law of continental Europe as this.” Griswold, supra note 25, at 168.

238. Eliot, supra note 21, at 523. Langdell’s reluctance to fulfill Ames’s request contrasts dramatically with the goals for the Yale Law Library posed in 1874 by former university president Theodore Woolsey in an address marking the fiftieth year of the law school’s connection with Yale. Woolsey believed that the law library should not be confined “to reports of English and American courts, to the text-writers of our system of law, and to collections of statutes.” THEODORE D. WOOLSEY, HISTORICAL DISCOURSE 13 (1874). Rather, the library should aim successfully at exhaustive comprehension, so as to include civil law with its best expounders in every language, ecclesiastical law, the digests, codes, reports and systems of all the leading European nations, with whatever is valuable on the theory of legislation, on the doctrine of rights and the State, on the history of governments and institutions. . . .

Id. Then, as the law school flourished, “[l]et the plan for the library be expanded, so that it shall furnish the best books on all branches and topics connected with law, legislation, and government.” Id. at 23–24. Yale’s largely successful efforts to raise funds to support the law library after 1870 are detailed in Hicks, supra note 83, at 166–72.


241. Id. at 36.

242. See CENTENNIAL HISTORY, supra note 14, at 184–85.
volumes added and held each year. He did occasionally report on progress in completing the duplicates collection, significant gifts, and overcrowding prior to the construction of Langdell Hall.

¶96 When Langdell became dean in 1870, he moved quickly to correct the problems he saw in the library. He reorganized the collections and restricted access to parts of them, ending up with practices similar to those of other university libraries, which were opening formerly closed collections to researchers. William LaPiana described student reactions to Langdell’s changes, concluding that “[a]s far as administering the public services aspect of the library went . . . Eliot made a bad bargain.”243 LaPiana does not explain what he meant by “public services,” although he does cite the example of a student’s protest about the rail separating the collections, and refers to “Langdell’s failures as a day-to-day administrator.”244 Moving less-used books behind the rail reduced access to the whole collection, but probably made it easier for law students to locate the books they most needed. The priority Langdell gave to collecting multiple copies of reports responded to the demands of the case method. Even as more Harvard professors followed his lead and compiled casebooks for their classes, demand on the library remained heavy.

¶97 Langdell’s real legacy for law librarians lies less in the laboratory metaphor than in building the foundations not only for the great library at Harvard, but the other great law libraries that followed, and in promoting the sense that law libraries were vital to legal education and to the profession they serve, whether they were laboratories or not. His most important reference to libraries was not the laboratory metaphor, but came earlier in his career as dean, when he wrote: “The most essential feature of the School, that which distinguishes it most widely from all other schools of which I have any knowledge, is the library. . . . [W]ithout the library, the School would lose its most important characteristics, and indeed its identity.”245 Of course, anything Langdell said about the “library” was probably meant to describe only the Harvard Law School Library. As he later noted, “I have not concerned myself with legal education outside the Harvard Law School.”246

¶98 Just as significant as his understanding of the importance of legal information was Langdell’s early recognition of the need to have a full-time librarian to administer the library. As late as 1938, Roalfe described “the fairly common belief that, except for a few of the larger libraries, almost any person is qualified to act as librarian, whether such person be an untrained but deserving widow of some professor, a broken down lawyer or teacher who has not made good, or a clerk.”247

243. LaPiana, supra note 19, at 13.
244. Id. at 14. The idea of public services as librarians know it today was largely unknown at the time. In his study, The Development of Reference Services, Samuel Rothstein wrote that, even as the importance of university libraries grew, “reference service was never seen as more than a secondary responsibility in the nineteenth century research library.” Rothstein, supra note 85, at 19. Rather, “librarians . . . gave their chief attention to the problems of acquisitions, cataloging and classification, and circulation.” Id.
245. Centennial History, supra note 14, at 100.
Harvard, despite his inexperience at the time of his appointment, his need to follow Langdell’s principles, and his assumption of law school duties beyond the library, it seems clear that John Himes Arnold was fully the law librarian and was highly regarded by the law faculty for his efforts, even if he was not publicly acknowledged for them by Langdell.

Metaphors and Law Libraries

¶99 The library as laboratory metaphor became popular among librarians in the last decades of the nineteenth century as libraries began to be viewed as something other than storehouses for published works, as places in which books were to be used for learning and the development of knowledge. “Workshop” might more accurately have described what was going on in the Harvard Law Library under Langdell’s deanship, but “laboratory” better conveyed the aura of science sought by both Eliot and Langdell. As Langdell said in 1886, his focus was on “making the teaching and the study of law worthy of a university.” To accomplish this goal, “it was indispensable to establish that . . . law is a science.” He explicitly compared the work of lawyers in the library to the work of scientists in laboratories, museums, or botanical gardens. James Geary noted that “[t]he paradox of metaphor is that it tells so much about a person, place, or thing by telling us what that person, place, or thing is not.” For Langdell, the library was neither a storehouse nor a workshop: it was a laboratory.

¶100 In law, Langdell’s metaphor seems to have been little noted in the 1890s debates over the case method of instruction. In the early 1900s, its validity was challenged, along with Langdell’s views on law as a science. Some critics also saw the metaphor as evidence of Langdell’s lack of interest in exposing lawyers to the societal and economic conditions in which they would practice. Ronald Dworkin noted that the library was important for academic lawyers who do not see legal research “as a branch of research in the social sciences” but limited themselves to “the rich but nevertheless insulated world of precedents and statutes.”

¶101 Throughout the twentieth and into the twenty-first century, the laboratory metaphor was cited often to make the case for the law library’s importance in legal education. Many references were by law librarians, including some of the major figures in the field: Marian Gallagher and Miles Price each argued that, because they were laboratories, law libraries played roles that distinguished them from other research libraries; Bob Roalfe lamented that law schools failed fully to recognize this unique role of the law library; Bob Berring saw Langdell’s proposition as both descriptive and prescriptive, and concluded that the “whole corpus of legal education” was constructed around the idea that the library “is the laboratory of the law.”

248. Professor Langdell’s Address, supra note 8, at 49.
249. Geary, supra note 4, at 12.
251. In 2005, Berring himself suggested that, although for many “[t]he library building . . . stands as a metaphor for knowledge and wisdom,” the concept of “library” takes in more than physical space: “Library is a metaphor for a bundle of ideas that include a building, its content, and the activity that goes on within its walls.” Berring, supra note 220, at 1385, 1389.
¶102 It was not surprising for AALL president Steven Anderson to refer to the metaphor when commenting on proposed changes to the ABA Standards for libraries in 2014. Yet after citing Langdell in passing, Anderson wrote that “[w]ith legal education in a state of flux, the innovation championed by law library directors makes [the metaphor] even truer today.”252 His reference to innovation made clear that Anderson was not thinking of twenty-first century law libraries as laboratories in the sense Langdell had in the nineteenth, but saw them as places for experimentation and improvement in learning and research, places characterized by what Tice called “[t]he indefinable ambience of the law library as an environment for work of great consequence.”253 Lee Peoples’s 2014 article on designing library space to encourage learning mentioned neither Langdell nor laboratories, but saw law libraries as essential spaces for developing new approaches to learning in law school.254 In the twentieth-first century, law libraries have evolved to become spaces for collaborative as well as individual work, designed for learning. If the laboratory metaphor is still apposite, it is because law libraries are no longer laboratories in the sense Langdell had in mind 150 years ago.

¶103 In his study of the metaphors employed by librarians between 1876 and 1926, a period marking the first fifty years of the American Library Association (ALA), Robert Nardini found that at the start of the period the word “library” carried little meaning for the public at large, and what meanings there were had connotations to avoid.”255 The new metaphors of the late nineteenth century—library as laboratory and others—moved conceptions of libraries away from the idea that they were merely storehouses or museums. Yet Nardini read the 1926 address of ALA president Charles Belden as “tacit acknowledgement” that those metaphors “no longer sustained the profession” and that reliance on metaphors had left libraries without a clear vision of what they had actually become. Did the metaphors “mask what was essential in the library itself?”256 Nardini suggested that even “successful metaphors live on to do damage when words become no more than words and prevent clear vision on the part of those who use them, hear them, or read them.”257

¶104 Metaphors are not always helpful. In a 1938 discussion of the library’s role in legal education, Duke law librarian Roalfe wrote that although “in legal education the library should assume a role not altogether dissimilar to that of the laboratory in the study of the natural sciences,” in the sciences “this fact is more generally

253. Tice, supra note 139, at 171.
256. Id. at 132–33 (discussing Charles F.D. Belden, President’s Address: Looking Forward, 20 BULL. AM. LIBR. ASS’N 273 (1926)). Belden was the director of the Boston Public Library and had served as assistant librarian at the Harvard Law Library. See Anderson, Harvard Law School Library, supra note 34, at 287–88; see also Henry, supra note 180, at 293 (arguing that of the four types of “equipment” necessary for an educational institution—faculty, laboratory, library, and museum—“the library is the most vital, as it holds more of life and the world.”).
recognized.”

In 1951, he wrote that “[t]he law schools quite generally pay lip service to the idea that the library plays a role analogous to the laboratory in medical education. Much can and should be done to give this ideal a greater semblance of reality.”

As Myron Jacobstein noted, despite the resonance of the heart metaphor, when it comes to budgets, “the law library is not the heart of the law school, but it is treated like an appendix and is the first item to be cut.”

In the twenty-first century, law librarians might consider concerning themselves less with repeating or updating old metaphors, or creating new ones, than with articulating in their own terms the actual roles law libraries play today.

258. Roalfe, supra note 124, at 147.


260. Jacobstein, supra note 139, at 211.
Appendix

A Note on Other Law Schools and Their Libraries

¶105 In his history of American law schools, Robert Stevens wrote (with obvious reference to Harvard) that “[i]n the fifty years from 1870 to 1920, one school was intellectually, structurally, professionally, financially, socially, and numerically to overwhelm all the others.”²⁶¹ There is also more published material on the history of Harvard Law School than on others. Because this article focuses on Langdell’s comments regarding law libraries, I have concentrated on his writings and on the environment at Harvard in the last quarter of the nineteenth century. However, I have reviewed available materials on the histories of the other charter member AALS law schools and their libraries, and have referenced those sources in the article where I thought they would be helpful.

¶106 In 1890, about 70 law schools were operating in the United States; by 1900, there were nearly 110, most of which were affiliated to some extent with a college or university.²⁶² In 1901, 32 law schools became charter members of the AALS, which had been organized at the 1900 annual meeting of the ABA and met for the first time the following year.²⁶³

¶107 According to Reed’s list, the charter member schools had been established as early as 1817 (Harvard) and as recently as 1899 (Stanford). Three were established before 1859; five in the 1850s; four in the 1860s; five in the 1870s; six in the 1880s; nine in the 1890s. Nearly half were fewer than twenty years old; twenty of the thirty-two had started after Langdell became dean at Harvard and began to emphasize the importance of the law library. According to Bruce Kimball, fifteen of the thirty-two charter AALS members had adopted the case method by the end of 1901; an additional six did so by the end of 1915.²⁶⁴


²⁶² See list in Reed, supra note 195, at 423–28. Reed noted that for “many schools connected with a college or university the connection is so slight that it would be misleading to draw a hard and fast line between such institutions and those that are avowedly independent.” Id. at 423. His list outlines the history of those connections for schools in operation in 1921. Schlegel wrote that university-affiliated law schools staffed with full-time academic faculty “sprang up like mushrooms after a rain during the years around 1890.” Schlegel, supra note 81, at 313.

Konefsky and Schlegel have estimated that “[i]n 1890 over fifty university-affiliated law schools, with over four thousand students, supplied perhaps a quarter to a third of the new lawyers entering practice.” Konefsky & Schlegel, supra note 93, at 837 (1982) (citing Reed, supra note 195, at 442; 1 Report of the Commissioner of Education Made to the Secretary of the Interior for the Year 1890-91, at 414–32 (1894) (detailed review of curriculum at law schools)).

For a history of the correspondence law schools that flourished for a period from the late 1890s before fading away in the first decades of the twentieth century after actions of the ABA Section of Legal Education, see Bernard Hibbitts, Missionary Man: William Sprague and the Correspondence Law School, Legal Hist. Blog (Feb. 26, 2014, 7:00 AM), http://legalhistoryblog.blogspot.com/2014/02/missionary-man-william-sprague-and.html.

²⁶³ The number of charter members includes both those schools represented at the first meeting in 1900 and five additional schools that had applied for membership since the 1900 meeting. Ass’n of Am. Law Sch., Minutes of the First Annual Meeting 1, 3–4 (1901).

The Articles of Association adopted by the AALS law schools required each member to “own, or have convenient access to during all regular library hours, a library containing the reports of the state in which the School is located and of the United States Supreme Court.” Volume counts published in 1912 for the libraries at twenty-eight of the AALS charter members show a range from 3300 volumes (Maine) to 150,000 (Harvard), with a median count of 15,000. Harvard was by far the largest of the reporting libraries, with more than three times as many volumes as Iowa (45,000) and Cornell (44,000). Yale reported 35,000 volumes. Of fifteen libraries with 15,000 or more volumes in 1912, eleven had been established in 1872 or earlier. Other than Cornell (1887), the schools with the ten largest libraries (each over 23,250 volumes) were established in 1868 or earlier.

In 1938, Roalfe noted: “In reviewing the now quite considerable body of literature on the subject of legal education, one is struck by the almost total absence of references to law libraries . . . .” This remains generally true, but the institutional histories of American law schools, most of which were written after Roalfe’s comments, usually contain at least some information about their libraries. Book-length histories of the AALS charter schools have been published at least for Columbia, Harvard, Hastings, Iowa, Michigan, Minnesota, and Yale; journal articles of varying length and usefulness can be found for all thirty-two of the first AALS member schools. Law schools and their libraries are also featured to some

U.S. Bureau of Education report found that “the case method remains the principal, if not the exclusive method of teaching in all of the stronger law schools of the country.” Henry M. Bates, Recent Progress in Legal Education 225, 235 (1915), reprinted from 1914 annual report of the U.S. Commissioner of Education; see also Lapiana, supra note 19, at 148–52 (describing the continuing growth of the case method in the early twentieth century).

265. Association of American Law Schools, 23 Ann. Rep. A.B.A. 569, 572 (1900). The first ABA Standards of Legal Education issued in 1921 stated that each law school “shall supply an adequate library for the use of the students.” Ahlers, supra note 139, at 88; Belniak, supra note 225, at 156.

266. See List of Law Libraries in the United States and Canada, 5 Law Libr. J. 35 (1912). Of the thirty-two AALS charter members, Hastings, Indiana (Bloomington), Pittsburgh, and Tennessee are not included. Earlier volume count figures reported without source for a few schools seem generally to support the numbers for 1912: “Thirty-three schools now have over 5,000 volumes each. In 1898, Yale had 12,000 volumes; now, 30,000; University of Pennsylvania, 1898, 19,000; now, 40,000; Columbia, 1898, 25,000; now, 32,000; Cornell, 1898, 26,000; now, 37,500; Harvard, 1898, 44,000; now, 90,000.” Wilgus, supra note 189, at 651.

267. Roalfe, supra note 124, at 141. In 1928, Frederick Hicks had criticized Alfred Z. Reed for dismissing the importance of law libraries in the latest Carnegie Foundation report. See Frederick C. Hicks, Law Libraries and Legal Education, 14 A.B.A. J. 678 (1928) (citing Alfred Zantzinger Reed, Present-Day Law Schools in the United States and Canada 110 n.1 (1928)); see also Deborah Mayo Jeffries, A History of Struggle: NCCU School of Law Library, 36 N.C. Cent. L. Rev. 168, 169 (2014) (“Although the law library was historically extolled as the ‘heart’ or ‘laboratory’ of a law school, written histories of law schools are oftentimes quiet, if not silent, about the events and circumstances that contributed to the development of their libraries.”).

268. The histories of the libraries at some early AALS law schools are summarized in Brock, supra note 13, at 342–43. On the general failure of law schools to preserve their histories, see also The Proposed Legal Education Library, supra note 180, at 629.

The published histories can be selective in what they include. For example, a history of the Hastings College of Law notes: “The directors authorized the Dean, on May 31, 1901, to apply for admission to the Association of American Law Schools. The College thus became a charter member of the organization which has done the most to maintain high standards for legal education.}
extent in institutional histories of their universities. Particularly interesting for the period I studied is a series of articles published in the Green Bag, mostly between 1889 and 1890, that often feature photographs of the law schools and their libraries.269

¶110 Langdell’s annual reports provide more insight into student use of the Harvard Law Library than do most of the published histories. Letters by students describing their schools, sometimes with comments about the libraries, were published in the Columbia Law Times. Law faculty scholarship seems to report little about how faculty members used the library. In their 1982 review of law school histories, Konefsky and Schlegel wrote:

To the extent that students who do not become faculty live at all, they seem to do so only on the law review and the moot court board, though they are sometimes reincarnated as alumni. The faculty themselves are treated as faceless teaching clones who produce uniformly interesting, high quality scholarship in total isolation from each other and who collaborate only occasionally to raise academic standards or reorganize the curriculum.270

¶111 Hopefully, more will be discovered and written about the many “faceless” librarians and other staff who built the great law libraries, supported legal scholarship, and contributed to the education of generations of American lawyers.

269. See Brandeis, supra note 232; George R. Swasey, Boston University Law School, 1 Green Bag 54 (1889); C. Stuart Patterson, The Law School of the University of Pennsylvania, 1 Green Bag 99 (1889); Dwight, supra note 99; Henry Wade Rogers, Law School of the University of Michigan, 1 Green Bag 189 (1889); Leonard M. Daggett, The Yale Law School, 1 Green Bag 239 (1889); Charles Claffin Allen, The St. Louis Law School, 1 Green Bag 283 (1889); Charles P. Norton, The Buffalo Law School, 1 Green Bag 421 (1889); Harry B. Hutchins, The Cornell University School of Law, 1 Green Bag 473 (1889); Irving Browne, The Albany Law School, 2 Green Bag 153 (1890); William S. Pattee, Law School of the University of Minnesota, 2 Green Bag 203 (1890); Lamar C. Quintero, The Law School of the Tulane University of Louisiana, 2 Green Bag 116 (1890); Kirchwey, supra note 105.

270. Konefsky & Schlegel, supra note 93, at 838.
Assessing the Effectiveness of Single-Session Legal Research Skill Instruction Through Pre- and Post-Testing: A Case Study

Rebecca Lutkenhaus** and Karen Wallace***

Assessing student learning from single-session instruction poses unique challenges. This case study explores pre- and post-testing to assess the need for, and outcome of, one-shot instruction to 1Ls. The results suggest that bookending librarian instruction with performance assessments can effectively provide data to help assess student learning and improve instruction.

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**Reference Librarian and Associate Professor of Law Librarianship, Drake University Law Library, Des Moines, Iowa.

***Circulation/Reference Librarian and Professor of Law Librarianship, Drake University Law Library, Des Moines, Iowa.
Introduction

¶1 Assessment is an increasingly prominent topic in librarianship. The literature abounds with articles on the assessment of library departments,¹ spaces,² and information literacy,³ and in 2006, the Association of Research Libraries responded to growing interest in the topic by starting a biennial Library Assessment Conference.⁴ The topic has assumed greater importance in academic law libraries with the release of the American Bar Association’s recently revised Standards for Approval of Law Schools.⁵ ABA Standard 601(a)(3) requires that “[a] law school shall maintain a law library that . . . engages in a regular planning and assessment process, including written assessment of the effectiveness of the library in achieving its mission and realizing its established goals.”⁶

¶2 While this ABA Standard calls for an overarching assessment plan that spans the entire library organization, ABA Standard 314 demands, “A law school shall utilize both formative and summative assessment methods in its curriculum to measure and improve student learning and provide meaningful feedback to students.”⁷ A growing body of legal education literature addresses both formative and summative assessment of student learning in formal courses, including legal research.⁸ In fact, Cordon notes, “[i]nstructors of stand-alone legal research classes—especially advanced legal research classes—have developed a variety of means to assess student skill development.”⁹

¶3 The number of librarians teaching formal courses appears to be increasing. Notably, advanced legal research (ALR) course offerings have expanded over the years.¹⁰

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⁶ Id. at 39.
⁷ Id. at 23.
with some schools even requiring students to take ALR, and scholars increasingly calling for more schools to follow suit. Librarians have been significantly involved in teaching ALR courses. However, librarians also offer formal law school classroom instruction in other forms, from the long-standing guest lecture—the focus of this article—to the more avant-garde role of being embedded in a particular course.

It can seem particularly challenging to incorporate effective, efficient methods of evaluating student learning into a single session provided in another professor’s course. Time to interact with students may be extremely limited. Moreover, the librarian typically does not create or grade an out-of-class assignment by which learning may be assessed. It can therefore be tempting to forgo assessment of such

11. Peter C. Schanck, Mandatory Advanced Legal Research: A Viable Program for Law Schools?, 92 LAW LIBR. J. 295, 2000 LAW LIBR. J. 26 (describing Marquette University Law School’s adoption of an ALR requirement and also noting, at 296, ¶ 6, that ALR is required at Benjamin N. Cardozo School of Law at Yeshiva University, the J. Reuben Clark Law School at Brigham Young University, the Southern Methodist University School of Law, and the Chicago-Kent College of Law).


14. Informally and outside of the classroom, librarians may also provide instruction in a variety of ways, including during the course of reference interactions, through stand-alone programs, or by developing online research guides or tutorials, available at the point of need.

15. Broussard, Hickoff-Cresko, and Oberlin note, “[M]uch of information literacy instruction in higher education takes place in library one-shots.” MARY SNYDER BROUSSARD ET AL., SNAPSHOTs OF REALITY: A PRACTICAL GUIDE TO FORMATIVE ASSESSMENT IN LIBRARY INSTRUCTION 43 (2014). Existing data do not precisely quantify the extent to which this is true in law schools; however, it is an established practice. Seventy-five percent of 178 responses to a March 2008 survey from the Student Services Committee of the Academic Law Libraries Special Interest Section of the American Association of Law Libraries indicated that “librarians serve as guest lecturers in legal research and writing courses, at the request of individual professors.” James G. Durham, Results of the “Student Services in Academic Law Libraries Survey,” ALL-SIS NEWSL., Summer 2008, at 9, 23. Fines notes that upper-level writing and other skills courses provide excellent opportunities for integrated research instruction, but the degree to which such instruction is currently offered cannot be quantified. Barbara Glesner Fines, Out of the Shadows: What Legal Research Instruction Reveals About Incorporating Skills Throughout the Curriculum, 2013 J. DISP. RESOL. 159, 175–76. However, she also notes that some professors in these kinds of courses “ask research librarians to present to the class an overview of sources and methods for that subject area.” Id. at 189. Kauffman characterizes “creating strategic partnerships with other faculty members to add a research component to substantive or clinical courses” as one aspect of “offering research training on a point of need basis.” Blair Kauffman, Information Literacy in Law: Starting Points for Improving Legal Research Competencies, 38 INT’L J. LEGAL INFO. 339, 346 (2010). Anecdotally, librarians at Brooklyn Law School have collaborated with faculty to offer research sessions, such as in drafting courses. Aliza B. Kaplan & Kathleen Darvil, Think (and Practice) Like a Lawyer: Legal Research for the New Millennials, 8 LEGAL COMM. & RHETORIC: JALWD 153, 189 (2011). Similarly, Drake University Law Librarians have long offered instruction in upper-level substantive classes, with a concerted effort, beginning in 2006, to offer that service each semester to every professor teaching an advanced writing requirement course.

16. See Vicenç Feliú & Helen Frazer, Embedded Librarians: Teaching Legal Research as a Lawyering Skill, 61 J. LEGAL EDUC. 540 (2012) (discussing the experience of University of the District of Columbia David A. Clarke School of Law librarians who were embedded in several clinical courses).

17. Exceptions exist. For instance, at the University of Washington School of Law, a course instructor has closely collaborated with a librarian to create a graded research and writing assignment that gives students the opportunity to apply the skills and information presented in the librarian’s
“one-shot” instructional sessions. However, choosing to assess librarian instruction provided as part of another professor’s course not only responds to calls for increased accountability, it can also yield useful data to help optimize student learning and effectively deploy limited library resources. In fact, Buchanan and McDonough argue that the very limitations of single-session library instruction make assessment therein even more important:

Classroom assessment invites students to become active participants in their own learning and eventually empowers them to become more critical, self-directed learners. Paradoxically, with so little time spent with students in an instructional setting (often less than an hour in a semester-long course), one-shot library instructors have more reason to incorporate assessment rather than less.18

¶5 Little has been published about assessing student learning from library one-shots in a law school setting.19 In contrast, other academic librarians have addressed the topic.20 The broader library literature indicates that a variety of suitable assessment options exist. Many classroom assessment techniques (CATs) have been adapted for one-shot assessment, including the one-minute paper (writing for one minute in response to a specific prompt) and the defining features matrix (grouping similar concepts based on their defining features).21 These are among the same kinds of formative assessment tools discussed in articles considering semester-long law school courses.22 Broussard, Hickoff-Cresko, and Oberlin present forty-eight formative assessment snapshot techniques (FASTs) appropriate for single-session library instruction, depending on the level of collaboration with the instructor and guest presentation. Mary Whisner & Lea Vaughn, Teaching Legal Research and Writing in Upper-Division Courses: A Retrospective from Two Perspectives, Persp.: Teaching Legal Res. & Writing, Spring 1996, at 72, 73.


19. Articles in the ballpark include Robin A. Boyle, Karen Russo & Rose Frances Lefkowitz, Presenting a New Instructional Tool for Teaching Law-Related Courses: A Contract Activity Package for Motivated and Independent Learners, 38 Gonz. L. Rev. 1, 2, 14–16 (2002–2003) (includes discussion of the assessment of the use of a particular teaching method in a legal research course that did not span the semester but consisted of three 90-minute lectures); Fines, supra note 15, at 188–90 (studying assessment of research skills in upper-level courses with writing requirements and noting that some faculty arrange for librarians to present in their classes, but not discussing how the effectiveness of these presentations is evaluated); L. Monique Gonzalez, A Timely Seminar: The Clerkship Crash Course in Legal Research, Persp.: Teaching Legal Res. & Writing, Spring 2007, at 186, and Hemmens, supra note 10 (both using student evaluations for assessment of a stand-alone workshop or workshop series); Nancy B. Talley, Are You Doing It Backward? Improving Information Literacy Instruction Using the AALL Principles and Standards for Legal Research Competency, Taxonomies, and Backward Design, 106 Law Libr. J. 47, 58–63, 2014 Law Libr. J. 3, ¶¶ 23–31 (providing sample legal research lesson plans, together with assessments, that appear to be intended as specific sessions of a course the librarian is teaching, although that is not explicitly stated).


22. See, e.g., Gregory S. Munro, How Do We Know if We Are Achieving Our Goals? Strategies for Assessing the Outcome of Curricular Innovation, 1 J. Ass’n Legal Writing Directors 229, 242–43 (2002). The similarities are not surprising, given that both sources draw on the pioneering work: THOMAS A. ANGelo & K. PATRICIA CROSS, CLASSROOM ASSESSMENT TECHNIQUES: A HANDBOOK FOR COLLEGE TEACHERS (2d ed. 1993).
the class size. The library literature also notes the use of performance assessments to measure the extent to which students demonstrate mastery of a particular skill or skill set. Performance assessments often take the form of tests or simulated exercises, but, with careful coordination with the course instructor, they may include assessment of required course assignments.

This article presents a case study that considers the effectiveness of one popular technique—a short, paper-based pretest and post-test performance assessment—applied to librarian-provided instruction presented as part of the first-year legal research course. In this study, the librarians at Drake University Law Library gathered data to answer the following questions: First, did the students already possess the required research skills before receiving the training, thereby rendering the instruction unnecessary? Second, did the content covered during the instruction enable the students to perform the required research skill immediately after receiving the instruction? Third, if the students demonstrated learning, did they retain these skills later in the academic year? And fourth, did the act of participating in testing affect student retention of the information covered? As the article will further discuss, the Drake Law Library experience suggests that when properly designed, this simple method of assessment can provide valuable data, but it has limitations.

Background

During the 2013–2014 academic year, the first-year class at Drake University Law School was divided into two large sections, designated 300 and 301. The director of the law library was the legal research course instructor for both sections. He provided lectures that introduced the concepts and resources the students focused on in subsequent assignments. Each of the large sections was subdivided into three small groups, labeled 1 through 3 for section 300, and 4 through 6 for section 301. Teaching assistants met with the small groups weekly in fifty-minute class sessions to reinforce concepts learned during the lectures. Twice during the fall semester, reference librarians presented twenty-minute instruction sessions within the small groups to provide additional research skill instruction that related to an assignment the students would be completing the same week. Note that although both sections 300 and 301 cover the same content over the course of the semester, the order in which topics are presented varies by section, lessening concurrent demand for

24. Buchanan & McDonough, supra note 18, at 92.
26. This experience differs from the traditional one-shot in that librarians met with law students in two different class sessions. However, the one-shot framework seems most relevant given the following two considerations: (1) the total class time allocated to both sessions was less than the fifty minutes of a single class session, and (2) the two sessions did not build on each other but each presented discrete concepts.
limited print library resources. Therefore, the week of the semester wherein the library sessions occurred varied from section to section.\footnote{27}

¶8 One of these brief library instruction sessions focused on the use of the library’s online catalog to locate treatises. The librarians demonstrated how to search the catalog using title and author information and how to use subject headings within a record to find additional materials on the same topic. The librarians impressed on the students the need to note the collection location (e.g., stacks, reference, reserve) and call number provided by the catalog record in order to physically locate a specific title. Because the law library shares a catalog with the main campus library, the librarians also stressed the importance of noting which library owns the item. This brief session was the only time the students received formal instruction on how to search the online catalog, as this topic was not covered during the legal research section lecture or during library orientation. The students used the catalog to locate a treatise for an assignment given the same week that they received the librarian-led instruction. The librarians set the following learning outcomes for the session. Students will (1) become better acquainted with the presenting librarian; \footnote{28} (2) understand the general purpose of the library catalog and how to access it; and (3) be able to identify the catalog as an appropriate source to locate treatises and search the catalog to find a relevant treatise and identify its physical location.

¶9 The other brief library instruction session focused on periodicals. It addressed how to use a periodical index to locate articles on a specific topic, how to locate articles within HeinOnline using a known citation, and how to use the law library’s journal finder to identify the various ways a needed article can be accessed in full text. The same day that the librarians met with the small groups to discuss periodicals, the students had already received instruction on all of these topics in their large-section legal research lecture. The same week the students received the instruction, they used periodical indexes to locate an article on a topic. They retrieved the full text of the article through the method of their choice; although the students could have opted to use the journal finder for this portion of the assignment, it was not required. The librarians set the following learning outcomes for the session. Students will (1) become better acquainted with the presenting librarian; (2) be able to express the most fundamental distinction between full-text and indexed searching; (3) be able to access the Index to Legal Periodicals and LegalTrac; (4) be able to search LegalTrac to find an item on a particular topic; (5) be aware that there are different means of obtaining the full text of legal periodical articles; and (6) be able to select and use the journal finder to identify all options (available through the library) for obtaining the full text of a particular article.

\footnote{27}{A largely similar structure, including some librarian instruction to small groups, has been in place since the 2010–2011 school year.}

\footnote{28}{Other than the director, the librarians have no formal teaching role in the first-year legal research courses. However, the librarians provide a great deal of point-of-need instruction as students complete assignments. An unmeasured goal for both sessions was increasing student familiarity with at least one of the librarians, in an effort to increase student comfort in asking librarians for assistance.}
Methodology

¶10 As noted, the librarians conducted pre- and post-testing in targeted sessions to assess the effectiveness of the instruction. In recognition of the limited time available, the assessment was designed to measure only one of the session objectives, related to the ability to properly select and use a particular research tool. The study’s four research questions were considered through this lens:

1. Did the students already possess the required research skills before receiving the training?
2. Did the content covered during the instruction enable the students to perform the required research skill immediately after receiving the instruction?
3. If the students demonstrated learning, did they retain these skills later in the academic year?
4. Did the act of participating in testing affect student retention of the information covered?

¶11 All of the small groups received instruction on both the catalog and periodicals early in the fall semester. In order to have both an experimental and a control group for the questions related to learning retention and the effect of the testing itself, each section participated in the pretest/post-test for only the periodicals instruction (section 300, groups 1–3) or the treatises instruction (section 301, groups 4–6).

¶12 Each of the three participating librarians was assigned to one group in section 300 and one group in section 301 to conduct the testing and provide instruction. To ensure consistency in the administration of the tests, and to prevent the possibility that an offhand remark might somehow skew the results, each librarian followed a prepared script when distributing the pre- and post-tests. Each test consisted of a single question, designed to prompt the students to perform a specific research task. The question used for the pretest was identical to the question used for the post-test.

29. Pre- and post-tests have been used as an assessment tool in a variety of higher education settings. See, e.g., Jacalyn E. Bryan & Elana Karshmer, Assessment in the One-Shot Session: Using Pre-and Post-tests to Measure Innovative Instructional Strategies Among First-Year Students, 74 C. & Res. Libr. 574 (2013); Jon R. Hufford, What Are They Learning? Pre- and Post-Assessment Surveys for LIBR 1100, Introduction to Library Research, 71 C. & Res. Libr. 139, 140–43 (2010).

30. Post-test results may be adversely affected by using the same question if students remember the answer from pretest to post-test. Ma Lei Hsieh & Hugh A. Holden, The Effectiveness of a University’s Single Session Information Literacy Instruction, 38 Reference Services Rev. 458, 467 (2010). However, in this case students were not provided feedback on either their pretest or post-test results, so they could not simply recall the right answer on the post-test without understanding how to find that answer themselves. The primary purpose of this assessment was to inform instructional design to enhance student learning in future semesters. If the primary purpose of this assessment had been to enhance student learning in that specific instructional session, prompt and specific feedback would have been essential. Heather Zuber, A Fresh Look at Assessing Students’ Work Product: What Is Assessment, Why We Assess, and How to Do So Effectively and Efficiently, Persp.: Teaching Legal Res. & Writing, Fall 2010, at 20.
students could first select and then use the library’s catalog to find a specific edition of a treatise and the information indicating its location in the library. The periodicals instruction question related to that session’s sixth goal and tested whether the students could first select the journal finder as the optimal resource for the research need and then successfully use that tool to identify the places where a specific journal title can be accessed in full text. Although both performance measures may facially appear to require the same two skills (appropriate source selection and usage), when viewed in context, the level of difficulty of the first task, source selection, was quite different. Selecting the proper source for the catalog question was rather obvious, as no other sources were covered in that session; for the periodicals question, tool selection was much trickier because the session introduced multiple possibilities for finding the full text of articles.

¶13 The pretest script was read and the pretest question distributed at the beginning of the session. Two minutes were permitted for the completion of the test, and the tests were promptly collected at the conclusion of the two minutes. A problem that was neither anticipated nor addressed in the initial script was that some of the students did not have their laptops with them and asked for instructions on what they should do. The methodology was altered on the fly with those students instructed to record “no laptop” on their tests so that they could be differentiated from those students who did have a laptop with them but who left their tests blank due to an inability or unwillingness to provide an answer.

¶14 At the conclusion of the pretest, the librarians proceeded with the instruction. Each librarian covered the same concepts and illustrated the same research techniques through the use of examples. The librarians had agreed on the material to be covered and the techniques to be illustrated prior to the session, although each was then free to progress through the material in whatever order suited them and to use examples of their own choosing. This ensured that the students would receive the same core content while allowing the librarians some flexibility in presenting the material.

¶15 At the conclusion of the instruction, the post-test script was read and the post-test question was distributed. Once again, two minutes were permitted for the completion of the test, and the tests were promptly collected at the conclusion of the two minutes. Students without laptops were once again instructed to write “no laptop” on their tests so that they could be differentiated from students who had a laptop but left the test blank.

¶16 The pretest data were compared to the post-test data to try to answer the first two research questions. The pretest data alone suggested whether the instruction was necessary. That is, if most students were able to successfully complete the research task before the instruction was given, the instruction would be deemed superfluous. The comparative data between the pretest and post-test suggested whether the instruction had increased student ability to execute the specific research task. That is, if the number of students able to successfully complete the research task notably increased from the pretest to the post-test, the instruction would be deemed effective.

¶17 The original study design called for librarians to return to all small groups during the spring semester to again assess students’ ability to perform the two
This experimental design sought to ascertain (1) whether the students retained what they had learned earlier in the academic year, and (2) whether the act of participating in a pre- and post-test was itself an intervention that improved student digestion and retention of the information presented. However, initial pretest/post-test data suggested that only the treatises instruction resulted in an immediate increased ability for students to perform the relevant research task. Therefore, librarians repeated testing only on the online catalog during the spring semester. Small groups in both sections 300 (who had not taken the initial pretest/post-test when they received catalog instruction) and 301 (whose catalog instruction included the pretest/post-test) took the follow-up test. Since section 301 had previously been tested on using the catalog to find treatises, section 300 served as the control group. Because this second assessment occurred several months after the instruction, using a control group mitigates for other experiences (such as catalog use during the course of the first semester) that might affect a student’s ability to use the catalog.

¶18 Once again, the librarians used a prepared script to ensure that the tests would be introduced to the students in a uniform way and to prevent the possibility that an unscripted remark might skew the results. After reading the script, the librarians distributed the test, which featured the same question requiring the use of the catalog to find a specified edition of a treatise title that had been distributed in the fall. The script and questions are included in the Appendix. The students had two minutes in which to complete the test, and the tests were promptly collected at the conclusion of the two minutes.

31. Students stay in the same small groups throughout their first year of law school, so the composition of the experimental and control groups remained largely the same, excepting any individual student absences.

32. There are at least two ways the testing itself might have affected learning. First, the pretest might have induced students to pay more attention by noting skills deficits. Emory University School of Medicine librarians successfully used a MEDLINE pretest as “a ‘wake-up call’ to the residents who have an inflated perception about their searching skills.” Karl (Woody) Woodworth & Linda Garr Markwell, Bored, Yawning Residents Falling Asleep During Orientation? Wake ’em Up with a Test!, 24 MED. REFERENCE SERVICES Q. 77, 77 (2005). University of Connecticut School of Law librarians also used a pretest in a training session for summer clerks in an effort to grab students’ attention by showing them what they don’t already know. However, the article does not evaluate the success of this technique. Kelly Browne, The Top 10 Things Firm Librarians Wish Summer Associates Knew, PERS.: TEACHING LEGAL RES. & WRITING, Spring 2000, at 140. A recent article reviews the educational research finding that failure on a pretest or other early educational experience can help prepare students to learn and result in deeper learning. Warren Binford, How to Be the World’s Best Law Professor, 64 J. LEGAL EDUC. 542 (2015). Second, the post-test provided an immediate, additional active learning experience in the classroom, and “active learning helps students grasp, retain, and apply content.” Gerald F. Hess, Statement of Good Practices in Legal Education: Principle 3: Good Practice Encourages Active Learning, 49 J. LEGAL EDUC. 401, 402 (1999).

33. Marsden and Torgerson note that “[l]earners tend to improve in their educational outcomes over time simply due to increasing maturity,” and that these maturation effects are greater, “[t]he greater the time difference between pre- and post-test,” but can be addressed through the use of a control group. Emma Marsden & Carole J. Torgerson, Single Group, Pre- and Post-Test Research Designs: Some Methodological Concerns, 38 OXFORD REV. EDUC. 583, 585 (2012).
Formulating the Test Questions and Coding the Responses

Online Catalog Question

¶19 To assess whether instruction on the use of the online catalog was needed, and whether the instruction session on the topic was successful, the librarians asked the students to locate a treatise for which the author’s last name, the title of the work, and the edition of the work were provided. The question was formulated to mirror (but not replicate) the information they would be provided to complete a similar task in their legal research assignment that week. The question used for both the pre- and post-test was: “What is the location and call number for the 3rd edition of Tribe’s American Constitutional Law?”

¶20 Using the catalog record for this title and edition (shown in figure 1), the correct answer is that the location is “Stacks” and the call number is KF4550 .T782 2000 V1.

Online Catalog Response Coding

¶21 In evaluating the students’ responses, the librarians assessed whether the correct location (Stacks) was provided, as well as whether the correct call number (KF4550 .T782 2000 V1) was provided. In terms of specifying the location, some students provided relevant, but technically incorrect, answers. For example, one student indicated “second floor” as the location. While it is true that the title in question is located on the second floor of the library, this is not a completely accurate reflection of the item’s location for several reasons. First, the catalog record from which the students were obtaining their information clearly indicates that the location of the item is the Stacks. Second, other law library collection locations, including the tax room and the Iowa wing, are also located on the second floor of the library. Anything other than a response of “Stacks” for the location was considered incorrect, although students were not penalized for adding additional information, such as the fact that the title was in the law library stacks, the second floor stacks, and so on. As for the call number, correct answers provided the complete call number. Responses that provided part of the correct call number were coded as incomplete rather than incorrect. Responses that provided any part of an incorrect call number were coded as incorrect.

Journal Finder Question

¶22 The periodicals session covered the following topics: what it means for a source to provide indexing and what it means for it to provide full text, how to access and use a periodical index to locate articles on a specific topic, how to locate articles within HeinOnline using a known citation, and how to use the law library’s journal finder to identify the various ways a needed article can be accessed in full text. The librarians stressed the importance of searching the journal finder using the title of the publication rather than the title of the article, and the significance of the time-coverage notes accompanying each source. Because the law library’s journal finder was covered in less depth during the large-section legal research lecture, and because the librarians know anecdotally that the journal finder is an underutilized tool, they made it the focus of the periodicals pre- and post-test. Crafting the question was admittedly quite difficult. In an early draft, the question
read: “List the three places you can access the full text of this article in the law library’s collections: Gloria S. Neuwirth, Living Wills and Health Care Proxies, 64 New York State Bar Journal 24 (1992).” The question did not specifically direct the students to use the law library’s journal finder to answer the question because part of what the librarians wanted to test was whether the students could identify the correct tool they should use to fulfill the research task.

¶23 The law library’s journal finder entry for the New York State Bar Journal (shown in figure 2) indicates there are four methods for obtaining full-text access to this title, but one does not include time coverage for 1992, the year when the article in question was published.
Because the librarians wanted to test whether the students remembered to note the dates of coverage accompanying each full-text source listed, thereby recognizing that only three of the four available sources truly provide full-text coverage of the article in question, they decided to drop the language specifying the number of places that provide full-text access because they thought it might be too leading.

The librarians’ experience suggests that students sometimes think the library’s collections consist only of tangible items; they do not always realize that the library pays for access to electronic databases and that these, too, comprise part of the library’s collections. As a result, the language specifying the law library’s collections was also eliminated. In the end, the question used was: “List all the places you can access the full text of this article: Gloria S. Neuwirth, Living Wills and Health Care Proxies, 64 New York State Bar Journal 24 (1992).”

This question was admittedly vague, but the librarians wanted to leave it as open ended as possible to see whether the students could both identify the most appropriate tool for the task and properly interpret the results retrieved. The librarians expected that the students would struggle with the question, regardless of the wording, during the pretest and wanted to assess whether the context and information provided during the instruction session would successfully instill the skills needed to identify and use the journal finder to answer the question in the post-test.

As indicated in the screen capture from the journal finder shown in figure 2, the full text of this 1992 article can be obtained through the HeinOnline Bar Journals collection and through Drake University Law Library Local Holdings, both in print and in microform.

Journal Finder Response Coding

To be considered a correct response, the students needed to specify that the article could be located only in print, in microform, and through HeinOnline. A response that specified fewer than all three of these options was considered incomplete, and a response that listed additional options that do not truly provide full-text access to the article in question was coded as incorrect.

Results and Assessment Conclusions

Interpreting Blank Results

The test questions asked for an answer to the problem posed. The oral instructions indicated, “If you do not know the answer, you can leave it blank.” However, students might have opted to leave the test blank for other reasons as well, and the experimental design provided no way to distinguish those who did not answer the question due to lack of knowledge from those who did not answer it due to an unwillingness to answer. Analyzing the data with the blank answers included in the calculated percentages may overestimate the percentage of students unable to answer the question, while excluding blank responses in the data analysis likely underestimates the students unable to answer the question.
To acknowledge the reality that some blank responses might have another meaning, results percentages are provided as a range, from a low based on the total number of students with the opportunity to answer the question (that is, those who had a laptop in the session) to a high based on the number who actually elected to answer the question. The true percentage of students able to complete the indicated research task likely falls somewhere in between these two figures. In addition to the wording of the instructions, another argument in favor of believing that figure is closer to the lower than the higher end of the range is the underlying presumption that the rates of students who opted not to participate for reasons other than lack of ability (or lack of confidence in their ability) to answer the question would be similar from pretest to post-test, and the reality that across the board more students answered the post-test question than the pretest.

Fall Online Catalog Pretest Results

Of the 59 students to whom the online catalog pretest was distributed, 5 (8.5%) could not participate because they did not have a laptop with them. These students were eliminated from the results analysis, leaving 54 students. Of these, 40 (74.1%) had a laptop but did not attempt an answer. Ten students (18.5–71.4%) provided the correct location, 9 (16.7–64.3%) provided the correct call number, and 5 (9.3–35.7%) provided an incomplete call number, but the portion provided was correct.

The raw numbers broken down by group are provided in table 1.

Fall Online Catalog Post-test Results

Of the 59 students to whom the online catalog post-test was distributed, the same 5 (8.5%) could not participate because they did not have a laptop with them, leaving 54 students. Six (11.1%) had a laptop but did not attempt an answer. Forty students (74.1–83.3%) provided the correct location of the item, 35 (64.8–72.9%) provided the correct call number, and 11 (20.4–22.9%) provided an incomplete call number, but the portion provided was correct.

The raw numbers broken down by group are provided in table 2.

Fall Online Catalog Conclusions

Although the results do not definitively indicate why students with laptops left the answer blank, they do clearly show the percentage who chose not to answer dropped significantly from the pretest (74.1%) to the post-test (11.1%). To the extent that at least some students opted not to answer because they could not (or believed they could not) provide an answer in the time allotted, the instruction session appeared to have a positive effect on that measure alone. The percentages of students who successfully answered the question increased from pretest to post-test.

34. In fact, some evidence suggests that students may be more likely to be nonresponsive to a post-test than a pretest due to survey fatigue. “Surveys that immediately succeed others may be most susceptible to low response rates.” Meredith J.D. Adams & Paul D. Umbach, Nonresponse and Online Student Evaluations of Teaching: Understanding the Influence of Salience, Fatigue, and Academic Environments, 53 Res. Higher Educ. 576, 579 (2012).
with those identifying the correct location rising from a range of 18.5–71.4% to 74.1–83.3% and the correct call number from 16.7–64.3% to 64.8–72.9%. The results for students providing an incomplete but partially correct call number were mixed, ranging from 9.3–35.7% to 20.4–22.9%. Combining the call number measures, in the pretest 26.0–100% of students provided at least a partially correct call number, compared to 85.2–95.8% in the post-test.

¶36 Given the high percentage of students who made no attempt to answer the pretest question, it appears that the majority of first-year law students entering Drake Law School in fall 2013 did not already possess the basic skills needed to quickly run a combined author and title search in the online catalog. The

35. This finding is in keeping with results from a larger study reported to AALL in 2004 that found that many first-year law students “have not used an online catalog, are unaware that everything
researchers concluded the answer to the first research question, “Did the students already possess the required research skills before receiving the training?” was no.

§37 Based on both the substantial increase from pretest to post-test of students answering the question and the increase from pretest to post-test in the number of students correctly identifying the location and complete call number, it appears the sessions were effective in improving students’ ability to search the online catalog and locate the record for the correct title. The researchers concluded the answer to the second research question, “Did the content covered during the instruction enable the students to perform the required research skill immediately after receiving the instruction?,” was yes.

§38 However, the results also suggest that there is room for improvement when it comes to teaching the students to accurately interpret the information provided in catalog records. Only 74.1–83.3% of students correctly reported the book’s location; this indicates more time should be spent explaining the different collection locations and where the location is indicated in the catalog records. Similarly, only 64.8–72.9% of students provided the complete call number, suggesting that the librarians should place additional emphasis on explaining that all books on a particular topic begin with the same core call number, and therefore the full call number is needed to successfully locate a specific title and edition. If instructional time were extended, one way to do this would be to send the students into the stacks to locate two books, one for which they have a complete call number and another for which they have only a partial call number. Within the current time allocated, an alternative might be to analogize the situation to sending a text message to a cell phone number that does not include the area code. No connection can be made without the complete number.

Spring Online Catalog Follow-Up Results

§39 Of the 106 students in both the control and experimental groups who were tested on the online catalog in the spring, 6 (5.7%) could not participate because they did not have a laptop with them. Of the remaining 100 students, 32 (32%) did not attempt an answer. Fifty-two students (52.0–76.5%) provided the correct location of the item, 43 (43.0–63.2%) provided the correct call number, and 22 (22.0–32.4%) provided an incomplete call number, but the portion provided was correct. Combining the last two measures, 65 students (65.0–95.6%) provided a call number that was at least partially correct.

§40 Of the 48 students in the control groups who were tested on the online catalog in the spring but had not been tested on it in the fall, 4 (8.3%) could not participate because they did not have a laptop with them. Of the remaining 44 students, 16 (36.4%) did not attempt an answer. Twenty-two students (50.0–78.6%) provided the correct location of the item, 22 (50.0–78.6%) provided the correct call number, and 5 (11.4–17.9%) provided an incomplete call number, but the portion

is not online, do not know the difference between a full-text and an index search, and do not know to consult the index of a set of books such as an encyclopedia.” Kathryn Hensiak, Stephanie Burke & Donna Nixon, Assessing Information Literacy Among First-Year Law Students: A Survey to Measure Research Experiences and Perceptions, 96 LAW LIBR. J. 867, 867, 2004 LAW LIBR. J. 54, ¶ 3.
provided was correct. Combining the last two measures, 27 students (61.4–96.4%) provided a call number that was at least partially correct.

¶ 41 Of the 58 students who had originally been tested on the online catalog in the fall and were being retested in the spring, 2 (3.4%) could not participate because they did not have a laptop with them. Of the remaining 56 students, 16 (28.6%) did not attempt an answer. Thirty students (53.6–75.0%) provided the correct location of the item, 21 (37.5–52.5%) provided the correct call number, and 17 (30.4–42.5%) provided an incomplete call number, but the portion provided was correct. Combining the last two measures, 38 students (67.9–95.0%) provided a call number that was at least partially correct.

¶ 42 The raw numbers are provided in tables 3 and 4.

**Spring Online Catalog Follow-Up Conclusions**

¶ 43 The spring testing was first designed to determine whether student learning was retained later in the academic year. As seen in table 4, the percentage of students not responding to the test question was greater in the spring for both the experimental group and the experimental and control groups combined than it was for the post-test in the fall. However, these percentages were less than that of the pretest in the fall. Similarly, the percentages providing the correct location in spring testing, both including and excluding blank responses, dropped from the fall post-test but was still higher than the fall pretest. The results for the call number were mixed. Including blank responses, the spring testing percentages for those providing a complete and correct call number dropped from the fall post-test but was still higher than the fall pretest. However, excluding blank responses, those percentages dropped from both pretest and post-test.

¶ 44 The data seem to support a general conclusion that although the instruction resulted in longer-term learning for some students, others lost their catalog use skills. In the spring, the students demonstrated an increased ability to successfully use the catalog to find a treatise compared to their ability before instruction was provided, however the success rates were not as high as they had been immediately after the instruction in the fall.

¶ 45 The second question addressed by the spring testing is whether the act of participating in the testing affected student retention of the information covered. As shown in table 5, a greater percentage of the control group students (33.3%) did not provide a response to the question than the experimental group (27.6%). Moreover, a higher percentage of students in the experimental group provided a correct location, whether including or excluding blank responses. On the other hand, a higher percentage of students in the control group provided a complete and correct call number, whether including or excluding blank responses. Thus, the data do not clearly indicate that the mere act of taking the pretest/post-test affected student learning.

**Journal Finder Pretest Results**

¶ 46 Of the 51 students to whom the journal finder pretest was distributed, 2 (3.9%) could not participate because they did not have a laptop with them. Of the remaining 49 students, 6 (12.2%) did not attempt an answer. Of the 43 students
### Table 3

Spring Online Catalog Follow-Up Results

<table>
<thead>
<tr>
<th></th>
<th>Control Groups (Section 300)</th>
<th>Groups Tested in Fall (Section 301)</th>
<th>Combined Total of Both Sections</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of students</td>
<td>48</td>
<td>58</td>
<td>106</td>
</tr>
<tr>
<td>Number without laptops</td>
<td>4</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>Number of blank responses</td>
<td>16</td>
<td>16</td>
<td>32</td>
</tr>
<tr>
<td>Number who attempted an answer</td>
<td>28</td>
<td>40</td>
<td>68</td>
</tr>
<tr>
<td>Number providing correct location</td>
<td>22</td>
<td>30</td>
<td>52</td>
</tr>
<tr>
<td>Number providing correct call number</td>
<td>22</td>
<td>21</td>
<td>43</td>
</tr>
<tr>
<td>Number providing incomplete call number</td>
<td>5</td>
<td>17</td>
<td>22</td>
</tr>
<tr>
<td>Number providing at least partially correct call number</td>
<td>27</td>
<td>38</td>
<td>65</td>
</tr>
</tbody>
</table>

### Table 4

Comparing Fall and Spring Online Catalog Results*

<table>
<thead>
<tr>
<th></th>
<th>Fall Pretest Results</th>
<th>Fall Post-test Results</th>
<th>Spring Testing Results: Both Sections</th>
<th>Spring Testing Results: Experimental Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of students</td>
<td>59</td>
<td>59</td>
<td>106</td>
<td>58</td>
</tr>
<tr>
<td>Number without laptops</td>
<td>5</td>
<td>5</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>Number of blank responses</td>
<td>40</td>
<td>6</td>
<td>32</td>
<td>16</td>
</tr>
<tr>
<td>Number providing correct location</td>
<td>10</td>
<td>40</td>
<td>52</td>
<td>30</td>
</tr>
<tr>
<td>Number providing correct call number</td>
<td>9</td>
<td>35</td>
<td>43</td>
<td>21</td>
</tr>
<tr>
<td>Number providing incomplete call number</td>
<td>5</td>
<td>11</td>
<td>22</td>
<td>17</td>
</tr>
<tr>
<td>Number providing at least partially correct call number</td>
<td>14</td>
<td>46</td>
<td>65</td>
<td>38</td>
</tr>
</tbody>
</table>

* Where two percentages are provided for the raw number, the first includes the blank responses and the second excludes the blank responses from the calculation.
who attempted an answer, all appeared to be making an educated guess about where they might be able to locate the full text based on what they had learned during their large-section lecture on periodicals. Guesses included but were not limited to the online catalog, Lexis, Westlaw, the Index to Legal Periodicals, Legal-Trac, and the law library website. Some students listed a single potential source while others listed several.

¶47 The raw numbers broken down by group are provided in table 6.

**Journal Finder Post-test Results**

¶48 Of the 51 students to whom the post-test was distributed, 2 (3.9%) could not participate because they did not have a laptop with them. One (2.0%) did not attempt an answer. Of the 48 students who provided an answer to the question, only 1 (2.1%) provided a complete and correct answer and 5 (10.4%) provided a correct but incomplete answer.

¶49 The raw numbers broken down by group are provided in table 7.

**Journal Finder Conclusions**

¶50 The students did not identify the journal finder as the appropriate tool for the test question or successfully use it before the instruction. Moreover, almost no students successfully used it after the instruction either. Although the instruction may have been necessary, it was almost completely unsuccessful in achieving the assessed learning objective.

¶51 As noted, because so few students were able to correctly use the journal finder to locate the appropriate information during the post-test conducted immediately following the instruction session, the librarians did not conduct follow-up testing on that concept in the spring. Retention could not be adequately assessed because the data indicated that the instruction session was not successful.

**Implications**

¶52 This experience suggests that even an extremely simple pretest/post-test performance assessment can successfully provide data to assess student learning and improve instruction. The Drake librarians were able to implement changes based on the results of this study. The testing process confirmed that there is a need for online catalog instruction and that the instruction provided successfully enhanced the skill level of a majority of the students. Therefore, that session was retained for the 2014–2015 year. However, the instruction session was tweaked to emphasize how to determine the collection location of an item based on the information provided in a catalog record and the importance of having a complete call number when attempting to locate a book on the shelf.

¶53 Although the results of the journal finder session were not what had been desired, they also informed plans for the subsequent academic year. The simple

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36. Swoger calls this “the last part of the assessment cycle—using the results to make improvements.” Bonnie J. M. Swoger, Closing the Assessment Loop Using Pre- and Post-Assessment, 39 Reference Services Rev. 244, 245 (2011).
### Table 5
Comparing Control and Experimental Spring Online Catalog Results*

<table>
<thead>
<tr>
<th></th>
<th>Spring Testing Results: Control Section</th>
<th>Spring Testing Results: Experimental Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of students</td>
<td>48</td>
<td>58</td>
</tr>
<tr>
<td>Number without laptops (excluded from calculations)</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Number of blank responses</td>
<td>16 (33.3%)</td>
<td>16 (27.6%)</td>
</tr>
<tr>
<td>Number providing correct location</td>
<td>22 (50.0–78.6%)</td>
<td>30 (53.6–75.0%)</td>
</tr>
<tr>
<td>Number providing correct call number</td>
<td>22 (50.0–78.6%)</td>
<td>21 (37.5–52.5%)</td>
</tr>
<tr>
<td>Number providing incomplete call number</td>
<td>5 (11.4–17.9%)</td>
<td>17 (30.4–42.5%)</td>
</tr>
<tr>
<td>Number providing at least partially correct call number</td>
<td>27 (61.4–96.4%)</td>
<td>38 (67.9–95.0%)</td>
</tr>
</tbody>
</table>

* Where two percentages are provided for the raw number, the first includes the blank responses and the second excludes blanks from the calculation.

### Table 6
Fall Journal Finder Pre-Test Results

<table>
<thead>
<tr>
<th></th>
<th>Group 1</th>
<th>Group 2</th>
<th>Group 3</th>
<th>Total of all groups</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of students</td>
<td>19</td>
<td>17</td>
<td>15</td>
<td>51</td>
</tr>
<tr>
<td>Number without laptops</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Number of blank responses</td>
<td>3</td>
<td>3</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>Number who attempted an answer</td>
<td>14</td>
<td>14</td>
<td>15</td>
<td>43</td>
</tr>
<tr>
<td>Number providing a correct answer</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Number providing an incomplete answer</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

### Table 7
Fall Journal Finder Post-Test Results

<table>
<thead>
<tr>
<th></th>
<th>Group 1</th>
<th>Group 2</th>
<th>Group 3</th>
<th>Total of all groups</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of students</td>
<td>19</td>
<td>17</td>
<td>15</td>
<td>51</td>
</tr>
<tr>
<td>Number without laptops</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Number of blank responses</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Number who attempted an answer</td>
<td>16</td>
<td>17</td>
<td>15</td>
<td>48</td>
</tr>
<tr>
<td>Number providing a correct answer</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Number providing an incomplete answer</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>5</td>
</tr>
</tbody>
</table>
Instrument makes it difficult to draw definitive conclusions about why the students performed so poorly on both the journal finder pretest and post-test question. The test is simply designed to provide results, not explain them. Instead, in the absence of gathering additional data through another method, such as a follow-up focus group, the researchers must rely on informed conjecture in drawing possible conclusions. In assessing the possibilities, two emerged that led to the elimination of this session for the 2014–2015 year.

¶54 First, the session had too many objectives and too much overlap with the large-group lecture. Not only was the journal finder obscured by the other sources discussed, but the small-group instruction likely seemed to repeat, rather than enhance, the large-group lecture. In the online catalog pretest, only 25.9% of students with laptops even attempted an answer, suggesting that students recognized a gap in their knowledge. In contrast, in the journal finder pretest, 87.8% of students with a laptop submitted an answer, suggesting they did not recognize a gap in their knowledge; they thought they knew how to locate the information. Many of these responses remained unchanged on the post-test. In part, this may be because students were not given feedback on their pretest answers to learn that they were wrong. This might suggest that the small-group lecture should be limited to the periodicals tool students tend to forget: the journal finder. However, a second important distinction between the catalog and journal finder instruction must be considered. Unlike the catalog, students did not have an immediate need to use the journal finder for an upcoming class assignment. Although the journal finder could be used for the student’s next assignment, it was not necessary.

¶55 Each of these considerations relates to the importance of trying to coordinate one-shot instruction with the class instructor, grounding the session as much as possible within the context of the course. A session that overlaps too much with prior instruction may be perceived as superfluous. Moreover, when students have no immediate need for the information presented, it is more challenging to command their attention. Both factors may discourage student engagement and learning.

¶56 Instrument error offers another possible explanation of the journal finder test results. The journal finder question appears to have been too broad and vague. The question was written this way to avoid being leading, but it is likely students were not entirely clear what they were being asked to do, rendering the assessment flawed. Although the test questions were developed with input from all three participating librarians, they were not tested before distributing them to the class. This mistake might have been solved by better following the principles of evidence-based librarianship, which assert that researchers not only formulate one or more focused, answerable questions, as was done in this study, but also use those questions to locate and evaluate evidence of best practices from the library literature to guide library practice. A more thorough investigation of the literature on pretest/

37. The tendency to try to cover too much material is not uncommon. As Keyser notes, “Librarians and the teachers they work with are often too ambitious about how much can be taught in a particular session.” Marcia W. Keyser, Active Learning and Cooperative Learning: Understanding the Difference and Using Both Styles Effectively, 17 Res. Strategies 35, 38 (2000).

post-test design would have led to the long-standing advice to test and revise questions. If another round of testing is conducted at Drake, the test question will first be assessed by asking several people uninvolved in the design, preferably students, to take the test or explain what they believe the question means.

This case study suggests that even a brief pretest/post-test can provide valuable assessment data. This is good news for librarians responding to increased calls for accountability, because this method can be implemented with relatively few resources (in terms of overall time, class time, and money). However, effectively designing such an assessment can be deceptively complex. The instrument should be tested before it is used. Moreover, the simpler the test, the more difficult it may be to interpret the results. Particularly if the data do not show learning, a significant limitation of a simple pretest/post-test is the inability to precisely determine the cause of the failing, whether it was in assessment design, instructional design, or a combination of the two.

**Conclusion**

The current legal education landscape calls not only for increased accountability but also for doing more with less. Although imperfect, these pretest/post-test performance assessments provided valuable data to improve instruction. In particular, consider that in the absence of this data, the journal session would have likely continued in largely the same form, squandering precious librarian and student time. The authors strongly encourage other librarians offering one-shot instruction to assess those sessions. If the pretest/post-test instrument does not seem the right fit, explore one of the many other quick but effective methods described by Buchanan and McDonough or Broussard, Hickoff-Cresko, and Oberlin. Finally, please consider publishing your results to expand the law librarianship evidence base and allow others to learn from your experience.

40. Buchanan & McDonough, supra note 18, at 87–98.
Appendix

Test Distribution Script

Pretest Script (also used for the follow-up testing in the spring)

I am going to pass out a slip of paper to each of you. Please do not turn it over and begin working until I tell you to. Please do NOT put your name on the slip. Working alone, take two minutes to answer the question. If you do not know the answer, you can leave it blank. I’ll collect them at the end of the two minutes.

Post-test Script

I am going to pass out another slip of paper to each of you. Please do not turn it over and begin working until I tell you to. Again, please do NOT put your name on the slip. Still working alone, take two minutes to answer the question. If you do not know the answer, you can leave it blank. I’ll collect them at the end of the two minutes. The data from these slips will help assess today’s presentation.

Test Questions

Online Catalog

What is the location and call number for the 3rd edition of Tribe’s *American Constitutional Law*?

Journal Finder

List all the places you can access the full text of this article: Gloria S. Neuwirth, *Living Wills and Health Care Proxies*, 64 New York State Bar Journal 24 (1992).
“Nowhere to Run; Nowhere to Hide”: The Reality of Being a Law Library Director in Times of Great Opportunity and Significant Challenges*

Pauline Aranas,** Steven M. Barkan,*** Barbara Bintliff,**** Darin K. Fox,† Penny A. Hazelton,‖Joan S. Howland,‖‖ Spencer L. Simons,‡ Keith Ann Stiverson,‡‡ and Michelle Wu‡‡‡

This is an edited version of remarks presented at “‘Nowhere to Run, Nowhere to Hide’: The Reality of Being a Law Library Director in Times of Great Opportunity and Significant Challenges,” January 5, 2015, at the Association of American Law Schools Annual Meeting, Washington, D.C. The remarks were edited by Spencer L. Simons, Penny A. Hazelton, and Joan S. Howland. The workshop was sponsored by the AALS Committee on Libraries and Technology.

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** Associate Dean, John Stauffer Charitable Trust Chief Information Officer, Director of the Law Library and Adjunct Professor of Law, University of Southern California Gould School of Law, Los Angeles, California.
*** Voss-Bascom Professor of Law and Director of the Law Library, University of Wisconsin Law School, Madison, Wisconsin.
**** Joseph C. Hutcheson Professor in Law and Director, Tarlton Law Library and Jamail Center for Legal Research, University of Texas School of Law, Austin, Texas.
† Director of the Law Library and Professor of Law, University of Oklahoma College of Law, Norman, Oklahoma.
‖ Associate Dean for Library and Technology Services and Professor of Law, University of Washington School of Law, Seattle, Washington.
‖‖ Roger F. Noreen Professor of Law and Associate Dean for Information and Technology, University of Minnesota Law School, Minneapolis, Minnesota.
‡ Director, O’Quinn Law Library and Associate Professor of Law, University of Houston Law Center, Houston, Texas.
‡‡ Director of the Chicago-Kent College of Law Library and Senior Lecturer, IIT Chicago-Kent College of Law, Chicago, Illinois.
‡‡‡ Law Library Director and Professor of Law, Georgetown University Law Center, Washington, D.C.
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Introduction

Spencer L. Simons

¶1 This article originated in discussions between Penny Hazelton and Joan Howland regarding the need to support newer directors at a time when so many first-time directors are filling directorships and the challenges facing all directors are greater than ever. The initial idea for a workshop for newer directors was further developed during discussions about adopting the workshop as the 2014 annual program of the AALS Committee on Libraries and Technology. Scheduling conflicts at AALS required pushing the program back a year. Under the leadership of Spencer Simons, the workshop for newer directors was planned for January 5, 2015, at the AALS Annual Meeting in Washington, D.C.

¶2 As the workshop organizers further refined the content, they decided to emphasize not only the traditional challenges and rewards of becoming a director but also emerging issues in legal education, such as the need to increase a director’s value and perceived value to the law school and, particularly, the dean. If the headings to the sections seem edgy, consider them frank appraisals of the current status of legal education and the unprecedented challenges and expectations these changes hold for the newer director.

¶3 In the first session, the context for the workshop was set by Penny Hazelton’s discussion of the emerging issues faced by law library directors. The subsequent presentation and panel discussion focused on ways in which directors can provide greater service to the dean and law school, and on how law library directors and deans can best work together. The afternoon sessions addressed the ever-present question of how to find balance in meeting all the obligations of a director, the forms of status for a director, and the responsibilities of a director to participate in the intellectual life of the law school, to understand and respond to trends in legal education, and to facilitate the law school’s adaptation to a rapidly changing legal environment.

¶4 A striking aspect of the workshop was the number of “not new” directors in the large workshop attendance. In his introductory remarks, Spencer Simons noted that, in a sense, all directors are “newer directors” in this rapidly changing world of legal education.

¶5 After the workshop, the organizers realized how robust the discussions had been and decided this important content should be preserved and disseminated in Law Library Journal.
Keynote Addresses

[Note: Professor Michael A. Olivas delivered remarks. He regrets that time pressures prevented him from providing written remarks for this article.]

Now That You Are a Director There Is No Place to Run, No Place to Hide

Barbara Bintliff

For many of us, being the director of an academic law library is a major career goal, if not the career goal, that we set many years ago when we decided to become law librarians. And now you have, or almost have, achieved that goal. Congratulations! A whole new phase of your career—a directorship—is before you!

I was asked to cover the positives and challenges of being a director. The positives are mostly easily identified. After all, as director, you are the boss. You set the tone, you call the shots, you make the rules. You get to guide the development of the library in a way that can reflect yourself, your values, and your opinions. You can hone management and administrative skills. You can often decide your own hours and choose your own projects. You have new opportunities to write, teach, speak, and be involved professionally. You have enhanced status and prestige, and more visibility around the law school and on campus than in previous positions. You’ll hobnob with deans, faculty, and important alumni. There is potential for tremendous job satisfaction and personal achievement. What fun! Why would you ever run or hide from this?!

Yet still, you may feel a little uneasy. You are concerned that nothing in your background has prepared you for this job, even though you have been steadily rising through the ranks in law libraries for some years. You realize that the library is a more complex organization than you experienced previously, and you are intensely aware that you are now responsible for almost everything that occurs. On top of that, you have a layer of law school, and maybe even university, responsibilities that feel new and a bit foreign. And then there are the rapid changes in the world of legal education, coupled with the significant modifications to the ABA standards for accreditation. The economy is fragile, if recovering, but still affecting the law school’s budget. You know all of this can, and probably will, affect the library. You are keenly aware that there may be some tough decisions—regarding personnel, budgets, or space—looming on the horizon. Suddenly, you feel like you are standing alone, very exposed. You may well want to run or hide.

Positives and challenges abound in a law library directorship. There are too many of each to list, and, to a great extent, they will vary from person to person. However, the biggest positives and challenges can be summed up in one word: people. As a law library director, your life revolves around people—staff, students, faculty, the dean, other administrators, donors, and patrons. You hire, supervise, pay, motivate, evaluate, and otherwise manage people. You communicate and network with people. You provide information resources and plan services and programs for people. You negotiate budgets, licenses, purchases, and physical space...
with people. You operate in the context and environment of an academic law library but, except for the real—and rare—emergencies like natural disasters, almost everything that happens in the director’s day revolves around people. And it all happens while you, as director, are trying to manage your own performance and expectations.

¶10 Because every director’s job is different, I am going to highlight several challenging situations that are often encountered by directors who are new to their positions. I am focusing on the director’s relationship with the library staff because that is the primary source of challenges; the day-to-day interactions offer endless possibilities. I hope that, by being able to anticipate them and plan a response, you can turn these situations into positives instead of feeling the need to escape.

¶11 Your first few days on the job will likely be a blur. You will have university orientation, benefits information sessions, and maybe a faculty orientation meeting. But it’s likely that no one will give you any real information about what is expected of you as director of the law library. The dean doesn’t want to have to think about the library because he or she has other things to worry about. Your staff isn’t going to tell you what to do. You will probably walk into your new office and find an empty desk and not much waiting for you to do. Until you sort out what you will be doing, it is important to have something to work on. I suggest you have a project of some sort—an article or a syllabus or a professional association report, for example. You don’t want to look lost and be wandering around the library offices!

¶12 “The place seems to be running, so where,” you think, “do I fit in?” Your staff is asking a version of the same question: “What will the new director do?” Part of your job will be to create your job—a challenge if there ever was one, but also a tremendous opportunity! You need to ask yourself what should, and what do you want, your specific responsibilities to be? Does it—or should it—matter what the last director did? Certainly you are expected to run the library, but how does that translate into specific functions? It may be helpful to talk it over with your mentor or other new directors before making your decision, and it’s useful to remember that your job will change many times over the years.

¶13 As you settle on specific job responsibilities and functions, remember that your entire staff depends on you to allocate resources, set priorities, delegate responsibilities, follow up on activities, and, basically, do your job in a timely manner. Your decisions provide the oil for the library to run like a well-oiled machine. Your carefully planned day will almost inevitably be interrupted by questions and concerns from staff members, and you will be faced with numerous, competing demands on your time. You have to make sure the library’s work continues to flow, so time management is an essential skill. As you structure your personal functions, be careful not to overwhelm yourself with too many duties at one time. You need to learn how to read a new institution’s budget reports, decipher its personnel rules and procedures, navigate a new physical facility, and acquire countless other bits of knowledge. Remember that you can phase in additional duties as you become comfortable with the first array you assume.

¶14 In all likelihood, especially if the director’s job was vacant or occupied on an interim basis, other people will have been doing parts of what you have been
informed or have decided is now “your” job. Consider how you will inform those people who are currently performing those functions that you are changing their job responsibilities. What will they think about giving those responsibilities to you? Will they gladly turn over the records, or will they resent you taking “their” job? How will you deal with the transition and how will you learn the specifics? Is the person performing those functions an unsuccessful, and maybe unhappy, internal candidate? How you handle this transition can set the tone for your relationships with a lot of people with whom you may have to work for many years; bring your best people skills. And, however you choose to structure your personal duties, be sure to thank the people who have been doing what will now be your job.

¶15 Building a staff and motivating your employees are tremendous challenges, but they can also be the most satisfying parts of your job. To begin with, you need to understand how the library’s work flows and how job responsibilities are allocated. It is almost guaranteed that there will be different processes at your new library than were at your previous one. One challenge will be to avoid making big decisions immediately, barring a problem that must be resolved right away. You will need to accept that many procedures and activities that appear to you to be in need of change have developed over the years for logical reasons, and the wiser course is to try to understand why this is before making changes. Your new staff will feel that you are marginalizing and criticizing them if you immediately start changing everything, but if you have patience and listen to their explanations (including the most hated explanation ever, “we’ve always done it this way”), you are giving them the respect and attention they want from their new boss. Spend the first few weeks and months listening and asking questions; you will learn many things, and your staff will feel that you are interested in understanding them and their work instead of just criticizing their jobs.

¶16 You also need to learn how your staff interacts. What is the informal library hierarchy? Who are the opinion leaders? Who does everybody like and respect? Who are the gossips? Who are the go-getters? Do you have a poison personality in the group? You can know with certainty that the staff members talk to each other about more than work; the grapevine in your library is alive and flourishing. And you are not part of the grapevine, at least not as it relates to your staff’s favorite topics: the library’s personalities, especially you.

¶17 Understanding your staff’s informal structure is important. It can give you insight into what issues concern the staff, who you can trust, and who needs more work to do. It can point out issues for which better communication is needed. It may provide you with advance notice of a personnel change. You cannot kill the grapevine. You should think twice before trying to manipulate it, because it’s easy for your staff to figure out that they are being fed information “from the top.” That kind of manipulation will not soon be forgiven or forgotten. But if you spend time walking around the staff offices and forging personal relationships with staff members, you can use the grapevine to your advantage; you will hear about matters of concern relatively quickly and, hopefully, in time to avert morale (or other) problems by openly communicating the “correct” information or more privately addressing individual problems.
¶18 You should outline your basic expectations to your staff early in your directorship. These are matters that you think are important for everyone to know and follow, and might include statements regarding civility and respect in the workplace, everyone’s responsibility for open and complete communications, appearance/dress code requirements, an understanding that change will occur but will be undertaken as fairly as possible, and so on. Your expectations should be broad principles, not rules, and offer an explanation of how staff members should perform. An open meeting works better than written memos because staff members have an opportunity to see your delivery of the information and clarify your comments. Confusion should be minimized when they all hear the information at the same time, and you can observe how they react. (Individual evaluative criteria also need to be set, but not in an open meeting.) Written memos with specifics should follow. There is always the possibility that your new institution’s personnel rules will govern in some areas; you should consider a discussion with the law school’s human resources contact before having this meeting. It is challenging to deliver this information without sounding like a dictator, and you might want to practice before the meeting to find a professional but friendly way to word your comments. Give your staff some context for what you are requesting of them. Your staff needs this information. It’s only fair for them to have it, and by setting the tone at the beginning of your directorship, people will know where you stand and can behave accordingly. Clear expectations help you and your staff understand each other.

¶19 Just as you expressed your expectations to your staff, so, too, should you clarify your dean’s expectations of you. Forging a working relationship with your dean is critical to your, and your library’s, success; without decanal support, everything you try to do will be difficult. Deans sometimes don’t have the best management skills and may not have engaged in a similar process with other law school administrators. However, you need to know what, exactly, your dean wants of you and how he or she will evaluate your success. It may smooth this conversation for you to “manage” your dean by bringing a list of possible expectations and evaluative criteria. Any kind of agreement you reach on expectations and, possibly, evaluative criteria, will help you give your best performance.

¶20 One overriding challenge in law librarianship is that the time is long past when the library was a fiefdom unto itself and when no one dared question a strong library director. The library is now unquestionably part of the law school, and we as directors have to learn to work with the dean and other administrators. If your expectations were that you would be completely and utterly in charge, you will have to change them; you are now a middle manager in the law school’s eyes. Learn to choose your battles. You cannot operate in a constant adversarial state, you will not win every battle you fight, and you have to prioritize your library’s needs. But a fuller integration into the law school can give you better knowledge of the larger enterprise and help you keep the library relevant by creating new and more tailored services and programs. The excitement of interacting with a group of other administrators, and working together in the best interests of the law school, turns the challenge of the move away from complete library autonomy into a positive development.
These are just a few of the challenges faced by almost all new directors. You will face others. As director, you have a tremendous amount of responsibility but an equal amount of opportunity. You will be able to guide your own career in a new way and develop professionally in many directions. To conclude, I offer three pieces of advice to help you meet the specific challenges that you will encounter and turn them into positive developments:

1. Have a trusted friend or mentor outside your institution, or multiple mentors for different perspectives. The law library director’s position in a law school is unique and often isolating—at the same time faculty, staff, and administrator—and having someone knowledgeable with whom to discuss your ideas and concerns is invaluable.

2. Be proactive. Think ahead and prepare for what may be happening. What is on the law school’s or university’s calendar that might affect the library’s operations or its personnel? How might you position the library to take advantage of changes in leadership, for example? How should you anticipate the needs of a new first-year class of students? You want to have thought about as many possible scenarios as you can and have a plan for maximizing the library’s participation.

3. Learn how to apologize. You will make mistakes. Apologizing and accepting responsibility, offering solutions, and learning how to move on are signs of a mature administrator.

You have reached your career goal, and, by now, you know that facing challenges, even the hardest ones, can help you grow and mature. Frequently the same challenge also can offer the chance of growth for your staff. Even though running and hiding might seem the easier way to deal with difficult situations, it is a short-term solution. Turning that challenge into a positive is far preferable.

**Nowhere to Hide: Emerging Issues for Directors**

**Penny A. Hazelton**

We all know the tremendous external pressures of the environment in which we work:

- Competition in legal education—for students, prestige/status, faculty, private funds, legal jobs
- Changes in legal practice—consolidation, outsourcing work, fewer high-paying jobs
- Huge unmet need in serving people who cannot afford a lawyer¹
- Cost of legal education and debt burden of law students

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¹ Washington State is the first to create another kind of legal practitioner—the Limited License Legal Technician. See this research guide linking to the Supreme Court order and other important documentation: *Washington Limited License Legal Technician (LLLT) Research Guide* (Mar. 20, 2015), https://lib.law.washington.edu/content/guides/llltguide.
Within the law library, questions about our very soul are on our minds. What is a law library today—space, collections, services, something else? Maybe more important, what does it need to be tomorrow? These internal issues arise on a daily basis for academic law library directors:

- Traditional law library autonomy is being questioned because of pressures to economize and do more with less
- New ABA standards about assessment and outcomes need our input
- Rethinking the status of the law library director
- The future of print collections
- Integration of the law library into the fabric of the law school
- Repurposing of library space
- Limited resources and staff
- Preservation of legal materials and gray literature

It is like a giant jigsaw puzzle. The pieces are on the table, and we have turned most of the pieces right-side up. We have been looking for the border pieces. We know the rest of the pieces will be easy to put together if we can just build the border first. But none of the pieces look like border pieces! We can’t even tell if those pieces were ever in the box!

Even if we can put together the library pieces, how will they attach to other elements of the puzzle? Where will they go in the puzzle? In the center? At the edge? Which of the library pieces even belong in this puzzle?

To make better sense of the puzzle pieces we do have and can recognize, and to help us create some of the edge or border pieces we need, there are two tasks you should do for you, your law library, and your law school.

First, add to the preceding list of external pressures and communicate it concretely to your library staff. Use data and visual graphics to enhance your messages. While most library staff probably realize that law libraries are undergoing very rapid changes, they may feel that they can ignore what is going on with student loan debt and a tight job market for lawyers as irrelevant to the library and to them personally. But as we see every day, these forces are driving important, impactful decisions in law schools and are completely relevant to every law school employee.³ Every law library staff member needs to understand the significant changes that are taking place in the practice of law and in legal education today. How these changes are handled and managed today will define legal education in the future. And they will define our law libraries.

A second task every law library should undertake is a SWOT analysis.⁴ Take a hard look at your strengths and weaknesses, and identify the opportunities and threats posed by that analysis. I invite you today to begin making your lists. I chal-

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lenge you to use your strengths to take advantage of the opportunities in order to create new models of legal education and new visions and roles for the law libraries of the future.

¶30 As I have watched us all try to fit the pieces into this puzzle without borders, I would like to make two general observations.

¶31 First, everything and everyone is set back to zero. By that I mean knowing how to do our jobs well today and in the past is not a sign of success for tomorrow. The assumptions of the past make no guarantee about success in the future. My favorite futurist, Joel Barker, makes this point very concretely in his DVD, The Business of Paradigms. He claims that paradigms, the rules and regulations we use to decide how to do our best work and make good decisions, may actually blind us to innovation and change.

¶32 One of the challenging questions he asks is, “What, if you could do it today, would fundamentally change your business?” There is no doubt that digital texts have utterly changed the world of libraries forever. So the question today is, how do we as librarians adapt and change our ways of thinking within this new paradigm? Similarly, the old paradigm of legal education—expensive, elite, students not practice-ready or able to pass the bar, emphasis on scholarship not skills, light teaching load for faculty, few clinics—cannot continue in light of current developments. How does it need to change?

¶33 This notion of going back to zero—that we are all starting at the beginning—was brought home to me recently in my own law library. We joined a consortium of thirty-eight academic libraries in three states to find a new integrated library system that we hoped would increase efficiencies on the library side, reduce our individual library costs, and make collaboration easier with improved customer service for our users.

¶34 The system selected was new to everyone in the consortium—and, to say the least, it was not really “ready for prime time.” For example, the new system seemed to think libraries had only electronic resources. Print serials? Why would we need to keep track of them? On one subscription you receive replacement volumes and pocket parts and other materials. There is certainly no need to keep track of them, is there? The result was a software program that was constantly being tweaked and changed on a weekly, if not daily, basis over the course of eighteen months!

¶35 What did this constant state of change mean for the library staff implementing the new system? Training sessions were virtually worthless because the process for doing a discrete task inevitably changed a few days after the training. Documentation about how to do a particular task was similarly worthless because those steps would not work the next month.

¶36 Not surprisingly, staff morale was very low. At first I thought this was just because they didn’t want to learn a new system. The library staff just didn’t want to change. When I looked harder at this question though, the answer was more complex. Library staff wanted to continue to do their work in an outstanding manner.

They were willing to learn new procedures and processes. So what was the problem?

¶37 First, staff could not do their jobs, sometimes not at all. Want a list of our new acquisitions? The system can’t do that yet. Need to know what you paid for volumes of the Washington Reports, 2d last year? Sorry, that data is in the record, but the system does not know how to retrieve it. Second, the way they did the work they could do changed all the time. Third, there did not seem to be an end to the constant change in the ILS. Something would get fixed or improved and something else would break. Whether staff were working with the behind-the-scenes software (Alma) or the public catalog and discovery platform (Primo), the problems were constant.

¶38 These issues still plague us today. While some of the kinks have been worked out, the bottom line is that this software will never be complete or done. In fact, all software will always be changing—that is its nature, after all.

¶39 But here is the lesson: rote processes using computer systems are out. Experimentation, testing, and retesting are in—and not just for the software developers. No longer will a library staff person be able to do a repetitive task using the same steps every time. As the system changes, the steps will change as well. When this happens, library staff will need to be able to “look around” the system and discover another way of doing the task.

¶40 Does this sound efficient? No. This way of working puts the burden of development and use of software squarely on the user of the system. But this way of working is here to stay. And it has important implications for the skills library workers need to have now and in the future.

¶41 Many of us did not like WestlawNext when it was introduced. It has taken several years for WestlawNext to come of age and for us as librarians to learn to how to use it effectively—and how to teach others to use it! A constant stream of new systems awaits us: Lexis Advance, Casetext, and Ravel, to name a few. The skills that make the best reference librarians are needed by all library workers.

¶42 Successful library workers will all need to have these qualities:

• The curiosity bug
• Problem-solving skills—the willingness to figure it out themselves
• The patience to try and fail and try again
• The desire to continue learning many new things every day

¶43 If all library staff have been set back to zero (or will be), how can we as managers help them be successful in this new environment? First, be sure they understand that this state of affairs is not just temporary. Second, give them a chance to grieve the passing of a different time, the old way of getting their jobs done. And then, inspire them to help put the library pieces back into the puzzle by creating entirely new puzzle pieces and contributing to the border that needs to be built.

¶44 The second of my general observations is not to forget our users’ needs as we try to adopt technological solutions to increase our efficiency and productivity. Sometimes in our effort to be efficient, our new policies or procedures do not serve our users. A recent situation at my institution serves to make my point.
As part of the collaboration with our three-state alliance, we were required to merge our catalog with the catalog of our university library. Several months of preparation by our wonderful transition team highlighted the many policy decisions we would need to review as we worked to integrate our records and our practices with the main campus system. Both libraries were coming from Innovative systems, but since we had gone our separate ways in implementing Innovative twenty years ago, our practices and policies needed to be reconciled before we could move to join the new Alliance integrated system.

Law librarians serving on various committees with the university libraries accomplished the review and decision-making required to move ahead. In one particular area—circulation—we had a strong policy conflict with the university libraries. They serve tens of thousands of users; we serve about 1000 who mostly “live” in the law school building. They fine for overdue books, and if the books are not returned or renewed, the patron is charged for replacement costs at $150 per volume and a nonrefundable fee of $30.

In the law library, we had never fined our users for overdue law library books. In addition, we automatically renewed books held by law faculty and required that the books be returned only when someone else wanted to borrow them. The result is that many law faculty had books that had probably been checked out with our ancient paper system!

Our policies and the policies of the university library collided. We were able to get the university library to program the software to continue our practice of no fines for overdue law library books. But we were not able to eliminate the requirement of return or renewal, which triggered the replacement invoice and surcharge for being billed. We told faculty and staff to ignore the first e-mails from the university library sent by “the system” listing what they had checked out. The system was not operating correctly in most cases. But when the first law faculty member got a bill for $18,000 for replacement copies of books, the situation spiraled out of control. Over a period of six months, we worked with law faculty to resolve their individual situations. We tried amnesty. We tried helping faculty look for books. If the faculty member claimed the book had been returned but we could not find it in the collection, we “returned” it ourselves. All the while, the invoices were piling up, and some were sent to collection agencies or the faculty member was prohibited by “the system” from checking out other books.

It was a disaster. The university library was incredulous that we had been so lenient. We were incredulous that “the system” could not take into account our particular situation and policy choices. Faculty did not want to have to watch for the renewal notices that came to their e-mail from a university library office they had never heard of. Many of our most prolific users said they would quit using our print collections altogether—not the reaction you want to have! The situation kept escalating until the law school’s elected faculty executive council was asked to review law library policy with the dean.

Bottom line is that instead of the efficiencies we had hoped to gain by joining the Alliance, we have created time-consuming workarounds to handle circulation for faculty. The staff are not working more efficiently as we had hoped. And the
law library’s reputation as a user-friendly organization has been tarnished among people who were the library’s best supporters.

¶51 Perhaps we should have seen this coming. We could have handled it differently (we certainly wish we had!). Hindsight is always a useful tool. But the main message here is just a reminder that as much as we may wish (or have) to be more productive and efficient, changes in policy may be hard to implement if they directly conflict with the culture and values of an organization. And an argument that it takes too much library staff time to work around “the system” (especially if it puts the burden on faculty and staff) will be unlikely to prevail.

¶52 Have fun finding the border pieces to your puzzle!

¶53 By the way, law schools are trying to put their puzzles together, too. Building the border pieces or edges of the legal education models of the future is a daunting yet exciting prospect. You have a lot to contribute.

Making Your Dean an Offer She Cannot Refuse

Spencer L. Simons

¶54 A major theme of this workshop is the increasing challenges for law libraries in a time of great change in legal education. The theme of this part is the opportunities we can make for ourselves.

¶55 The focus of the academic law library has long been, and will continue to be, advancing the law school’s mission through service to faculty and students. All of us here today have been “upping our game” as we have recognized that the future of the law library depends on providing more and better service. Still, the questions persist as to whether law libraries are providing value commensurate with the resources they absorb. The answer increasingly is yes, we are providing good value. The question remaining is how do we make that evident to the allocator of resources, our dean?

¶56 Deans have largely evaluated the director and the library based on their perceptions of how well we serve the faculty and students. Now, the demands on the dean have increased greatly. Many schools are struggling, and almost all have fewer resources. Deans are expected to supply solutions, and the performance of many is measured by onerous formal metrics. More than ever, a dean will ask what value the library provides. My thesis is that we can best demonstrate our value by directly helping the dean in her efforts to find solutions.

¶57 How can we help the dean? We can leverage our existing competencies. We are researchers and analysts. We are networkers and diplomats. We are organizers. We are team players.

Researchers and Analysts

¶58 Deans must be fundraisers, and a key part of fundraising is identifying and developing alumni donors. The library may already be searching daily for news items referring to the law school, including references to alumni. Officers in the development and publicity offices should be included in the distribution. The library also can research who is who in the local legal community and who is likely
to have the resources and inclination to be a substantial donor. Fund-raising also might include planning events and receptions. The library can help by gathering information, such as who are alumni in the area of the event or other potential invitees, such as judges, along with their backgrounds and contact information. In addition, such services can enhance teamwork by involving us more closely with other members of the dean’s team.

¶59 We can put our research skills to work in customized data-gathering projects. Examples include faculty salary comparison surveys, comparative faculty publication surveys, surveys of promotion paths and standards, and comparative curricular studies. We can also help in faculty recruitment by searching for potential candidates with highly specialized knowledge and skills. Another function many of us already perform is helping the dean evaluate faculty performance by regular publication and citation studies.

¶60 Many deans continue scholarly work while serving as dean. Often, they hire teaching assistants to help with their projects. We are better and more dependable researchers than are student TAs. Offer your library as the proper researcher, updater, cite checker, and “Blue Booker” for the dean’s publications. The dean also receives regular invitations for media appearances and topical discussions. Offer your library’s services to research issues, analyze data, and prepare executive summaries for the dean.

Networkers and Diplomats

¶61 As a director becomes more established within the law school and the parent institution, opportunities arise to help raise the profile of the law school within the institution and to gather information that may be useful to the dean. If you are eligible for the faculty senate, try to get appointed and then play an active role in its committees. Similar opportunities may exist for participation outside the faculty senate structure. As you become a known quantity, you may be asked to participate on campus advisory boards and search committees. Seize these opportunities and really work at them. If bylaws need drafting or revising, volunteer to be the drafter; you are probably the only lawyer in the group. Another opportunity to visibly contribute to the law school and its community is to offer public education programs, such as CLE’s or other programs targeted at recent graduates and alumni. A side benefit of all these efforts is establishing the law library as an integral part of the law school and developing the perception of the law library as providing value to the parent institution.

Organizers

¶62 I won’t say too much about this aspect, but we can contribute to the dean’s success by lending our expertise in organizing events and displays. Many of us already do this, and it is appreciated.

Team Players

¶63 I have already mentioned how news searches by the library can aid the development and publicity officers on the dean’s team. This is just one example of
how we can work with the dean’s team to leverage up their success and, thus, the dean’s success. Being a team also means advising the dean candidly and with full information in order to help her meet her goals for the school. Being a team player means accepting that not all the dean’s decisions will please you, but you must support and help implement them, once made.

¶64 In sum, we have many skills that can help the dean and the law school succeed. Tell the dean what you have done. Promote your services and urge the dean to use them. Carry through on any requests that result.

The Carry Through

¶65 A reality is that, as the dean’s direct report (usually) and liaison, you as the director will very likely do quite a bit of the work on dean’s projects yourself. Larger projects will, however, also require support from staff. To help smooth the way for additional work that will result from your promotional efforts, you must prepare and educate your staff. As Penny Hazelton emphasized, explain the current legal education environment and the implications for the dean and for the library. Explain why these new initiatives are essential to library success and even, perhaps, survival. Prepare your staff for the likelihood of increased task assignments.

¶66 Quite possibly, not all staff will understand, adjust, or cooperate. You will explain, you will confer with them, but ultimately you will make the decisions and assignments. In the end, you are the guarantor of results, even if you have to do the bulk of the work yourself.

¶67 What if there is resistance from other members of the dean’s team? This is quite possible. This is change and may not be welcome. Some team members may view any change as a turf intrusion. Others might resent any perceived expansion of the library’s presence, even if there is no tangible loss to them! How to respond? Keep close to the dean’s team. Remember to keep your friends close and your enemies closer, and that enemies often become allies. Offer to work with team members in ways that enhance them or make their lives easier. This may be a long-term project, even a matter of years. Work consistently and diplomatically to build trust. Your dean will appreciate it.

Providing Your Dean with Support and Counsel

Introduction and Questions to Panelists

Penny A. Hazelton, moderator

¶68 As we think about how to make your dean successful, I was reminded of Janis Johnston’s excellent article, *Managing the Boss*. Written in 1997 when she was the associate director at the University of Notre Dame Law Library, Janis outlines and discusses nine important tips. I repeat them here for those who have not read her excellent article:

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1. You must take responsibility for building an effective relationship with your dean
2. Learn your boss’s goals and objectives and develop ways to help your boss achieve them
3. Understand the pressures your boss is under
4. Evaluate your own behavior—do you help or hinder the boss’s goals?
5. Learn your boss’s preferred work habits
6. Know your boss’s strengths and weaknesses
7. Keep your boss informed
8. Manage the flow of information to your boss
9. Make your boss’s decision making easy

%69 Keep in mind that you are working with your boss to improve your performance as well as the performance of your boss. You are not working at this relationship to manipulate the dean or be controlling. These thoughts lead nicely into the questions I have today for our panel.

¶70 **Question 1:** Does being on the dean’s administrative team conflict with the role you occupy as the law library director? Please share some tips about how you balance being a team player in the law school administration and still advocate for the law library.

**Spencer L. Simons, panelist**

¶71 I see no conflict. Being a team player is a core function of the director. My view is that the role of the director, in relation to the dean, is to be an objective counselor, a frank adviser, and to provide facts, as a truth seeker in partnership with the dean. A core role of the dean is to allocate scarce resources to achieve institutional priorities. The director’s duty is to help the dean succeed.

¶72 Although the main focus of my remarks is on the dean/director relationship, I should note that the director also contributes to the success of the dean and law school by working effectively as a team player with the dean’s team.

¶73 Note that I have spoken of objective, frank advice, and facts, but not of “advocacy.” For reasons I will develop further, I would like to avoid the use of the term “advocacy.” Ultimately, the most effective advocacy comes from others, as a result of useful and visible service to the law school and the parent institution, service that contributes to the success of the dean in furthering law school and institutional goals. Enthusiastic praise from faculty, students, campus administrators, and other members of the dean’s team is the best advocacy for the library.

¶74 Allow me to put in context what I see as a shift in emphasis from the director as library advocate to truth-seeking counselor. Academia as a whole is evolving from being a world of largely autonomous and siloed individuals and units to a managerial world of command and control. The law school and its dean are fully subject to the trend, and so are law libraries. We can no longer afford to feel (semi-) autonomous or to be siloed. We are sharing the uncomfortable change felt throughout the academic world. In fact, current trends in the legal market have further exaggerated the magnitude of these changes.
¶75 The director is a participant in the administration of a very large institution. Consider the typical chain of command: (outside influences) > Chancellor > Provost > Dean > Director > Library staff. The chain of command largely determines the dean’s goals and the decisions he or she will make in rationing scarcity. The law library director, as a middle manager, answers to a boss, the dean, who is operating under severe mandates and performance metrics. The director best serves by helping the dean meet his or her goals. In this new world, if we do not help the dean succeed, we and our libraries will not be favored. If the dean perceives us as “advocating” for the library’s priorities, not the dean’s, we will hurt the library.

Joan S. Howland, panelist

¶76 Serving as a member of the dean’s team complements, rather than hinders, a library director’s role as an administrator within the larger institution. Being part of the administrative team provides the director with the opportunity to be “at the table” during critical institutional conversations and to actively participate in discussions about institutional issues that may have implications, whether positive or negative, for the law library. More important, as a member of the dean’s administrative team, the director will be able to communicate the needs and concerns of the law library while also having access to similar information about other units within the law school. This engagement and sharing of information is critical to a library director’s ability to serve as both an advocate for the library and as a skilled administrator who understands the “big picture” and is sensitive to broader institutional concerns.

¶77 Just as every good real estate agent chants the mantra “location, location, location,” every astute law library director constantly mentally repeats the words “relationships, relationships, relationships.” No law library director can stand in “splendid isolation” apart from the rest of the organization. To remain relevant and responsive to the evolving needs of the greater institution, a library director must continually nurture existing relationships and develop new ones with all law school administrative units, including student affairs, career counseling, LL.M. programs, finance, human resources, facilities management, and alumni affairs. In developing these relationships, a library director should look for ways to not just support other units, but to help them truly excel. For example, the library can provide individualized tours for admitted students with specific academic interests, conduct specialized training for LL.M. students from foreign jurisdictions, offer the library as a space for receptions, provide research assistance to the alumni office, and work with the student affairs office to sponsor special orientation events.

¶78 Obviously, the library director must work closely with the academic dean as an avenue to ensure that the law library can anticipate changes in faculty research patterns and respond to curricular developments. With the increasing emphasis throughout legal education on professional training, experiential learning, and program outcome assessment, the library director must maintain contact with all relevant faculty and administrators to determine natural “fits” for the library, especially in light of the legal research training skills and knowledge that members of the professional library staff possess. Another critical relationship that
needs continual fine tuning is that with student leaders. Reaching out to these individuals will not only assist a library in supporting the work of the student government and special interest groups, but also help to develop relationships that will prove invaluable when unanticipated issues arise, such as a budget crisis that causes a reduction in library hours.

¶79 Another symbiotic relationship to be cultivated is that between the law library and the law school’s office of communication and/or marketing. By actively soliciting research requests from this office, the library director can demonstrate the value of the library and gain a better understanding of the institution’s advancement initiatives. Through the fostering of this relationship, the library director might be able to ensure that the law school’s publications regularly highlight library developments or allow the library director or other members of the staff to provide articles.

¶80 During this time of economic constraints at almost every law school, the relationship between the library director and the law school’s chief financial officer merits particular attention. Rather than waiting to be asked to provide information, the library director should reach out to the CFO on a regular basis to educate him or her about how the library is managing its budget and to emphasize any factors, such as inflation, that are impacting library operations. Through frequent communication, the CFO should gain a better understanding of the evolving financial picture of the library and will probably develop a sense that the “library knows what it is doing.” These conversations also will educate the library director to the changing landscape of the law school’s, and perhaps the university’s, finances. Understanding these elements may help the director plan for potential decreases (or, in his or her dreams, increases).

¶81 Of course, the library director’s most important relationship is with the dean. The library director must position him- or herself and the library to support the dean in every way possible. Rather than cause problems, a primary aspect of the library director’s job is to keep problems off the dean’s desk and to fully support the dean in all of his or her initiatives. By staying in frequent contact (albeit being sensitive to the dean’s heavy responsibilities and time constraints), the library director can keep the dean apprised of what is going on in the library. Simultaneously, the library director can keep a pulse on the dean’s expectations and priorities for the library. One critical aspect of maintaining a positive relationship is to remember that, much like a library director, deans do not like surprises. It is crucial to always give the dean a “heads up” when any issues related to the library might be brought to her attention, whether it be an unhappy employee who has threatened a grievance, a faculty member who is upset because the library cannot check all the footnotes in a 500-page treatise, or an alum who is annoyed because the library cannot offer twenty-four hour access.

¶82 However, at the heart of this relationship is the truism that a dean should be able to expect complete loyalty and support from the law library director. Although a library director may disagree with a dean’s decision or even a dean’s general view of the value of law libraries in the twenty-first century, the library director must in public always voice full support of the dean and his or her vision of the institution to everyone, especially the library staff. For example, even if a
library director has articulated to a dean the reasons why not filling two library vacancies would have a serious negative impact on the library’s ability to fulfill its mission, once that decision has been made the library director must signal that he or she realizes the financial constraints that are facing the law school and the library’s job is to respond to any staffing cuts to the best of its abilities. Even if the library needs to cut services, the library director should never voice any criticism of the dean. If a library director cannot support the dean, he or she should look for another position.

Pauline Aranas, panelist

¶83 For a law library director, serving on a dean’s administrative team is a key and complementary role. It’s important to have a seat at the table and be an institutional or team player. It’s also an opportunity to build relationships among the senior administrators, to understand the school’s priorities, and to be fully integrated with the life of the law school.

¶84 As directors, we have multiple roles within the institution: library director, faculty member, and senior administrator. It’s vital to understand each role and to keep each role distinct and separate. The role of library director is that of an advocate and manager or leader; the role of faculty member is that of a teacher and colleague; the role of a senior administrator is that of a member of the dean’s senior staff team.

¶85 When one thinks of participating on a team, concepts such as collaboration, cooperation, communication, and support come to mind. As a member of the dean’s administrative team, the library director’s role is to offer honest guidance if the dean needs a sounding board for proposed programs or strategic planning; communicate information that impacts positively or negatively on the school’s operations or programs; cooperate and collaborate with colleagues to further law school goals and objectives; and support institutional initiatives, programs, and policies.

¶86 In Janis Johnston’s insightful article *Managing the Boss*, she notes that “managing the boss” means “taking responsibility for the boss’s performance and effectiveness.”

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She states that efforts to enhance the boss’s performance result in enhancing one’s own value to the boss and to the organization. Among the principles articulated in Janis’s article, I would highlight (7) keep your boss informed and (9) make decision making easy. Your dean needs to know any information that impacts the school either positively or negatively. No leader wants to get blindsided or appear out of touch. I echo Joan’s and Spencer’s points regarding decision making: if you report a problem to your dean, you need to also offer solutions. Directors gain respect and credibility if they are seen as problem solvers. As a member of the dean’s team, it is also important to exercise discretion and maintain confidentiality regarding sensitive or confidential matters.

¶87 Regular meetings either with the dean individually or with other senior administrators keep you informed regarding law school operations and programs, and present educational and advocacy opportunities. As an example, at my institu-
tion, each administrator distributes in advance of our deans’ group meeting a brief report that highlights departmental activities. I use these reports to highlight the library’s instructional, research, and collection services, and to illustrate the depth and range of our activities. Reading my colleagues’ reports helps me stay abreast of law school developments, particularly in areas such as admissions and career services.

§88 This team environment provides you with an opportunity to offer library services or expertise with a project, even if the project is not a traditional library one. Librarians have administrative and project management skills that can be leveraged to add value to the institution. Seizing such opportunities can lead to diversifying services. In this context, some library directors have assumed additional institutional responsibilities, either on an interim or a permanent basis. For example, several colleagues administer technology services for the entire law school; others are managing the school’s law reviews. I know of peers who, on an interim basis, oversaw other law school units, such as admissions, career services, and the budget office. In these situations, the dean needed an experienced administrator to keep these offices functioning until permanent hires came on board.

§89 As I mentioned, it is critical to keep distinct the multiple roles you have within the institution and understand what actions are appropriate given your role. For example, as a faculty member, you have a governance role and can make independent decisions regarding institutional policies. However, the role of a senior administrator differs. As Spencer advises, your role is to support your dean’s decisions whether you agree with the decision or not. Once the dean makes such a decision, then your role is to lead implementation, if required, and publicly and privately support the decision.

§90 I offer an example that illustrates this situation. I was involved with a law school building renovation and new addition project. The library was situated between the new classroom addition and the existing building. An issue arose about whether to add a second entrance to the library. The library’s main entrance is on the same floor as faculty offices, and some faculty proposed adding a second library entrance so that faculty could conveniently access classrooms in the new addition. Although I advocated for a single library entrance, the dean ultimately decided to add the second entrance. Once the decision was made, I wholeheartedly supported the decision. I assumed responsibility to oversee the implementation and develop policies that would balance the faculty and student access needs and the library security needs.

§91 Finding balance between being a team player and being an advocate is a challenge, especially in these economic times. Your knowledge of budget constraints due to decreased J.D. enrollment or the lack of general university support might cause you to refrain from asking the dean for library budget increases. I admit I tend to lean more toward being a team player than an advocate at times, but overall, I believe my efforts with teamwork have demonstrated and enhanced the value library services and staff offer to the law school.

§92 **Question 2:** Daily there are questions about whether law libraries are giving good value for the resources they require. What are some of the biggest challenges
new directors may face, and how can these challenges be turned into a win-win for the dean and the law library director?

Pauline Aranas, panelist

¶93 You need to consider how library services and priorities align with the law school’s mission, goals, and objectives. In this ever-changing environment, we all need to be flexible and nimble in defining our role to support our institutions. While what we do has not fundamentally changed—acquire, manage, and provide access to information—how we perform these services has dramatically changed, and technology is at the heart of this change. Our collections look vastly different now. We are all shifting from primarily print to primarily digital collections. We also are shifting from a simple materials acquisition system to a more complex one. Moreover, library facility design no longer focuses on housing and securing the physical collection, but rather on student spaces and library service areas.

¶94 Managing continuous change is a challenge for any institution. Effective communication, formal and informal, is key to managing this challenge. First and foremost, discuss the school’s and the library’s strategic vision and priorities with your staff, especially with your professional staff who have the frontline responsibilities to manage and adapt to change. Staff who have a good grasp of the “big” picture regarding legal education and its relationship or impact on the school can advance your strategic priorities. Engage and communicate with faculty regarding library policy decisions, especially resource decisions. Library directors and deans seek to support faculty research and scholarship. Direct engagement with faculty makes them informed users, and they can help you and the dean shape the library’s future.

¶95 Take note of the strategies and efforts engaged in by our law firm librarian colleagues to demonstrate their value to partners and clients. Over the last couple of decades, law firm librarians have had to migrate from paper to digital collections and have seen their library space shift from a spacious showcase library to a much smaller, less prominent footprint. In the not-too-distant future, most academic law libraries will more than likely look like private law firm libraries.

¶96 As I stated earlier, what we do hasn’t changed, nor do I believe it will change. But the “how” is ever changing and evolving, and this challenges us to be nimble, flexible, and adaptive.

Joan S. Howland, panelist

¶97 Perhaps the biggest challenge, as well as the biggest opportunity, for a law library director is identifying new ways the library can be relevant to the larger institution. As law schools try to distinguish themselves in an increasingly competitive environment to attract stellar students and faculty, the library must be nimble in determining how it can assist the law school in meeting these goals. The library director must continually do her “due diligence” by keeping in contact with all units throughout the institution, as well as following general trends in legal education, to determine how the library can respond to the law school’s changing needs. If a dean or others in the institution can see how the library is assisting in moving
the law school forward, the value and importance of the library will be clear. The library must be proactive, not reactive, in this role.

¶98 A library director should pay particular attention to those law school initiatives that are designed, at least to some degree, to generate income for the institution. For example, if the law school is expanding its LL.M. programs or developing a master’s degree program for nonlawyers, the library should aggressively find out as much as possible about the programs and determine whether the library can play some role in supporting the initiative such as providing training, offering to set aside a certain number of carrels, and even helping to recruit applicants. The library also should identify revenue-generating initiatives it could develop (of course, always in consultation with the dean) such as legal research CLE’s offered on-site or at local law firms.

¶99 Data to back up one’s arguments is always helpful to justify an operation’s value. Using programs such as Libanalytics to track reference requests not only will help a library director in analyzing how and by whom the library is used, but can demonstrate to the dean how the library is supporting the curricular and research needs of the faculty and students. Circulation figures also can be helpful, especially if they reflect how the library is supporting local law firms and businesses. The dean might find this information helpful in promoting the value of the law school to alums as well as to others.

¶100 A law library should be proactive in identifying cost savings and operational efficiencies rather than waiting to be asked to do so. A librarian who, without prompting, “offers up” $50,000 out of the library budget to the dean not only is going to be demonstrating her abilities to be an innovative manager but also will undoubtedly impress the dean as being an astute administrator. The one caveat is that the dean or a subsequent dean may not factor this “gift” into the equation during the next round of cuts. A partial defense would be to keep careful records.

Spencer L. Simons, panelist

¶101 The challenges we most commonly think of are innovating and improving services, staffing adjustments, collection rebalancing and cancellations, space demands from the law school, and budget reductions. These have in common the need to implement change. Rule: change is unwelcome. Fact: the new director will be a change agent, to a greater or lesser degree. There might be an explicit mandate for change from the dean, the faculty, or both. Even without an explicit mandate, the new director will inevitably make changes. Remember: change is unwelcome.

¶102 My advice to the new director is that the director no longer has the luxury of the traditional advice to “wait a year” before changing anything. The new director should have a change plan formulated before the first day on the job (provisional: there are always surprises). Inform the staff you will be making changes, and tell them why. Seek input and advice, consult, but don’t be ruled by the responses. If you seek consensus, there will be no change. Once you have initiated a change, you become its guarantor, even if you have to bear much of the burden yourself.

¶103 Successfully implemented changes, assuming they further the dean’s and law school’s goals, will benefit the dean. Make sure the dean knows of successes and
be sure to share credit for successes with your staff and with the dean. Any failures are yours alone, of course.

¶104 A key to successfully turning a challenge into a win-win is to anticipate change and to make necessary adaptations before the dean imposes them. For example, in my library I identified a number of possible efficiencies and economies, in personnel and the collection, and implemented those changes in my first years at the library. I made sure the dean knew of these. When the time came for budget cuts, the dean said that every department needed to make percentage cuts, except for the library, because “they have already done it.”

¶105 I am going to finish by veering away from the question and giving a little “Dutch Uncle” advice. The advice is to avoid mistakes I have observed over several decades in several careers and jobs.

1. The dean hired you to solve problems, not to bring problems to him or her.
2. Do not go to the dean about conflicts with faculty, members of the dean’s team, or other staff, and do not seek cover from the dean.
3. Do give the dean a heads-up before a problem is brought to him or her by somebody else.
4. Protect your dean’s political capital. He or she must ration it carefully. Help this process.

“Uptight? It’s All Right.” The Challenges and Rewards of Being a Law Library Director—Part I

Michelle Wu

¶106 Good afternoon. Steve Barkan and I have been asked to address balancing responsibilities beyond administering the law library, including developing a research agenda and finding time to write, assuming teaching responsibilities for substantive law courses, and participating in professional service activities. We decided that I should speak first, as my talk dissects the program description section by section whereas his presentation takes a more holistic approach.

¶107 I want to start by defining balance, as it changes with context and can mean different things to different people. I am not talking about balance as you would see on a scale, where each activity is equally distributed. A director’s job is fluid, with so many different components, that it’s often hard to predict whether one day will look like the next. There will be days when you are overwhelmed, when one particular aspect of the job—be it a personnel matter, unexpected budget cuts, or looming deadlines—takes a disproportionate amount of your time and energy.

¶108 Instead, balancing activities as a director is more like balancing on a tightrope or a balance beam, where conditions or the execution of a skill requires the individual on the rope or beam to adjust in order to remain standing. The key to balance is threefold: understanding the conditions, recognizing what effects they can have, and making constant adjustments.

¶109 Let’s take each of these components in turn. Understanding the conditions first means understanding the standards by which you’ll be evaluated. Some of these are in writing—like tenure standards—but more often, expectations are
unspoken. In those cases, you can ask your dean directly, but he or she may not always be able to articulate these expectations. It will be up to you to determine, through your meetings with the dean and your observations of his or her interactions with others, what the law school values and what it doesn’t. Understanding the conditions also means learning the culture and subcultures of your school. The administration may have a different culture than staff or faculty, and your students may have yet another; your responsibility is to be able to navigate all of these effectively. Understanding the conditions is not a one-time task, but is something that you’ll continually assess throughout your directorship. Deans, faculties, staff, and students change, and not just when personnel or enrollment turns over. Deans and communities evolve over time, views changes, and so do expectations.

¶ 110 The second step is recognizing the effects those conditions have. Another way to phrase this is: know the parameters of your responsibilities and understand the different options available to you if conditions change. For instance, how much of a time commitment does a committee assignment require? When is asking for an extension possible or acceptable (for example, for long-term illness)? Under what conditions might a request for a reassignment be appropriate?

¶ 111 The last element is using what you have learned in the first two steps to adjust “on the fly.” You will develop enough agility to keep your footing, no matter the circumstances, by knowing what is within your control at any given moment and exercising that control as needed. Always know what things can be put on the back burner, what can be delegated, what can be substituted, and what can be abandoned.

¶ 112 With this overall idea of balance in mind, I now want to speak to the activities mentioned in this program description: publication, teaching, and professional activities. I’ll start with general advice and move to more specific suggestions.

¶ 113 I have three basic tips on how to incorporate publication, teaching, and service into your routine while maintaining balance, and all of these are geared toward making these activities as easy as possible for you at the outset of your career.

¶ 114 First, do what you know or have a passion for whether in writing, teaching, or professional activities. This is not intended to discourage people from tackling new course preparations or topics for publication, but when you’re learning a new institution or the ropes of a directorship, you can reduce the stress on yourself by choosing a course, publication topic, or committee assignment that uses knowledge you already have. Leverage what you know—and librarianship provides fertile ground—into your other activities and give yourself a head start at a time when one is needed.

¶ 115 Second, find someone to share the load. Whether coteaching or cowriting, having someone else work with you can provide you with more balancing tools. Such an arrangement not only gives you a natural sounding board, but it also provides a safety net if an emergency crops up; your partner can cover for you and you for him or her as needed. The key here is in picking the right person, as choosing someone whose style does not work with yours will make the burden heavier instead of lighter. Be frank with a prospective partner about both of your expectations and working styles before you enter into a cooperative venture.
¶116 Third, don’t kill yourself trying to be everything to everyone. It is acceptable to say “no” occasionally, as long as you do it thoughtfully and strategically. Most of the people with whom you work will see you performing only one aspect of your job (for example, other administrators may work with you primarily on administration). They may not know how many hats you are wearing, and they may be inclined to ask you to participate in activities at the level expected had you been wearing only one hat. In responding, be diplomatic and strategic. Take into account not only who is asking but also how the library might be able to benefit from your participation. If you decide to say no, suggest alternatives where possible (for example, other colleagues within or outside the library who might enjoy the project), and take the time to inform the person making the request. For example, when turning down a committee request, you may mention that you’re already on six committees. If the average number of committee assignments at your school is two, this information conveys clearly to the requester that your declining the new assignment is not personal, nor does it signal an unwillingness to be a team player. This information also may help the requester to adjust expectations, if that person is also your supervisor and believes that a more recent assignment is more critical to the success of the institution than an earlier assignment. Last, be realistic. If you’ve accepted a responsibility and cannot meet it, be forthright about it and give the decision maker as much notice as possible so that alternative strategies can be developed. It is better to extract yourself from a project than to fail to perform an assigned task completely.

¶117 Here are some specific tips for each category of activity described in the program description:

¶118 First, in publishing, know the standards against which you’ll be measured. There are typically two different types of research agendas you can adopt: a deep dive into a narrow area or a shallow dip into a variety of topics. Faculty are more familiar and comfortable with the former, as it is fairly straightforward to measure your development over time when you write in a single subject area. If you choose the other route, then you need to take steps to ensure that the faculty understand how to value and evaluate your publication efforts across multiple topics (e.g., that this approach is common within your field).

¶119 Set aside time to write. It is easy to let writing slide to the bottom of your to-do list as it often is not an explicit requirement in your position description. You can avoid this error by setting aside specific blocks of time to write, even if these times are outside of your usual working hours. These do not need to be long, but they should be consistent. Having reserved, dedicated time to tackle this responsibility throughout the year will ensure that you continually develop your work instead of scrambling at the end of the year to meet your school’s publication requirements.

¶120 Don’t overthink it. Many prospective authors get bogged down thinking that they cannot start writing until they come up with a tremendously novel idea or until their research is complete. First, ideas that may seem commonplace to you may be not be as obvious to others. If you have performed a preemption check and have not found your topic covered, put it in writing. Chances are that you will find readers interested in what you have to say. Second, if you wait until you know
everything on a topic, you will never write anything. One of the benefits of writing is getting input from colleagues, through workshops or informal discussions, about your work. This is a natural part of the publication process, and your paper will evolve through its numerous drafts.

¶121 Next, in teaching: find out what is expected of you. Some schools require you to teach and others to do not. This is a signal to you, as the schools that do not require teaching may instead assign you more service or nonlibrary administrative responsibilities, such as managing journals. Even if you are expected to teach, consider asking for the first year off. This is similar to the “light loading” that many new faculty have during their first year. That year off will give you time to learn the ropes without the added pressures of course preparation. If you are not expected to teach but want to do so, just make sure that you can still meet your primary duties while teaching. Even though you often will be rewarded for undertaking activities outside of your job description, if doing so causes you to fail in your principal responsibilities, you will lose more ground than you will gain.

¶122 Seek out experienced teachers. If the course is taught by others, whether inside the institution or without, do not be shy about reaching out for course notes or advice. Most faculty and librarians are more than happy to share what they know about the institution or how they teach the class.

¶123 For minorities, including women, be aware of cognitive biases and how these play out in course evaluations. Numerous studies have documented that minorities are more likely to receive non-course-relevant criticisms on their teaching evaluations than other faculty. If you get a particularly harsh evaluation the first time you teach at a new institution, don’t panic. Talk to your academic dean or another faculty member similarly situated to get a more objective read on whether the comments should be taken seriously. The people who have more experience, and particularly those who will be evaluating your teaching, will be able to separate out relevant comments from those that aren’t.

¶124 Last, in engaging in professional activities, be aware that the types of professional activities available to you as a director are more diverse than you will have previously encountered. Seek out new opportunities and exposure to different types of committees (for example, AALS) or assignments (for example, ABA site inspection teams).

¶125 If an activity requires an unusually large time commitment, talk to your dean first to make sure that he or she supports the effort.

¶126 In conclusion, balance as a director is not always easy to achieve, but you will get more adept at it as you gain experience. As you start out on this path, make it easier on yourself by leveraging the expertise and resources at your disposal and by not overcommitting yourself.

Beyond Directing the Law Library
Steven M. Barkan

¶127 I was asked to discuss some of the factors that a newer law school library director should consider in deciding whether to get involved, or to what extent to get involved, in activities beyond the core responsibilities of directing or managing
the law library. These are most commonly teaching, scholarship, and service—the traditional aspects of faculty work. While my comments can apply to a range of activities, I would suggest, specifically, that newer directors consider activities that typically are not in the portfolio of a law school library director. These might be, for example, teaching subjects other than legal research; writing about subjects other than law librarianship and legal research; advising and judging moot court competitions; participating in local, state, and national bar activities; pro bono legal work; and the like.

¶128 A point that must be made, that too often is overlooked, is that just as all politics are local, all careers are personal. We work in different circumstances and environments. We have different goals, interests, personalities, skills, and talents. Our institutions differ, and our deans, faculties, and library staffs make differing demands on us. Our family situations vary. Beware of well-meaning people, like me, who don’t know you or your situation, offering advice about your career. What was right for me might not be right for you.

¶129 When I look back on my career I am struck by (at least) three realities. (1) Nothing was designed. While I had a desire, from the time I entered library school, to be a law school library director, I never could have predicted the path of my career. In hindsight, I am pleased with the extent to which I was willing to take risks and challenge perceptual boundaries—some imposed by others, some self-imposed—about what I, as a law librarian, should or should not be doing. I would encourage you to do the same. (2) Although much was fortuitous, nothing was random. I had what I thought were coherent reasons for career choices that I made. I cannot think of a professional activity for which I, at the time, could not offer a rationale for how the activity advanced the interests of both my employer and myself. (3) Nothing could have been achieved without support and opportunities provided by others—family, friends, mentors, library staff, faculty, and deans. Many aspects of my career could not have been predicted or controlled and, most important, depended on relationships with, and support from, others. I suspect that most of my peers would confirm this reality.

Advantages to Involvement

¶130 Let me suggest a few reasons for getting involved in teaching, scholarship, and service—and then a few reasons for not doing so.

¶131 First and foremost: your job might require it. You are either in a tenure-track position or some types of teaching, scholarship, and service are required for promotion and advancement in your non-tenure-track position. In either of these situations, the question is not whether to get involved in teaching, scholarship, and service, but which types of teaching, scholarship, and service are best for you.

¶132 As noted earlier, I am suggesting that newer directors consider activities that frequently are not pursued by law school library directors. These activities can be stimulating, challenging, and enjoyable. These activities can force you to engage with different subject matter and different people in different contexts, expand your horizons, and be involved in the community. Involvement in these activities can benefit your mental health, as you are forced to keep a broad perspective, both
These kinds of activities will benefit the law school, and they also will enable you to expand your role within the law school. While staying rooted in the library, your value to the law school can expand. Moreover, as your role in the law school expands, your influence and your ability to represent the interests of the library also can increase—a direct benefit to the library.

Engagement in these activities can benefit the library indirectly, especially the library staff. As demands on your time increase, you will be forced to communicate more clearly and to empower your staff to make decisions and to function with less oversight by you. This is good for them and for you.

Obstacles to Involvement

Despite the advantages that can be realized from participating in these activities, there are reasons why they might not be an option for you. First, your environment, broadly speaking, might not be conducive. Your dean and faculty might prefer that the library director focus time and energy on the library and library-related issues and concerns. Perhaps your library is understaffed, your library still needs a high level of oversight, or your duties as director do not provide for sufficient time or flexibility. Your responsibilities as a parent, spouse, or partner also might limit time available to pursue various types of teaching, scholarship, and service activities.

Moreover, even if you have the flexibility and time to engage in these activities, some might not be right for you. If the nature of the activity does not energize you, be cautious about pursuing it. While it is important to be willing to take risks and get out of your zone of comfort, self-awareness also is important. Often we don’t know whether we’re good at something or energized by something until we try it. However, to the extent that activities are discretionary—that is, not required by your job—be selective and do things that interest you.

On Finding Balance

Of course, participating in any types of teaching, scholarship, or service requires time and energy that must be shared with other responsibilities. We all seek something called “balance”—balance between our work life and our nonwork life; balance between and among administrative duties, teaching, writing, and service, and so on. We all must find ways to allocate our time and energy among the many aspects of our lives and our work. It is such a common problem that there exists a plethora of self-help books to assist busy people in this effort.

I have found balance to be both an elusive and an illusive concept, like a mirage—always desired but never realized. Given the many things that demand time and attention, balance seems to be understanding and accepting the reality that we can’t do everything we want to do to the extent we want to do it, and perhaps accepting the fate of being a jack of many trades, but a master of very few. This, of course, would depend on the nature and variety of the things that one attempts to balance. Certainly, the more diverse the range of activities, the greater the challenge in balancing them.
Rather than seeking balance, I prefer to view this effort as an intentional and realistic process of identifying and evaluating necessary “tradeoffs” that can and should be made. This, too, is both elusive and illusive. The tradeoffs, or the effects of the choices we make, are not always apparent—they too often are visible only in hindsight.

Conclusion

In making decisions about what kinds of teaching, scholarship, or service activities to pursue, be selective. Consider what might be right for you and the tradeoffs that might be required. Work with your dean, faculty, and library staff to earn their confidence and support. Consider activities that might not typically be pursued by a law school library director. Be willing to takes risks, and don’t look back!

“Uptight? It’s All Right.” The Challenges and Rewards of Being a Law Library Director—Part II

Darin K. Fox

With all of the changes occurring in legal education, it is easy to get down. For the fall 2015 admissions cycle, applications to law schools are half of what they were just ten years ago. There were 98,000 applicants to ABA-approved law schools in 2004, and there will be an estimated 54,000 applicants during the fall 2015 admissions cycle. In addition, we are enrolling the smallest number of first-year law students since the 1970s, despite having forty more law schools than in the 1970s. Furthermore, we have seen the twenty-fifth percentile LSAT score of matriculating law students slide from 155 in 2010 to 152 in 2013 nationwide, while at the same time first-year enrollment fell from approximately 52,000 in 2010 to approximately 39,000 in 2013.

With fewer students enrolling in law schools, faculty hiring is also down. Approximately forty law schools advertised entry-level faculty jobs in the AALS Bulletin in the fall of 2014, as opposed to more than eighty schools just three years earlier, and more than one hundred schools in the years prior to the recession. There is also a lot of stress among faculty as we try to work through curricular and other changes to adapt to new ABA standards and increasing employer requests to produce “practice-ready” graduates. Finally, faculty and staff attrition is occurring at many schools through retirement and leaving open positions unfilled.

According to the Bureau of Labor Statistics, new graduate hiring in the legal field has not recovered to prerecession levels. We have recovered only about half of jobs the legal sector had prior to the recession. Finally, our collections and services are undergoing radical change. As academic law library directors, I think that kind of context is helpful for us to know, and not just nationally, but for our local markets as well.

Having said all of that, I think this is a great time to be a law library director. Is it a challenging time? Yes, but I think we have many fantastic opportunities now to contribute to the success of our law schools, perhaps more opportunities
than in my previous twenty years working in academic law libraries, and I have
lived through the birth of the web, instructional technology, social media, the rapid
shift to online content, and the ongoing data revolution.

¶ 145 As has been described, our law schools are undergoing a time of great
change. As our schools plan and make changes to adapt to the new realities, they are
literally starving for information: How should we adapt to the new ABA standards?
What are our competitors doing? What new skills do our graduates need in the post-
recession era? How should we change our curriculum? Should we lower tuition?
How can we make optimal use of our scholarship funds? Should we change our
admissions standards? Are there other ways we could be recruiting? What impact
will changes have on our U.S. News, National Jurist, and other rankings? What new
facilities do we need? What should we expect from our faculty in terms of teaching
load, scholarship, and service? How should the library change given our shrinking
budget and new curricular needs?

¶ 146 These are questions being asked by law school administrators and faculty
committees all over the country. All of these decisions require information, and we
are the information experts for our organizations. Data is driving a lot of decision
making now, and we can provide that information and help to provide meaning to
the data.

¶ 147 I want to briefly mention a few ways that law library directors can contrib-
ute to our institutions in this new landscape of legal education. In general, we must
develop a “culture of yes” in our institutions. Students are coming to law school
with higher expectations every year. We have to be open to new ideas. We have to
ask “why not do that?” of any suggestion. Faculty and administrations need new
types of support, from empirical research to competitive intelligence. Faculty and
students want more modern collections with access to e-books and fast response to
questions. As Penny mentioned earlier today, we must take stock of how our librar-
ies fit into our school’s mission. Here are some forward-looking ways that we can
support our institutions now.

Fact Checker

¶ 148 As Spencer and Joan have said, every law library director should strive to
be thought of as the law school fact checker. Forge a good relationship with the
public relations director. We have the research skills to verify statements, and we
have the big picture about our school because we attend administrative meetings.
When you hear one of the questions that I just mentioned above, your reaction
should be: Would you like me to gather some information about that? We can also
be helpful to our school’s public relations office. Deans want to be certain that a
public relations statement will be accurate. We can become the person who is con-
sulted before any factual statement (best in this or best in that) is made.

Data Analyst

¶ 149 As Spencer said, if we can provide information and data to our internal
constituents, then that is a great service. If we can provide analysis and meaning to
that information, that is an even more valuable service. Deans and faculty are over-
run with information. If we can help to provide meaningful analysis of information,
we will be valued. For example, I run a *U.S. News* model for our law school. I stay on top of admissions, placement, faculty hiring, and other trends, and I try to keep key administrators and faculty committees informed. Ask your dean whether you can gain access to the ABA take-off reports for your school. Depending on how much data analysis other deans in the building are doing, you can provide helpful insight into data gathered by LSAC, NALP, *U.S. News*, *National Jurist*, and other sources. However, be careful; there is a lot of misinformation out there. There are many bloggers crunching numbers who simply are not checking authoritative sources. Perhaps consider taking a course in statistics, such as the Coursera course, *Statistics One*. To provide meaningful data analysis, you will need to understand concepts like the distribution of data, mean, median, perhaps standard deviation and z-scores too. This is necessary for an understanding of the annual *U.S. News* “Best Law Schools” ranking.

*Survey Master*

§150 More and more schools are doing regular surveys to gather data about their performance and to meet the recently adopted ABA standards on assessment. We can become our school’s experts on that. The library administers many of the surveys at my school. Become an expert in SurveyMonkey or Qualtrics. Know university rules about conducting surveys, especially as you do surveys for faculty and courses.

*Competitive Intelligence*

§151 It is a sad reality that legal education has become more competitive. We compete more intensely for students, faculty, and public relations than we did ten years ago. Knowledge of legal education as a business is becoming more important. We are experts on current awareness. If we can help to provide the most valuable information, not a just a fire hose of information, to our faculty and deans, we are helping the school succeed. Question every blog post before you forward it.

*Regulation and Accreditation*

§152 As Pauline said earlier, depending on how your school handles ABA and other accreditation matters, this is an area where law librarians can help. We are detail-oriented, organized, and conscientious, and we have experience filling out numerous surveys every year, such as those from the ABA, ARL, *U.S. News*, NELLCO, MALLCO, and so on. We make good candidates for being in charge of the annual ABA questionnaire, *U.S. News* questionnaire, and ABA site visit process for the entire law school, especially since more and more is being expected of associate deans for academic affairs.

*Curricular Innovation*

§153 With a greater emphasis on skills training in the recently revised ABA standards, many professors are looking for ways to incorporate skills elements into their courses. We can help provide research and technology support for these efforts. For instance, this year I am training all trial techniques and legal clinic students to use TrialPad on the iPad to present information in courtrooms and board-
rooms. Another librarian at the University of Oklahoma is providing research support and training, almost as a co-instructor, to students in a seminar course that produces research papers for a U.N. program.

¶154 In addition to the services and responsibilities described above, some traditional areas of responsibility for law library directors have become even more important in the new landscape of legal education.

**Budgeting**

¶155 Recent changes in legal education are putting immense pressure on law school budgets for most law schools. We have to actively manage our collections and staff expenditures now more than ever. We have to be completely on top of every penny that is spent on the collection, and we have to be completely on top of what our students and faculty need in terms of services, facilities, and collections. Let’s say a faculty member needs access to a new database that costs $5,000 per year. We should try to manage our budgets to accommodate those requests without having to ask the dean for additional funds. Also, we must be able to anticipate costs. A three-year cost trend for every title and every vendor is a must in this day and age.

**Facilities and Space Planning**

¶156 Law schools need space for new staff and programs. We need to be completely honest and proactive with our deans and faculty about our space needs and whether space is available in the library for other uses. It is not our space. It is the school’s space. At my school, we recently gave up a chunk of space for our new graduate programs, and honestly, it was space that we no longer needed in technical services due to previous downsizing. I offered this space, in a similar fashion to how Joan offered $50,000 of collection funds back to the school, and this can earn you immense credibility with the leadership.

**Staffing and Services**

¶157 The library often has the biggest staff in the law school. As our collections change, we have to be candid about our staffing needs. At my school, I voluntarily, without the dean’s prompting, eliminated three of our fourteen positions over the last five years through attrition. All were technical services staff positions primarily responsible for maintaining the print collection. So, we are now eleven staff. We have another retirement coming up this summer. My dean asked whether this position would need to be refilled, and in this case, I told him yes, it needs to transition to a public services position. He accepted that, I think, because I had been candid about our staffing needs in the past.

¶158 Finally, I was asked to say a few words about status. I am a tenured faculty member at my school. For me, the biggest benefits of faculty status have been (1) service on faculty committees; (2) participation in faculty meetings; and (3) encouraging a balance of service, teaching, research, and administrative responsibilities. I currently serve on the Admissions Committee. I have served on the Faculty Hiring Committee, the Site Visit Committee, the Library Committee, and various other committees. These committees allow you to work closely with faculty and administrators, and they give you another chance to be valuable to the school.
Attendance at faculty meetings helps us to know when new programs or curricular changes are happening, and this is critical because we support the curriculum. Finally, it is easy to allow library administration to completely take over your life as an academic law library director. Being a tenure-track faculty member has forced me to set aside some time for research and service, and this helps to inform my teaching and decision making as an administrator.

Obligations of All Law Library Directors
Keith Ann Stiverson

¶159 I want to begin by paying tribute to the scholars in the room. We have just heard Steve Barkan and Michelle Wu discuss the balancing act they have, as they attempt to find time for their own research and writing while trying to manage the library’s staff, budget, and services. I freely admit that I could not keep a scholarly agenda of my own and be as effective at what I do well, which is managing a library. In addition, many of you teach doctrinal courses as well as research and skills programs, while my teaching has been limited to serving as an adjunct in the Graduate School of Library and Information Science program at Dominican University. I have justified this commitment by telling my dean that it helps me find out about great new law librarians before they are hired by others.

¶160 All of our schools are a little bit different: our opportunities, resources, and challenges are not exactly the same, so there is not one formula for success that all of us can follow. Nevertheless, I have some basic suggestions that I think work well for everyone who provides good customer service in any setting, not only in a law library. These are tips that we may all know, but I am surprised to find that few actually follow them.

¶161 Perhaps the most important responsibility of a library director is to be present and to be visible. Don’t stay in your office, and when you’re in your office, keep your door open most of the time. An open door policy with everyone makes it more likely that people will drop in to talk with you about new ideas, problems, and everything else. You’ll be amazed at what you will find out that you’d otherwise miss.

¶162 I am fortunate that my office is in one of the faculty corridors, not the library. I run into my colleagues all the time and have an opportunity to be the “quality control officer” by asking how well they are being served by library staff, whether all their needs are being met, and so on. If your office is in the library, get out and walk around. Occasionally show up in the faculty lounge and sit around for fifteen minutes or have lunch. Look for other opportunities to be part of law school activities. For example, when we had a “Day of Giving” at Chicago-Kent, I volunteered to call alumni and ask for donations, and when there was a public service day during orientation for 1Ls, I volunteered to lead a group of students on a day-long public service project. I volunteer to mentor two to three 1L students every year.

¶163 While you are walking around, convince the librarians to walk around too, and be sure to add the librarians to the workshop alert list. Ask them to attend events, especially when faculty are discussing works in progress; it shows interest. When the librarians are visible, they become part of everything, too, and are then
considered colleagues by faculty, rather than people who are found only in the library. Know what staff members are doing for faculty, and then you can check to see whether they are getting the service they want. Convince the librarians to ask more questions of faculty: the librarians should analyze and synthesize, not simply send a list of links that faculty could find themselves. Be sure to thank and compliment staff members who do a good job. I forward complimentary e-mail messages to all professional staff. I meet with all professional staff at least twice per month to find out what they’re working on and to see whether they need anything from me.

¶164 It is important to attend as many faculty workshops and job talks as you possibly can, to be visible at school events, and to volunteer for both law school and university committee opportunities. Another good way to be visible, and learn new things at the same time, is to get the ABA training and start serving on law school accreditation teams. You’ll meet people from many other schools and bring home new ideas for your law school and library. Find out the information needs of everyone at the law school and the legal information needs of the university. Be sure to meet everyone. If you are new to your job and nobody has given you an orientation, contact the department heads and go meet them on your own. Invite them for coffee or lunch, or get an appointment to talk with them. Ask whether they’ve worked with the library in the past, and find out what their information needs are and how you can help them. You may find, as I did, that they are purchasing expensive resources that are duplicates of things you have in the library. They may benefit from Westlaw, LexisNexis, and Bloomberg Law training. You may have resources they don’t know about that can help them in their work. Meet the attorneys in the university’s general counsel’s office to see whether their legal information needs are being met. Show up at events on the main campus and introduce yourself to the provost and president if nobody else has thought to introduce you. Go to lunch with the university librarian and meet with him or her now and then so you will be better informed.

¶165 If there is less call for research help, look around for other needs. For instance, our librarians offer law school staff training and also sponsor faculty brown bags to explain a new software tool. One of our librarians noticed that student organization websites were terribly dated and showed the student leaders how to use WordPress to make organized, attractive sites. Several library staff members are assisting the Public Affairs Office with the burgeoning social media needs of the law school. The librarians researched alumni names to help Institutional Advancement with planning a 125th anniversary gala for the law school.

¶166 When the work changes, be sure to update staff job descriptions and do what you can to enable them to learn new skills and get more compensation for new duties whenever possible. In my experience, staff members are more willing to accept change when their contributions are recognized and appreciated. Additional compensation helps too!

Status of the Law Library Director

¶167 I began my career as a government employee, and, as a consequence, I was never very interested in job status. I never wanted a tenure-track position when I started working in law schools, and I didn’t pay much attention to who had tenure
and who didn’t; it just wasn’t something that mattered to me. After working for years in law schools, however, I have changed my mind. I realize now that one important reason I can do my job is that I have a faculty appointment. It is important that faculty accept you as one of their own, not simply consider you an administrator. In my case, if I didn’t have a faculty appointment, I would not even be on the faculty listserv at my school, so I would miss all sorts of information that faculty share and I need to know. I can do a better job when I am well informed about who is annoyed, what people are thinking, and so on. I end up forwarding messages to senior staff who are law school department heads because the sender of the message often forgets about them and sends it only to the “faculty full-time” list.

_Luck Helps Too!_

¶168 As I mentioned earlier in my remarks, I am very fortunate to have an office in the middle of a faculty corridor, so I am very visible to everyone in the law school. Sometimes I have to remind myself to be more visible in the library!

¶169 Another bit of luck: a few years ago I was asked to supervise the faculty support staff. After a few years of effort, we have a wonderful group of well-educated, high-tech young people who handle all the clerical tasks for faculty and work with the librarians to ensure that members of the faculty are well served.

_One Last Bit of Advice_

¶170 For all of you who are new directors: feel free to call any of us! Everybody in this room wants to help you succeed and is generous with his or her time. We also want to help you avoid anything that we had to learn the hard way.

**Conclusion**

_Spencer L. Simons_

¶171 The workshop drew more than eighty attendees, not only library directors, newer and not so new, but also several deans and law faculty members. The presenters and panelists were very experienced directors and frequent commenters on developments in legal education and law libraries. It was fascinating to see that many participants agreed on a number of observations, but also that our widely varying experiences in widely varying institutions contributed to different emphases and to a diversity of solutions and adaptations. When combined with the range of experience and roles represented in the audience, the interplay of ideas in the give and take during the sessions and in the aisles was palpable. There is no one solution to the challenges faced by law libraries in a rapidly changing legal education environment. Each director, new or “not so new,” must forge his or her own solutions. Opportunities to share and compare experiences, perspectives, and responses to change, such as this workshop offered, give us new tools and skills for our tasks. The workshop concluded with the communal agreement that we had all gained in understanding. The faculty of the workshop urge others to continue this tradition in future workshops.
Introduction

Law librarians’ roles in the legal academy have changed over time. The contemporary academic law librarian is directly involved with the continuing success of the law library and, by extension, the success of the law school. In fact, a majority of a law librarian’s day-to-day goals and responsibilities—reference, collection management, teaching, publication—center on the mission of the law library to further the mission of the law school. For instance, librarians engage not just with the faculty but also with students, guiding them through research for their classes and assignments, which helps them to develop a foundation of skills on which to build. Law librarians oversee vast collections of multiformat resources that are useful for their own lesson plans and personal research, in addition to supporting the
educational and scholarly interests of the student body and law faculty. Librarian-professors participate in curricular instruction, contributing to the overall success of the student body and the law school. Law librarians’ scholarship (publications and presentations) evidences their focus on teaching students, assisting faculty, and participating in the life of the law school itself. Empowering law librarians to be actively involved in certain aspects of the law school’s governance and decision making at faculty meetings must be next.

§2 However, there is scant literature in support of law librarians attending and voting at faculty meetings. Being able to vote at faculty meetings is key to giving librarian-professors a voice with respect to law school governance, including, but not limited to, voting on student graduation awards, curricular developments, and other matters that are important to faculty. Librarian-professors interact with students in a very similar manner to that of the voting faculty, assessing students’ performance and writing recommendations for employment opportunities. In fact, academic law librarians enjoy similar relationships to students with that of law faculty through interactions outside of the classroom and formal office hours, observing students’ progress through three years of education. Law librarians so intricately involved in such matters deserve an equal voice with respect to law school governance and the student body.

§3 Decisive votes regarding curricular development, and law school governance in general, have often been assigned to those of equal status (that is, full-time faculty or faculty equivalents). More law librarians need to participate in such decision-making discussions, especially now that the legal curriculum reform movement has created new research instruction opportunities. Across the country, law schools are redesigning their curricula—in whole or in part—to incorporate more practical skills such as research competency, in general and as a foundation for other practical skills, such as drafting and litigation. Law librarians can provide insight regarding materials, practice skills, and more. As curricula adapt to produce more practice-ready graduates, it is more important than ever that academic law librarians have a voice regarding school policies and curricula. Rather than simply being

2. While some librarians are not given the formal title of professor by their law schools, this is often how those librarians, and most other higher education instructors, are addressed by students. For the sake of brevity, “librarian-professor” includes various titles of dual-degree academic law librarians who teach, even if their law schools do not extend the formal title.


4. Voting rights at faculty meetings, for the purposes of this article, will be limited to the aforementioned categories because there are some things that will not be discussed here, such as voting on new faculty hires and promotions.


6. See, e.g., Genevieve Blake Tung, Academic Law Libraries and the Crisis in Legal Education, 105 LAW LIBR. J. 275, 290, 2013 LAW LIBR. J. 14, ¶ 32. (“Now would be a good time for law librarians to join the rest of the legal academy by critiquing and improving our niche in the curriculum.”).

7. Id. at 278, ¶ 7.
invited to attend faculty meetings, librarians need to begin voting at those meetings too.

§4 This article first addresses law school faculty and administrators, whose support is needed to advance this movement of greater librarian inclusion and participation at faculty meetings. All three groups clearly work toward the same goal: to contribute to their law school’s success. Faculty meetings are important venues for achieving this success; yet often they omit the voices and unique perspectives of the school’s librarians. Additionally, this article is meant to evoke a degree of professional courtesy and cooperation that will ultimately lead to an inclusion of law librarians who are just as invested in law school governance. In many ways, law librarians already contribute to the continuing success of the law school, and since most have been through law school themselves, they understand the functions of law school governance.

§5 This article also addresses the heads of law libraries who already participate in faculty meetings. Hopefully, this article will result in discussions about sharing the responsibilities of law school governance with other law librarians, who also teach and perform many services in furtherance of the law school mission. It is meant to give those law librarians—one not included in faculty meetings—a place to start when discussing the advantages of librarian inclusion and participation with their law school deans.

The Tenure Debate

[W]hat holds the most import for law librarians is faculty status... Only when law librarians hold faculty status can they claim a right to participate in the shared governance of the institution.8

§6 At a majority of institutions, having or working toward tenure is the most direct way to secure an invitation to attend and vote at faculty meetings.9 However, tenure status should not be the basis for attendance and participation at faculty meetings because of the increasing number of non-tenure-track librarians who publish, the one criterion that seems consistent across faculty meeting attendees. As more and more non-tenure-track faculty continue to publish, tenure status for inclusion and participation at faculty meetings is potentially outmoded and regressive. Since the American Bar Association’s (ABA) most recent decision in fall 2013 to remove a tenure model in law schools as a standard for accreditation,10 debate on this topic has revived.11 There is so much focus on the pitfalls of tenure that its inherent benefits are lost in perspective.

9. Liemer, supra note 3, at 351.
11. Id. Opponents, like Maureen O’Rourke, dean of Boston University Law School, quoted in the Sloan article, cited to high fixed costs. See Letter to The Hon. Solomon Oliver, Jr., Council Chairperson, Barry A. Currier, Managing Director of Accreditation and Legal Education, Section on Legal Education
Tenure enables academics to freely share their ideas without the worry of repercussions like job loss. Such job security is the foundation for academic freedom, so that ideas can be shared in literature and at presentations, and sometimes even in purely social circumstances. These discussions often demonstrate strengths—while also highlighting weaknesses—of the library and allow for its consideration by other scholars. These discussions advance professional innovation through trial and error implementation of—or digression from—those ideas, resulting in newer ideas, methods, and practices. This cyclical process to advance and improve a profession is powered by scholarship, much of which is driven by the need to publish for tenure. However, there does seem to be an opinion that tenure is no longer a driving force behind scholarship due to the increasing number of non-tenure-track faculty who publish. Regardless of the obligation to publish, if tenure eligibility is a prerequisite for being invited to attend and participate in faculty meetings, then academic law librarians should either be offered the opportunity of tenure or tenure eligibility should be dropped as a requirement of faculty meeting attendance and participation altogether.

Appointments of New Academic Law Librarians

The categories of faculty who may vote at faculty meetings differ by institution. “The general practice in law schools in the United States is for professors who have traditional tenure or are on the traditional tenure track to vote on all matters at faculty meetings.” Tenure criteria also differ by institution, although similar criteria shared by many such institutions include “teaching, scholarship, service to the law school community, and professional activities outside the law school.” Most academic law librarians already perform these types of responsibilities. Such contributions should be considered as a factor in granting a participatory role to law librarians at faculty meetings.


13. Id. at 261 (“Scholarly production encourages deeper thinking about library issues that leads to superior ideas and innovations in library operations and services to the faculty and students.”).


15. See Liemer, supra note 3, at 368–69 (“Scholarship seems a false distinction in many instances and will continue to decline as a rationale as the number of non-tenure-track professors who publish continues to mushroom.”).

16. Liemer, supra note 3, at 361.

17. Id. at 351.

18. AM. BAR ASS’N, 2014–2015 ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 122 (2014) (Standard 404 (a)).
While the educational requirement for academic law librarians has been debated for some time, the contemporary academic law reference librarian typically has a law degree and a masters in library (and information) sciences. These vastly different educational experiences allow law librarians to better evaluate resources for access to essential information. This dual outlook on materials, which differs from that of instructors or practitioners, is often why those instructors and practitioners turn to librarians for bibliographic guidance or suggestions.

**Librarianship: More than Meets the Eye**

It is clear that many well-intentioned reformers do not appreciate how libraries contribute to the academic and professional success of law students and faculty . . .

Law library governance is shared between the head of the law library and other qualified law librarians. One integral characteristic of the law library is maintaining a collection of books and materials that further the effectiveness of the law school. Regardless of whether collection development is shared among many law librarians or is the responsibility of only one librarian, the law library supports the curricula and scholarly agenda of the law school community through its collection. Acquisitions of both print and electronic materials result from a number of valid considerations reflecting the immediate and future needs of the institution: a specific request by a professor for a class; the creation of a new class for which the library has few supporting materials; scholarly interests of faculty and students; and, more recently in some places, materials supporting increased practical and experiential learning in adherence to the new ABA standards.

Law librarians have the requisite education with which to make trustworthy decisions about the types of practice, reference, and scholarly materials that support a curriculum in which they otherwise have no say. Law school administrations and heads of law libraries have seen that collection practices must evolve with any curricular changes. For instance, shrinking library budgets make it difficult to provide current print materials. Ever mindful of these limitations, law librarians use their extensive knowledge of and familiarity with various databases to continue to make these materials readily available, showing students and faculty alternative ways of finding current information. At the same time, they think about how to teach with those now outdated print materials, as print materials are still heavily used in practice. Through formal or informal instruction, librarians can share their insights and knowledge to help patrons select the best resource, regardless of format. This way, any budgetary constraints will not impede the research process. In some cases, questions about research may arise in a variety of settings, whether on

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19. *See, e.g.*, Harry Bitner, *The Educational Background of the University’s Law Librarian*, 40 LAW LIBR. J. 49 (1947); *see also* Mary Whisner, *Law Librarian, J.D. or Not J.D.?,* 100 LAW LIBR. J. 185, 2008 LAW LIBR. J. 8.

20. Some law librarians also have practice experience.


22. This is the case with the autonomous academic law library. In some institutions, this responsibility is shared between the head of the law library and the head of the university library.

the job or when students interview for summer positions. Students’ ability to articulate their considerations for resource selection or how they might begin to research may set those candidates apart from others. Student employment success on the job directly enhances the law school’s reputation.

§12 Law school administrators and heads of law libraries with faculty status must understand how much collection development practices rely on curricular changes and improvements. This correlation between curricular changes and collection development practices is strengthened when librarians know what (and how) law faculties are teaching in their courses. Any necessary collection development policy changes can transition more efficiently when more librarians participate meaningfully in faculty meetings. In such a scenario, librarians develop a better understanding of how to enhance the collection, building it around what resources are needed and how they are used.

Active Participation in the Curriculum

Unless the law librarian has an opportunity to participate fully in the educational enterprise, he will be less capable of rendering the quality of services required.24

§13 The most basic mission of academic law libraries is to support the teaching missions and research interests of the law school community. With specialized training in both law and library sciences, law librarians do more than just maintain the law library’s collection.25 Librarians’ contributions to the curriculum go far beyond the law library’s collection when they teach research, an integral part of any attorney’s skill set. Conversations about incorporating more research practice into the curriculum are discussed and then voted on at faculty meetings. Likewise, curriculum changes are often made to align with certain classes and to weed out those classes that do not further the law school’s mission.26 Conversations about new course offerings, experiential learning opportunities, and even curricular mapping take place during faculty meetings; decisions resulting from those conversations are made when votes are cast at faculty meetings. While attendance at faculty meetings exposes librarians to the discussions, a voting role increases the incentive to attend and participate in the conversations. Librarian participation in the decision-making and voting processes sends a strong signal that law faculties value the viewpoint of their librarian colleagues. Librarian-professors who are left out of these conversations lose the opportunity to align their own research instruction with any curricular change. Likewise, when law faculties interact with their librarian colleagues during such meetings, they are more likely to begin conversations about incorporating librarian research instruction into their classes. Ultimately, students benefit from these kinds of interactions when, as a result, they receive

25. See Tung, supra note 6, at 288, ¶ 27 (“law librarians’ contributions . . . go beyond collection development.”).
26. The author acknowledges that the mission of the law school can change or adapt as both the job market and national and local economies evolve.
stronger research instruction on finding legal materials. Such collaborations allow students opportunities to better understand that research is a fluid, practiced skill that does not rely fully on one’s knowledge of the subject matter, and that techniques for finding and using resources are very similar across different practice areas. In the same way, these collaborations allow those faculties the opportunity to explore—and, by extension, to pass on to their students—the library’s full research capabilities in almost any subject area.

¶14 When thinking about research instruction, law librarians remain cognizant of the fact that “non-librarians may also overestimate the information literacy of incoming law students,” assuming that “they need only minimal guidance.” As such, the increased collegiality between librarians and faculty should help those faculties recognize the value that law librarians can bring to the conversations about reforming legal education. Research is a skill that is honed through repetition and practice. A more comprehensive understanding of the professors’ classes and how they relate within the curriculum can only help to emphasize the level of research skill needed for students in any given area of practice.

¶15 Librarian-professors who teach first-year core writing courses can adjust or tailor their classes’ curricula to reflect school-wide curricular changes and innovations that are likely to be discussed and voted on at faculty meetings. In addition, librarian-professors can put their instruction into context for students by referencing material from doctrinal classes in a way that encourages a more comprehensive understanding of the interrelationships of certain subject matter. At institutions where librarians are required to teach stand-alone research courses but are not invited to vote in faculty meetings, librarians are prevented from openly contributing to law school governance. Even more, these librarian-professors may not have the opportunity to contribute their ideas and expertise on teaching and student performance when they are not invited to participate.

¶16 Librarian-professors’ instruction is not limited to classrooms, however. Librarian-professors take advantage of “teachable moments” when students and faculty visit the reference desk. While law faculty are known for being exemplary professors and scholars, they must still rely on academic law librarians for bibliographic and informational guidance and instruction, whether for their own research or for their classes. Bibliographic and informational instruction is offered both formally, in the classroom, and informally, at the reference desk. Law librarians are trained to evaluate bibliographic records to understand and communicate how successive editions of well-known treatises and other materials have transformed from their predecessor titles, authors, or editions.

¶17 Bibliographic instruction for professors is enhanced when librarians understand professors’ goals for students and appreciate the relationship between classes and the law school curriculum as a whole. Librarians can then help students find

27. Tung, supra note 6, at 286, ¶ 23.
28. This is meant to include all variations on the writing, analysis, and research courses required for first-year law students.
29. Like doctrinal faculty who actively participate in law school governance at faculty meetings, librarian-professors teach courses and assess students’ performance, sometimes writing recommendations for their students in support of the law school’s mission.
the best treatises or practice guides in that subject area. This benefits students because it gives them insight into the actual materials that practitioners rely on in researching many subject areas. In turn, librarians can use this knowledge to enrich collection development policies and practices that continue to meet the needs of the law school.

¶18 Contemporary academic law librarians also provide services to faculty. These services usually include research support as well as bibliographic and informational instruction in their classes. As with in-class research instruction, faculty research assistance is enhanced when law librarians have some understanding of the professor’s research interests. Countless law librarians have been thanked by law professor-scholars in footnotes for their research assistance; this validates that law librarians’ research assistance has a direct impact on scholarly recognition, which ultimately bolsters the reputation of the law school.

¶19 As has been pointed out, in the last three decades academic law librarians have spent more time teaching legal research formally in classrooms, in addition to their more informal teaching that has long occurred at the reference desk. This trend positively correlates with an increase in faculty reference questions. It bears repeating: these trends demonstrate a steady increase in the reliance on law librarian instruction due to recognition of a law librarian’s specialized training. When law librarians are acknowledged for their contributions to professors’ scholarship, their law schools’ reputations earn recognition as well. This recognition is further enhanced through employment placement outcomes when students who demonstrate a thorough understanding of research techniques are able to both articulate and execute such practices for employers. Such recognition by law faculty should and must extend to the right to openly participate in law school governance.

Sharing Experiences Through Scholarship

The law library profession, like the legal profession, has similar obligations to contribute to the public good. One way to fulfill this obligation is to publish.

¶20 At research institutions, another responsibility common among voting faculty members is a requirement to publish scholarly works. Publishing is generally one requirement of tenure. Librarians in tenure-track positions have similar

30. This includes legal research, reasoning, analysis, writing, lawyering, etc., as class names differ by institution, and also includes research components for doctrinal classes. See, e.g. David C. Walker, A Third Place for the Law Library: Integrating Library Services with Academic Support Programs, 105 LAW LIBR. J. 353, 362, 2013 LAW LIBR. J. 17, ¶¶ 23–24 ("When it comes to teaching, law librarians have become increasingly more integrated into law school curricula . . . [most notably for] legal research instruction. Other librarians teach writing or doctrinal courses."); see also Joyce Manna Janto & Lucinda D. Harrison-Cox, Teaching Legal Research: Past and Present, 84 LAW LIBR. J. 281 (1992).

31. Albert Brecht, Changes in Legal Scholarship and Their Impact on Law School Library Reference Services, 77 LAW LIBR. J. 157, 160 (1985) ("This new reliance on reference librarians is likely to become even greater as interdisciplinary research grows in importance."). It can be inferred that as reliance on librarians’ expertise grows, so too does the number of reference inquiries.

32. Donald Dunn, The Law Librarian’s Obligation to Publish, 75 LAW LIBR. J. 225, 226 (1982).

33. This author does not intend to make generalizations regarding tenure responsibilities because of the different terminology used by different institutions for each requirement, in addition
scholarship requirements to those of voting faculty. Librarians not in tenure-track positions still often publish scholarly works and give presentations at conferences. Because such publications and presentations spur further idea sharing and discussions to improve legal education, often at faculty meetings, librarians must be invited to participate.

¶21 Publishing requirements vary by the amount of time allotted to publish a certain number of articles. But across disciplines, publishing seems to be that one requirement that can make or break tenure for candidates.³⁴ For tenure candidates equal to the task, the obligation to publish is a motivating factor that drives them to stay current in their fields. Such mandatory for-tenure scholarship is an implicit motivator for professional development and improvement. Scholarship allows for the sharing of ideas, which stimulates discussion and thinking about those ideas. Communicating ideas can lead to innovations through experimentation, digression, or both. In recent years, innovations in legal education have been popular publications topics for legal scholars, clinicians, and law librarians.³⁵

¶22 Libraries and librarians are the keepers of information, and information is in a constant state of flux. As such, librarians are regularly learning new resources, tips, and tricks, and librarians are always eager to share their new knowledge with their colleagues, in their publications, at conferences, or less formally through blogs and listservs.

¶23 Regardless of an obligation to do so, librarians write and publish articles that are useful to a variety of audiences, including other librarians and law faculty. It could be argued that librarians’ scholarship contributes to the reputation (perhaps by way of school rankings) very much like that of the doctrinal faculty scholarship. Like with tenure, if publishing is the criterion that determines voting rights at faculty meetings, then most academic law librarians have already fulfilled this standard. Certain voting rights enjoyed by doctrinal faculty who publish scholarly works should then extend to law librarians.

³³. See Sharon Blackburn, Robert H. Hu, Masako Patrum & Sharon K. Scott, Status and Tenure for Academic Law Librarians: A Survey, 96 LAW LIBR. J. 127, 132 (2004) (“[T]he varying definitions of ‘faculty status’ as well as the variety of criteria and procedures for granting tenure plague survey after survey, particularly when later reviewers try to compare results.”).
³⁴. Often referred to as the “publish or perish” phenomenon. See id. at 129 (“[T]he resulting anxiety over the ‘publish or perish’ syndrome leads to ambivalent feelings among librarians about full faculty status.”).
Legal Education Reformation and the Shrinking Law Library

As the law school world changes to accommodate global and practice-oriented education, law librarians have the tools to guide law faculties and even deans toward new methods of education delivery.36

¶24 As the landscape of legal education has changed in the current economic climate, in any given law school, reactions to and discussions about the realities of posteducation employment occur at faculty meetings. In these meetings, faculty openly discuss any and all aspects of how legal education can be adapted to this new fiscal reality. Discussions regarding the capabilities and competencies of the student body almost always concern real-world skills, practices, and expectations, usually followed by ideas or suggestions for curricular improvement. Law librarians who are not present at these meetings lose the chance to voice to the faculty their opinions regarding practical, real-world research. An example of this concerns the format of legal materials and whether to teach print research. Academic law librarians are in contact with firm and government librarians in offices where law students will seek employment; those firm and government librarians provide actual knowledge of real-world best practices, and academic law librarians can share those insights in faculty meeting discussions.

¶25 The reality of postgraduation employment is that practitioners and employers expect recent law graduates to be able to diligently perform cost-effective legal research, regardless of the format of the materials. Where students and recent graduates were once able to learn from apprenticeship or practical experience, legal practitioners have demanded more practice-ready graduates, already possessing skills that were once learned on the job.38 In light of these demands, legal educators have started to rethink the way legal education has been administered for decades. Legal educators, including law librarians and practitioners (and, more recently, business instructors and professionals39) have put their heads together to come up with solutions to better prepare students for practice. To comply with new ABA standards,40 many law schools have added clinical requirements and experiential classes that simulate real-world case work, including the necessary preparatory research. These simulations are meant to give students a sense of the necessary work that is necessary for diligent preparedness. These clinics require students to perform their own research, including understanding considerations

40. See AM. BAR ASS’N, supra note 23.
for the selection of an appropriate resource, versus mere reliance on a given database’s algorithm for determining the most relevant result.

¶26 Times have demanded a change in legal education. For legal research education, professors are moving away from print and focusing on online instruction because most contemporary legal (and nonlegal) research is performed online. 41 In recent literature, critics of legal education 42 are also less supportive of traditional law libraries because of their mistaken notion that research can be done electronically, obviating the need for books and a physical space in which to house them. This mistaken reasoning continues, concluding that if there is no need for books and there is no need for a library, then there is no place for librarians.

¶27 Those arguments can be refuted with simple logic. Historically, legal research could be performed using only the available books maintained by brick and mortar law libraries. Fewer courts existed; legal publishing was in its infancy and did what it could to preserve precedents on paper. 43 Judges understood the limitations of collecting the most up-to-date published materials. Litigators prepared for court by using the few print materials that were available, including treatises, reporters, and Shepard’s Citations. The finding tools for these collections employed controlled vocabularies that limited the number of access points to the most relevant information. Since these print editions were available only in a few physical law libraries, legal research was less expansive. 44

¶28 As every field of jurisprudence has expanded over time, so too have the materials from which researchers find pertinent information. 45 Reporters, digests, and annotated codes are now so expansive that relevant material can get lost in the abundance of information. Just because most of that information is now located online does not mean that it is easier to find; it certainly does not mean that even a skilled researcher is adept at finding the most accurate, current, and relevant information. Online research is sloppy, at best. 46 Information that was once found within the finite space of few brick and mortar law libraries now extends to the infinite expanses of the World Wide Web. Likewise, relevant information that previously was found from an online search using controlled vocabulary terms is now likely to return an unintelligible number of potentially irrelevant results. Keyword search results are likely to distract researchers from more authoritative resources, especially when the search returns results with synonyms or alternatives of the actual

44. It could be said that research was easier because of the finite number of publications in which to find relevant authority, despite the tedium of this practice. It could also be argued that because of the access limitations imposed by a controlled vocabulary, good research could only have been performed by experts familiar with that area of law.
45. Tice, supra note 37, at 170.
searched terms. Moreover, not all of the relevant information is found in a single place, and librarians are more aware of these limitations to finding current, accurate, and reliable resources, even from different databases or sources. When teaching research skills, law librarians reiterate how important it is to use different resources and databases for low-cost information gathering. This versatility is often more economical. The result of this knowledge often produces good habits for careful researchers.

§29 This fact alone places law librarians and their unique skills in high demand. While case law and statutes are still easy to find online, it has become much more time consuming to find relevant case law simply because of how many cases are reported. It is even harder to find an appropriate secondary source that explains the area of jurisprudence for the average legal researcher to simply find a place to start. Additionally, law librarians are more likely to understand all of the information contained in bibliographic records. These records may show that successive editions and titles have emanated from their predecessor titles, authors, or editions. This helps researchers to find more complete information and may give law librarians valuable insights to information and sources that might otherwise be lost on even adept researchers.

§30 James G. Milles has written thoughtfully that law libraries are doomed because of the crisis in legal education. In direct opposition to Tice’s thesis that the law library is the heart of the law school, Milles argues that the law library “has not been central to the law school for more than a generation.” Rather than

47. See generally Jason Wilson, Moving Beyond the Box, SLAW (Feb. 6, 2013), http://www.slaw.ca/2013/02/06/moving-beyond-the-box/ (discussing the identified problems with how database systems process user’s keyword queries and how those systems rank the results).
48. Print and online, free and commercial.
49. Both free and paid services. Statutes, codes, regulations, and opinions are continuing to be made available for free online.
50. See Chief Justice of U.S. Supreme Court Speaks at Drake, RADIO IOWA (Oct. 2, 2008) (Chief Justice John Roberts III speaking at a graduation ceremony for Drake University in 2008; audio available at http://cdn.radioiowa.com/resource_news/20081002/eca83e2b-c09f-1e1c-6bccd82f2cd6ea37/034948/roberts.mp3, at approx. 0:28m:00s) ("word searches will uncover reams of marginally relevant precedent superficially on point"). The “Google generation” of students often relies on a given search engine’s algorithm to return relevant results based on the search query, however misguided it may be; these users are unlikely to go pages deep into the results just to see if something more relevant was missed by the algorithm. This puts law librarians in a unique position because they can help researchers determine the best resource as well as the best approach to using that resource.
51. It is hard because there are no good ones that are available for free. The problem lies with name recognition: commercial publishers may rename well-known treatises in an effort to make their contents more accessible to the modern legal researcher (e.g., a well-known treatise dealing with certain subject matter may not be found by its known name or may be broken down into separate cases, practice guides, and forms databases from some better-known legal publishers); likewise, legal scholars who write treatises and practice guides want to be acknowledged for their contributions to the industry. Law librarians recognize these gaps in access to legal information—and are sometimes themselves scholars in an area of law—and can therefore benefit from inclusion in curricular developments, as curricula are being redesigned to better prepare students for the real world.
53. Id. at 517, ¶ 34.
oppose Milles’s conclusion, it makes more sense to use this conclusion to once again argue for the necessity of law librarians, especially at faculty meetings where discussions about the future of legal education take place. Milles posits that “most trendy and cutting-edge scholarship now is interdisciplinary and/or empirical,” where research is more dependent on popular legal databases and nonlegal information resources. Fortunately for more optimistic law librarians, those popular legal databases are changing faster than law faculties can keep up with them. Thus, law faculty members turn to librarians for instruction—often mere assurance, for example—that their research skills are fluid and that commands performed in older versions of the databases may still be recognized in the newer databases. Likewise, law scholars adept with the popular legal research databases may not be so familiar with the nuances of social science research through the main university’s various library databases. Those scholars may feel more comfortable discussing their research with someone who has a legal background and better understands their request. Luckily, finding electronic information that is disseminated over countless databases that return wildly different results for similar queries are the forte of librarians. Once again, these research contributions are often recognized by law faculties in footnotes of their scholarly works, which in turn have an impact on school admissions.

§31 In addition to using their resourcefulness to find the most relevant information for research, academic law librarians use ingenuity to combat the effects of annually shrinking budgets. All law libraries have been facing smaller budgets for some time now. New information is constantly being made available, despite libraries’ diminishing funds to procure often-necessary resources. Such constraints force librarians to find creative and innovative ways to keep up with the mission of the library, which is to support the curriculum and scholarship of the law school community. Librarians recognize this expanding gap between the increasing number of resources and the declining ability to pay for access to the information. Because law librarians remain aware of the needs of the users of that information and have been working with other libraries and legal publishers to close that gap, more materials are being made available in different formats, for ease of accessibility and use by students and practitioners alike. Finding solutions to such problems is a worthy discussion topic for faculty meetings.

§32 The considerations for the format of materials against a conservative budget also impacts instruction. Students seeking employment in certain fields benefit from the knowledge of having used certain treatises and guides, in any given format. For instance, librarians often instruct students on when and how to best use commercial databases, if they are available, for cost-effective research, and if they are not, then librarians typically instruct students on the best practices and caveats in using print materials. All of these apply in an employment setting and directly reflect on the institution and its good reputation.

§33 All aspects of legal education, including legal research, have changed over time. Shrinking budgets force librarians, and by extension publishers, to reevaluate

54. *Id.*
55. *Id.* at 517, ¶ 32.
the value of the format of the materials. The format of materials acquired by the library directly impacts the law school curriculum and the support for the surrounding community, especially where practitioners still rely heavily on print materials. Materials once available only in print are slowly being converted to digital formats. These digital formats link to other useful digital resources; unfortunately, they also link to many more resources that are not useful, resulting in a seemingly endless amounts of information to process, which may distract the inexperienced researcher. The ingenuity and experience that academic law librarians employ in response to the abundance of information available should surely be welcomed in law faculty meeting discussions and in law school governance.

Heads of Law Libraries

¶34 To conform to the changes in legal education, law libraries and the roles of law librarians—especially the roles and responsibilities of the heads of academic law libraries—have adapted in kind. Historically, academic law libraries and collections were small enough that they could be managed by only one librarian. As the collections and the sizes of the libraries grew, more librarians were needed to take on the growing list of librarianship duties to maintain and grow the collection.

¶35 As a result of bigger collections being managed by more librarians, head law librarian positions have become more administrative in nature, and many services once performed solely by a head law librarian are often delegated to other, qualified librarians (for example, acquiring and cataloging new books and electronic resources, managing circulation and public services, and reference). At academic institutions that do not grant tenure status to law librarians, the head of the law library may still hold tenure status. This status will guarantee a place in faculty meetings for the head of the law library.

¶36 Depending on the institution, this may be the only librarian position that is required to teach. Conversely, it is likely that the head of the law library probably does not take shifts at the reference desk. After all, the head of the law library cannot do everything, and administration of a law library—and teaching—is a job in itself. This results in more law librarians taking on administrative and managerial roles as a part of their everyday librarianship duties.

¶37 In institutions where qualified law librarians are not invited to faculty meetings, this honor may still be granted to the head of the law library. From here, the head law librarian can bring back necessary, or simply professionally relevant, information to the other librarians. At many institutions, the head law librarian will have voting privileges to participate in faculty meetings.

56. The “head of a law library” is meant to include all the various titles given to the librarians in this position.
57. Simons, supra note 12, at 257.
Despite the above, it is quite possible that the duties involved in the successful administration of a law library result in the library head being out of touch with certain, key information that will solve a debate or a concern in a faculty meeting. For example, where a faculty meeting discussion is focused on the creation of a new experiential class or clinic, information about whether the library can support the curriculum for that class might be welcome; likewise, professors focusing on experiential and clinical curriculums might be more interested in the format of materials in the library as they try to simulate real-world research assignments for their students. For this kind of supporting data, heads of law libraries often turn to their other librarians, who are more likely to have this information in the forefront of their minds as part of their daily experience.

Given the shared responsibilities of law library administration, the heads of academic law libraries should advocate for the participation of more law librarians in faculty meetings. The head of the law library is in a position to persuade the faculty of the value of including the opinions of other law librarians in certain aspects of law school governance. This will result in better library services for the entire law school community as well as more efficient practices by the librarians.

Conclusion

Law faculty meetings represent an amalgamation of conversations, ranging from substantive to social, all focused on or coming back to the institution’s direction in legal education and the success of its student body and faculty. While it is hard to quantify these successes, they can often be sensed by way of the acknowledgments by doctrinal faculty for scholarly research support and in the employment outcomes of the student body who impress employers with their knowledge of research materials and processes. These successes directly impact school rankings and the number of potential applicants, and they can be easily traced back to law librarians’ contributions within the legal academy.

Academic law librarians are such an integral part of legal education and yet often lack the right to contribute a voice to the ongoing success of their law school and its student body. These librarians often have the educational equivalent of voting faculty and are likely to contribute to their industry very much like those doctrinal faculties, even without the implicit encouragement of being on a tenure track. These librarian-professors, very much like their doctrinal brethren, are invested in the success of their students and even contribute to better employment placements for students, but are still overlooked as a voice to contribute to matters concerning the student body. These librarian-professors are likely to also take on course loads that are not just foundational to the success of the law students but essential for their later success in the practice of law. Required legal research courses should not be limited to only the first-year curriculum but should also be an integral part of the upper-level curriculum because research is a necessary skill for postgraduation employment. This urgency in focusing on legal research instruction in law school demands that legal research educators—law librarians—be a part of discussions and votes that take place at faculty meetings. Librarian attendance and participation at faculty meetings will only add support for the continued success of the legal academy and legal education as a whole.
## Keeping Up with New Legal Titles*

Compiled by Benjamin J. Keele** and Nick Sexton***

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* The works reviewed in this issue were published in 2013 and 2014. If you would like to review books for “Keeping Up with New Legal Titles,” please send an e-mail to bkeele@indiana.edu and nsexton@email.unc.edu.

** Research and Instructional Services Librarian, Ruth Lilly Law Library, Indiana University Robert H. McKinney School of Law, Indianapolis, Indiana.

*** Clinical Assistant Professor of Law and Reference/Collection Development Librarian, Kathrine R. Everett Law Library, University of North Carolina School of Law, Chapel Hill, North Carolina.

*Reviewed by Michael O. Eshleman*

1. The law disfavors the dead hand of the past throttling the present. That is why there is the rule against perpetuities, and why nearly all states have abolished the entail of property—the bane of Austen’s Dashwood and Bennet sisters. Yet in copyright law, the power of the past continues to grow. And the blame for that rests with the people who gave us the metric system and existential angst: the French.

2. In this powerful book, Peter Baldwin, a history professor at UCLA, shows how the Romantic veneration of the artist as the lone, tortured genius giving all to his art, a particularly French notion, has led to the endless ratcheting up of copyright protection. Britain’s Statute of Anne in 1709 set the term of a copyright at fourteen years, renewable once. The First Congress set America’s copyright term at nineteen years and required authors to register to secure the protections of that law.

3. Now, from the moment they are inked, virtually every scribble and grocery list is copyrighted for an unbelievable time: the life of the author plus seventy years. If this had been in effect when a young Irving Berlin wrote “Alexander’s Ragtime Band” in 1911, that song would be copyrighted until 2059, as Berlin died in 1989 at age 101.

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English and American courts both long ago rejected the idea of common law copyright. Copyright exists solely as a creature of statute. It is a trade: authors get exclusive rights for a limited time to spur them to create things for the public to enjoy. Instead, it has become, as Macaulay put it, a “tax on readers for the purpose of giving a bounty to writers.”

Realistically, with a term long exceeding authors’ lifetimes, the extra decades of protection mean big corporate interests reap windfalls.

The most dangerous facet of this European mentality is the concept of moral rights. Among other things, moral rights allow authors—and even their distant descendants—to control their copyrighted works. So in 2001, a great-great-grandson of Victor Hugo went to court in France to stop a proposed sequel to *Les Misérables*.

Under moral rights, the dead hand is paramount. Nothing ever becomes common property. There is no public domain. Ideas are forever monopolized. Never mind there is nothing new under the sun—as the Preacher put it two millennia ago. Or that the public domain is the soil of creation. Shakespeare appropriated Holinshed’s Chronicles, and Rodgers and Hammerstein the memoirs of Anna Leonowens. Moral rights would preclude that. Under a moral rights regime, the successors of a woman who died in 1817 could have suppressed *Death Comes to Pemberley, Clueless, and Sense and Sensibility and Sea Monsters*.

Baldwin shows that the Third Reich was an unlikely champion of moral rights and the cult of the heroic author whose work must be protected. For one thing, the Nazis did not like the appropriation of classical music for popular songs—they would have hated Perry Como’s “Catch a Falling Star,” The Toys’ “Lovers’ Concerto,” and Alan Sherman’s “Hello Muddah, Hello Fadduh.”

This powerful book shows how ideas that are antithetical to the Anglo-American legal tradition and the basic purpose of copyright law have become the law of our land, ensnaring today’s audiences and creators in the Serbonian bog. These continental creations were imported thanks to the Berne Convention, the multilateral treaty on copyrights. Revisions to the convention increasingly protected more and more things for longer and longer terms, and American corporate interests—particularly Hollywood—finally convinced the U.S. government to sign. Congress, at the behest of the copyright owners, changed American law to conform to the convention. Berne is a shining example of the dangers of multilateral negotiations serving special interests rather than the public interest.

Baldwin’s extensive research in American, French, German, and European Union legal materials is impressive. His book is scholarly and readable. Baldwin is evenhanded and not the least polemical—which makes his story all the more damning. Librarians have rightly opposed the lengthening of copyright terms; for example, AALL filed an amicus brief in the *Eldred v. Ashcroft* case (537 U.S. 186 (2003)) opposing the retroactive extension of copyright terms. Librarians should also be concerned with the threat moral rights pose to free expression and the flow

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2. Ecclesiastes 1:9.
of ideas. This book deserves a wide readership, not just among librarians, but among those who care about corporate control of our cultural heritage.


Reviewed by Heather N. Joy*

¶10 This is the tale of how ordinary Americans shaped our Constitution. It is not a retelling of moments in court or Congress that precipitated a change in the law, or a simple repetition of well-known history. It is a series of specific historical illustrations providing insight into how citizen participation is at the core of American constitutionalism. It showcases four periods in American history when regular citizens became “civic founders” and fundamentally changed the law of the land.

¶11 Elizabeth Beaumont is a political science professor at the University of Minnesota. She posits that much of the text and meaning of the Constitution emerged through the dialogue and efforts of everyday citizens. While not rejecting the critical role of the framers, instead of spending her pages on that familiar top-down story of constitutional construction, she focuses instead on the experiences of citizens and (at the time of their struggle) noncitizens—the revolutionaries, ratifiers, antifederalists, abolitionists, and suffragists—who rallied together to challenge the most basic tenets of law. Using the lens of the civic constitution, she examines the role of popular constitutionalism in U.S. history.

¶12 Chapter 1 provides an introduction and road map, and highlights the three points Beaumont argues are overlooked in other works on popular constitutionalism: analysis of how civic groups influenced constitutional text defining fundamental rights, developed new concepts and principles of constitutional democracy, and altered norms of citizenship to include expanded use of civil liberties. The rest of the book is divided into two parts, each part focusing on two historical periods of change. The chapters follow an easily digestible formula: an examination of the majority constitutional view, the efforts of civic groups to establish a new perspective on the topic, and a review of any subsequent constitutional alterations.


¶14 Part 2 covers reconstructions. Chapter 4 delves into the abolitionists’ movement and the subsequent passage of the Thirteenth, Fourteenth, and Fifteenth Amendments. Chapter 5 looks at the suffragists’ movement and the subsequent passage of the Nineteenth Amendment. Chapter 6 concludes with questions and a call to consider the rise of “civic founders” in current constitutional struggles.

¶15 The research appears thorough and relies on credible and appropriate resources. Pulling from a vast array of historical documents, Beaumont culls rele-

vant insights from handbooks, speeches, sermons, newspapers, reports, boycotts, protests, and more, going back in time and diving into the world outside the courtroom and the legislative chambers to highlight the sea of dispute raging in the public sphere among everyday Americans. The notes alone provide fascinating reading, and the references are extensive and valuable to researchers interested in this topic.

While the content is interesting and the writing relatively straightforward, this is not a book that will keep you up at night, eyes straining, until you reach the last satisfying chapter. It is, however, an excellent resource, providing a worthwhile and well-reasoned perspective contributing to a fuller understanding of American constitutionalism. A valuable addition to the discourse on popular constitutionalism, this title should occupy a place in every academic law library.


*Reviewed by Maureen Anderson*

Nell Bernstein shines a light on the American juvenile justice system to highlight the flaws that must be changed to save youth offenders. From the outset, Bernstein points out that most offenders are convicted of minor, nonviolent offenses, and pose little danger to those around them; however, what happens to them while incarcerated profoundly changes them and how they view the world. With one in three U.S. schoolchildren arrested before their twenty-third birthdays, Bernstein explains that we are at risk of losing a third of our children. Additionally, once arrested, a high percentage of juveniles are arrested or incarcerated again. *Burning Down the House: The End of Juvenile Prison* will appeal to anyone who interacts with at-risk youth or understands the basic needs of adolescents. The book provides critical insight into the need for change; Bernstein concludes that the idea of “a kinder, gentler prison” is unattainable (p.228).

More than 70,000 adolescents are confined in juvenile detention centers.3 While incarcerated, many of these children live in fear of being raped, beaten, or deprived of the basic necessities of life. Ironically, those responsible for protecting and monitoring these adolescent offenders are often responsible for the most dreadful offenses against them. As a nation, we spend nearly ten times more to imprison a child than we do to educate one. In *Burning Down the House*, Bernstein sets out to explain what life is like for a juvenile in these facilities. A passionate advocate for youth, she captures the struggles of these young offenders and makes readers question whether the time has come to eradicate juvenile prisons.

*Burning Down the House* exposes the sad reality for adolescents in juvenile prisons. The book is divided into two parts. Bernstein begins part 1 by telling the stories of former prisoners who suffered at the hands of their adult overseers. She

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* © Maureen Anderson, 2015. Associate Professor and Assistant Director for Public Relations, University of Dayton School of Law, Dayton, Ohio.

moves on to document the history of juvenile prisons beginning in the nineteenth century and continues with the rise of the notion of the “super-predator” in the late 1980s and early 1990s. She explains that, during that time period, more stringent laws were enacted, and there was a movement away from the notion of rehabilitative justice. Bernstein rounds out part 1 with a disturbing look at the sexual abuse, as well as physical and emotional traumas, these children suffer while imprisoned.

¶20 In part 2, Bernstein offers hope. She interviews forward-thinking prison administrators who are building “a better mousetrap” (p.11). For example, Missouri has successfully run small, therapeutic facilities for thirty years and acts as a model for other states. Although not a new concept, there is a definite effort to create a therapeutic prison that seeks to treat adolescents rather than rehabilitate or punish them. Bernstein crossed the country in her quest for answers, concluding that no matter how much effort goes into creating better juvenile prisons, more profound reform is still necessary. It is a fundamental fact that children need security and connection, coupled with a sense of independence. Current juvenile prisons meet none of these needs. While juvenile prisons in New York, Missouri, and California are making efforts to change the model, abuses still occur. Bernstein constantly questions whether it is time to end juvenile prisons and spend the money in more productive ways.

¶21 *Burning Down the House* is a gripping and, at times, uncomfortable book to read. The juvenile prison system is damaged; whether it can be fixed remains to be seen. Bernstein is optimistic that reforms are addressing some of the problems, but ultimately, the experience for children is so traumatizing during a critical time in their development that more needs to be done. She closes the book with an open letter from a young man who has been behind bars for more than seven years. He acknowledges his part in his predicament, but wants the world to know that he is suffering. Hope is all he has.

¶22 *Burning Down the House* is highly recommended for academic and public libraries. It provides excellent case studies, is well researched, and undeniably portrays Bernstein’s passion. She is a persuasive voice for a segment of society that needs help. Bernstein is an advocate for the troubled youth in America who have made bad choices.


Reviewed by Eve Ross*

¶23 Brad Bradshaw has a Ph.D. in experimental psychology and more than a decade of experience as a litigation consultant. The American Bar Association published the first edition of this book in 2011. Three years later, the second edition includes updated fact patterns and insights from more recent psychological studies.

¶24 The subtitle, *A Litigator’s Guide to Juror Decision-Making*, accurately describes Bradshaw’s work. He examines juror persuasion in the context of civil
litigation, with detailed examples based on contract litigation, medical malpractice, premises liability, and product liability. This focus distinguishes the book from Dennis J. Devine’s *Jury Decision Making: The State of the Science*, which deals mostly with juries in criminal cases, and from Jennifer K. Robbennolt and Jean R. Sternlight’s *Psychology for Lawyers: Understanding the Human Factors in Negotiation, Litigation, and Decision Making*, which applies psychological principles to numerous areas of interest to lawyers, including ethics and personal happiness, not just litigation.

¶25 The title, *The Science of Persuasion*, might seem to imply in-depth analysis of the available psychological studies, but Bradshaw actually describes most of the experiments he mentions in a paragraph or less or, in some cases, only by analogy. He does not mention their methodological or other weaknesses and does not provide full citations—just author names. This approach makes for easy reading and intuitive, memorable takeaways. It is ideal for time-pressed practitioners who want to quickly understand and apply insights from the studies, and who are not inclined to challenge the quality of the research or Bradshaw’s interpretation of it. For academic work, a better choice might be Jessica D. Findley and Bruce D. Sales’s *The Science of Attorney Advocacy: How Courtroom Behavior Affects Jury Decision Making*, which takes a more critical stance and includes a bibliography.

¶26 After an introductory chapter briefly dealing with such principles as credibility, likeability, and stereotypes, chapters 2 through 8 are sequenced in the typical order of events for litigation: trial preparation, witness preparation, voir dire, opening statements, evidence, closing arguments, and jury deliberations. This organizational structure enables a practicing lawyer who wants advice on how to conduct whatever is coming up next in an ongoing case to read just the relevant chapter. It may also help law professors identify single chapters for use as supplementary texts based on their applicability to a course on evidence, damages, or trial advocacy.

¶27 The book’s examples are its strongest benefit for new litigators and law students preparing for a litigation practice. Chapter 9 provides two hypotheticals followed by examples of jury questionnaires, voir dire questions, opening statements, and closing arguments tailored to each situation from both the plaintiff’s and the defendant’s sides. Each of the three appendixes provides a detailed hypothetical, including case overview, procedural posture, evidence (such as deposition summaries and document exhibits), and jury instructions. Applying the book’s recommendations to these last three hypotheticals to create suitable jury selection materials and courtroom arguments is left as an exercise for readers.

¶28 The book appears tailored primarily to the practicing trial lawyer who is under extreme time pressure and already has a solid understanding of jury selection procedures. For example, one timesaver for the hurried reader is the frequent use of callout boxes, which add up to an easily skinned overview of the main points and key examples. The book is also recommended for law students, specifically those who have already completed their civil procedure coursework (terms such as “peremptory challenges” and “voir dire” are not defined in the book).

¶29 This book is recommended for private law libraries in civil litigation firms. It is also recommended for academic law libraries at law schools preparing students for litigation practice.
Butler, Rebecca P. Copyright for Academic Librarians and Professionals. Chicago: ALA Editions, 2014. 296p. $82.

Reviewed by Victoria Szymczak

¶30 This ALA book on copyright law presents a practical, pared-down approach to complicated compliance issues faced by academic institutions. Rebecca P. Butler’s fourth book on copyright law would benefit copyright officers at colleges and universities, technologists or media specialists, as well as teaching faculty who lack a specialization in this field of law. Copyright for Academic Librarians and Professionals will appeal generally to academic librarians and will serve as a fine complement for academic law librarian specialists who may typically use resources that have more nuanced discussions of copyright law.

¶31 Butler divides this book into two parts. Part 1 is a fifty-eight-page introduction to copyright law that reviews the core areas in which academic librarians routinely become involved. This includes an introduction to fair use, obtaining permissions, the public domain, and a review of licensing. Part 2 consists of eight chapters devoted to the application of copyright law to specific situations. For example, chapter 9 deals with copyright law as it applies in the context of computer software, handheld applications, and mobile technologies. The book concludes with a chapter that places copyright law in the context of Butler’s discussion and provides a glossary of terms and reprints of important copyright laws for easy reference while reading the text. Readers will enjoy the pattern of the book, which repeats in each chapter, though it should be noted that the text is not supported through the use of citations as we expect to see in law-related literature, nor is there a discussion of copyright law development. Rather, the author draws on her vast experience as an academic working with copyright law to share her knowledge; she provides references at the end of each chapter. Butler’s experience is reflected in how she has organized her chapters and her task-based approach to copyright law in academic facilities.

¶32 Part 1 provides clear, basic information about fair use, licensing, and obtaining permissions from copyright holders. Most law librarians are well informed on these subjects, but the chapters provide a good review and place the law in the context of a college or university setting. The elements of the law are reviewed with some historical references. Very useful are Butler’s tables and charts listing fair use guidelines for lending by medium type, and the identification of works eligible for copyright, organized by format. The materials presented in part 1 are uncomplicated by the myriad situations faced by academics when applying a copyright analysis in an educational environment. Butler leaves the complicated issues for part 2.

¶33 Chapters in part 2 begin with a paragraph or two defining the subject under discussion. The author then proceeds to explore the topic through frequently asked questions. The questions and answers were compiled from the many workshops, presentations, and classes Butler has conducted. Answers that involve a more compli-
cated work flow than others are supplemented with a flowchart. In fact, there are one hundred flowcharts sprinkled throughout chapters 6 through 13. Flowchart fans like me will love this feature of Butler’s publication; however, while the Q&A approach coupled with flowcharts is satisfying at a basic level, I found myself looking for more substantive information about copyright law when reading through the chapters.

¶34 Librarians with a formal legal education will likely find distinctions in the application of the law that are not discussed in the book, or they may hunger for more historical detail that might influence copyright law interpretation. In this regard, law librarians would be better served by The Librarian’s Copyright Companion, Second Edition, or, more broadly, by a standard copyright law treatise. For those less familiar with the copyright laws but interested in more detailed background that addresses the broader audience of educators, I would recommend Kenneth D. Crews’s Copyright Law for Librarians and Educators, Third Edition. For example, if you want to read a discussion of the Digital Millennium Copyright Act (DMCA) as it relates to libraries, both of the alternative texts I recommend would be a better choice. However, if you want to see how the DMCA was applied in a specific situation, Butler’s book would be the text of choice.

¶35 Butler’s contribution to the select works on copyright in academic libraries provides unique content, both in terms of presentation and substance. This is a handy desk reference for those of us who are not frequent readers of material on copyright but are, nonetheless, responsible for administering copyright compliance at some level. The splendid flowcharts allow you to move much more quickly through the steps of a copyright analysis. Butler addresses cutting-edge topics for libraries like mobile technologies and multimedia formats at lending institutions. She also provides guidance at the international level, which is rare in the U.S. literature on copyright in libraries or academic institutions.

¶36 Copyright for Academic Librarians and Professionals is not an expansive text on copyright law, but Butler’s real-world approach to copyright compliance for academics makes this publication worthy of a space on your professional reading shelf.


Reviewed by Taryn L. Rucinski*

¶37 In the fascinating but confusing world of cultural heritage law, what do Parthenon Marbles, Holocaust artwork, and Maöri funerary remains have in common? Each has been the subject of significant international litigation resulting in a fragmentary and largely unsatisfying patchwork of litigation decisions, arbitration orders, and broken covenants. Drawing on interdisciplinary insights, The Settlement of International Cultural Heritage Disputes by Alessandro Chechi attempts to provide a solution to this ad hoc legal jumble by systematically reviewing international disputes related to tangible cultural property and then synthesizing a new group of international legal norms.

A part of Oxford University Press’s Cultural Heritage Law and Policy Series, this text is divided into six parts. The introduction in part 1 sets forth the structure and scope of the book, and articulates the basic nature of cultural heritage law disputes. Part 2 provides readers with background information, including basic definitions of cultural property and the sources and typology of the different types of cultural heritage disputes that can and do arise. In part 3, the author scans the existing ad hoc legal frameworks available for dispute resolution and the mechanisms by which disputes can be brought at the international and domestic levels. This section should be of particular interest to scholars because in reviewing the “legal means” of dispute resolution (p.135) the author explores the benefits, limits, and opportunities to be had by way of various international courts and tribunals. This section also details opportunities for institutionalized arbitration as well as steps for avoiding disputes.

The next two chapters are more theoretical in nature and advance the author’s thesis that changes in the existing cultural heritage dispute resolution milieu have the potential to “enhance the safeguarding of cultural heritage and the legal framework regulating it” (p.4). In part 4, Chechi first proposes the establishment of an International Cultural Heritage Court and then dismisses it as too speculative, in favor of strengthening existing dispute resolution forums through a process of “cross-fertilization,” or the close information-sharing interactions of otherwise disparate adjudicators (p.221). Part 5 then takes readers on a bit of a proverbial rollercoaster as the author leads them first from the networking components of “cross-fertilization” (p.8) to synthesizing general principles of international law, and ultimately toward the proposal of a new lex culturalis (pp.246–47) or the emergence of a separate and distinct group of “transnational cultural heritage law” principles (p.246). While interesting, this chapter feels rushed and not as connected to the rest of the work. This last section is then followed by a brief conclusion in part 6.

This is the first major work by Chechi, a researcher and teaching assistant at the Art-Law Center, Faculty of Law, at the University of Geneva. While the author has an approachable style and does an extremely thorough job of researching and annotating the text, this is probably the least valuable of the three works available so far in the Cultural Heritage Law and Policy Series. Of note to researchers, The Settlement of International Cultural Heritage Disputes includes a table of cases, a table of instruments, a list of abbreviations, a bibliography, and an index. The text is supported by footnotes throughout. Chechi’s work is recommended primarily for academic law libraries and graduate-level interdisciplinary libraries that offer cultural heritage law or historic preservation coursework, or concentrate in art and museum law. Libraries that have an international or environmental specialty may also be interested in this text.


Reviewed by Susan E. Vaughn

Jennifer Lawrence characterized the leak of nude photos of her and other celebrities as a “sex crime.” Her response to the violation and the very public vic-
tim-blaming that ensued after the leak turned a harsh spotlight on this particular online hate crime. Lawrence’s celebrity status ensured the high-profile reverberations of this leak, but it also engendered a quick response by law enforcement officials to the criminal behavior. According to Danielle Keats Citron, many other (overwhelmingly female) victims do not receive such quick redress to similarly hateful acts. In her timely book, *Hate Crimes in Cyberspace*, Citron presents an impassioned, well-reasoned, and meticulously documented guide for how society and the legal system can more effectively respond to such hate crimes.

¶42 Citron approaches the topic with the expertise of a trained litigator, presenting a clear outline of the issues and her arguments in the thirty-page introduction. She divides the book into two main parts: “Understanding Cyber Harassment” and “Moving Forward.” In the first part, Citron paints a clear picture of the current problem, using victim narratives, social science research, and documentation of social attitudes toward cyber harassment. The narratives of the Tech Blogger, the Law Student, and the Revenge Porn Victim not only personalize the issues for readers, their stories also demonstrate the inadequacy of the current laws. The social science research presented demonstrates how certain aspects of an online environment can exacerbate the problems of hate crimes, such as broad dissemination and the difficulty of removing harassing speech from the Internet. While exploring the social response to such crimes, such as blaming the victim and trivializing the harassment, Citron also draws parallels to similar social attitudes that have been addressed in part by increased regulation, such as sexual harassment at work and domestic violence at home. In this part of the book, the author documents the disparate impact of cyberstalking on women and the potential impacts this can have on women’s ability to participate equally in cyberspace.

¶43 In the second part, Citron tackles many individual remedies and outlines how each could be employed to address cyber hate crimes. She details current state and federal laws, both criminal and civil, that address such crimes. Drawing again on the victim narratives, she shows how these existing legal remedies have often proven inadequate due to shortcomings in the laws themselves or lack of serious prosecution. Citron also expands on how civil rights remedies could and should be used to ensure equality for women in cyberspace and address cyber hate crimes. Examples of how to strengthen existing laws are proposed, including draft legislation and citations to model state laws. For example, Citron discusses New Jersey’s law criminalizing the disclosure of a person’s sexually explicit photos without that person’s consent. She offers practical as well as legal solutions, such as conditioning funding on training initiatives for law enforcement officers on existing laws and the forensic science skills needed to root out cybercrimes.

¶44 Citron moves beyond legal solutions that seek to criminalize behavior of harassers by exploring ways to deter unwanted conduct of service providers and employers. She discusses the difficult but not impossible task of reaching Internet service providers (ISPs) given the immunity often granted under section 230 of the Communications Decency Act. Her proposal would remove such immunity for a
narrow category of ISPs, such as sites that make money from cyberstalking or revenge porn.

¶45 Citron counters potential First Amendment challenges in a separate chapter. She argues that regulation of cyber hate speech should be subject to less rigorous scrutiny as low-value speech, which includes, for example, speech that is deemed to be a true threat or that facilitates criminal action. Citron offers some practical advice to companies, parents, and schools on how they can help fight cyber hate crime.

¶46 *Hate Crimes in Cyberspace* provides the most complete coverage to date of the social underpinning, legal history, current laws, and potential legal solutions to such crimes. Citron’s treatment of the issues is unique as it views the current problems of cyberstalking and revenge porn through the lens of historic civil rights issues. Although laws and legal issues are covered in detail, Citron is careful to describe legal concepts in terms accessible to a nonlaw audience. For example, a section covering defamation is titled “Lies in Cyberspace.” It is a must for any academic law library but also is appropriate for both academic and public libraries.


Reviewed by Brendan E. Starkey*

¶47 Sex trafficking, like other forms of human trafficking, is itself notoriously difficult to track. A “conservative estimate” from the International Labour Organization puts the number of victims worldwide at 4.5 million people. Many suspect the number is much higher, but as a report from the U.S. Department of State explains, “trafficking is a clandestine crime and few victims and survivors come forward for fear of retaliation, shame, or lack of understanding of what is happening to them.” A presidential task force looking to improve understanding of the problem domestically concluded that “[d]ue to the hidden and complex nature of the crime, the full scope of human trafficking in the United States is unknown.”

¶48 Unfortunately, the same factors that make sex trafficking difficult to track—its underground nature and underreporting by victims and others—may lead many to underestimate the full scope of the problem and its prevalence in their own communities. According to an FBI bulletin on the subject,

[the terms human trafficking and sex slavery usually conjure up images of young girls beaten and abused in faraway places, like Eastern Europe, Asia, or Africa. Actually, human

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* © Brendan E. Starkey, 2015. Associate Director for Library Services, Fowler School of Law, Chapman University, Orange, California.


sex trafficking and sex slavery happen locally in cities and towns, both large and small, throughout the United States, right in citizens’ backyards.9

¶49 As one trafficking survivor puts it,

When we hear the words “sex trafficking,” as Americans we immediately think of women and children overseas who are being forced into the sex trade or who are brought into the United States for the purpose of sexual exploitation. We don’t usually think closer to home—Americans trafficked by Americans.10

¶50 A Civil Remedy will change that. The film tells the story of Danielle, a sex trafficking survivor. She came to Boston at age 17 to study social work, but her life unexpectedly took a dark turn. At a party she met an older man who lavished her with praise and gifts. They began what Danielle thought was a romantic relationship until the man suddenly became violent. She came to believe that he was “capable of anything” (3:53). Through fear and violence, this trafficker forced Danielle into a life of prostitution on the streets of Boston. There, her life was anything but what the popular imagination often holds. She was not in it for the money—he kept it all. She was not a product of her own agency—she was beaten into submission. She did not do it because she liked sex—she was raped constantly.

¶51 Danielle escaped after two years, but the experience caused lasting damage. At first, she did not even think of herself as a victim of sex trafficking. In her words, she was “a prostitute” (5:14). No doubt many who paid for her services, saw her on the streets, or arrested or prosecuted her thought the same. The film elaborates on the results of this perception. As girls and women enter the criminal justice system, they are treated as part of the problem, not victims of it. According to the film, seventy percent of arrests in the United States for sex trafficking are of prostitutes, while only twenty percent are of pimps and ten percent of johns (9:36). Worse, when victims are finally free, they are left to fend for themselves while the traffickers often keep the proceeds of the crime. The film highlights a growing movement to correct this problem by moving accountability from the victims of sex trafficking to the perpetrators. The goal is not simply to prosecute traffickers criminally but also to hold them financially accountable. The film gets its name from civil remedies for victims in federal law and the laws of a growing number of states.11 The federal act provides money damages against perpetrators and third-party profiteers such as hotels and websites.12 According to the film, victims may win restitution of a defendant’s gains, plus compensatory damages for the full amount of their losses, including medical and psychological care, physical rehabilitation, housing, lost income, and attorneys’ fees. Beyond that, giving victims a day in court provides

another benefit. As author and feminist Gloria Steinem says in the film, if the victim’s story is presented “in court, and proven, then it is accepted in society and begins to change societal values” (17:21).

¶52 *A Civil Remedy* is a film by Kate Nace Day, a professor of law at Suffolk University Law School and cofounder of Film and Law Productions, which aims to present “stories that bring us back from law’s abstractions to the real.”13 They have succeeded with this film, which brings the shadowy world of domestic sex trafficking into the light and presents a way forward for victims and society. It is recommended for collections in civil rights, criminology, law and society, and women and the law. The film can be purchased through the company’s website at http://www.filmandlaw.com/purchase.html.


*Reviewed by Kerry L. Lohmeier*

¶53 September 11, 2001, changed almost everyone’s familiarity with terrorism and the legal repercussions stemming from that day. In *Law, Liberty, and the Pursuit of Terrorism*, Roger Douglas compares counterterrorism laws in the United States with those in the United Kingdom, Canada, Australia, and New Zealand. The book does a good job of tying laws and events together to lead to a greater understanding of how terrorism laws came into being both before and after 9/11. Some of the conclusions may surprise readers, for instance, that the expanded laws of the United States were only catching up to some of the laws already passed in other countries.

¶54 The book is well researched, relying on a mix of data including poll data, primary law, secondary sources, and news accounts to explore the legislative and judicial responses to terrorism in the five countries. Douglas reviews the state of the law before and after 9/11 to provide a backdrop to examine the U.S. government’s responses to 9/11 and to provide a better understanding of laws aimed at reducing terrorism. In looking at the responses, he examines institutions, prior beliefs, and the amount of authority requested. One conclusion reached is that when responses to terrorism are excessive, the government is acting outside of the law. One interesting area of inquiry that Douglas sets up in the introduction and weaves throughout the book is the idea of a country that acted in haste, perhaps intending to have the law enacted for only a relatively short period of time. Douglas examines 9/11 responses to see whether any of the five countries reacted in such haste. Douglas pulls together a variety of sources to show that some laws that appear hastily passed were actually modeled around another country’s laws or versions of laws previously debated. Additionally, he provides an example from Canada to show that thoroughness and speed can go hand in hand.

¶55 The introduction provides the road map to the book, outlining the objectives and conclusions. The opening two chapters are informative and quickly cov-
ered. Chapter 1 briefly outlines recent terrorist attacks. Poll data of citizen perceptions of the probability of a terrorist attack, as well as probability calculations in chapter 1, lead to a brief discussion of possible responses in chapter 2. Beginning with chapter 3, the book gets into the law regarding terrorism by first looking at definitions of terrorism in each of the countries and in international law, moving on to surveillance, court cases and the use of classified information, criminal and economic sanctions against terrorists, and offenses related to terrorism, detention, and torture. Douglas does a nice job of briefly connecting the political backdrop in each country to the law and the government response while looking at issues of haste, national differences, and the dynamics as laws both constrain and empower while being shaped by circumstances. The book’s broad-based approach contributes to its breadth but not always its depth of treatment. But the work has ample references to primary law, scholarly works, poll data, and other materials. Often, when I wished there were more details and background information, a reference to a more scholarly work was provided.

§56 Each chapter begins with a relevant quote or two, like Donald Rumsfeld’s famous “known knowns” statement, and ends with a short conclusion to tie the themes of the chapter together. Each country is covered in varying order by sub-topic within a chapter. At times, most of the information is related to the United States with only a brief reference to one of the other countries. There were a few instances when it seemed a little disjointed to have several pages on the United States broken up by a short paragraph on the United Kingdom or one of the other countries. However, it made sense from a topical standpoint.

§57 The book is a good addition to an academic law library because of its comparative nature and Douglas’s wide-ranging coverage of the topic. It is a good starting point for someone researching the law of any of the five countries. Additionally, it is a fairly quick, informative, and interesting read. The book has been made open access through Knowledge Unlatched funding and is thus available for download at http://oapen.org/search?identifier=483170.


Reviewed by Christine Iaconeta*

§58 The inner workings of a law firm is unknown territory for new lawyers. In fact, it is only recently that law schools have begun to teach classes that discuss law firm management, running a solo practice, or technology used by practicing attorneys. Michael Downey’s Introduction to Law Firm Practice provides an in-depth examination of the structure and management of today’s law firms, as well as many other aspects of law firm practice, including business development strategies, risk management, and professional responsibility, to name a few.

§59 Before delving into the text, it is important to note the author’s background, experience, and stated goals for his book. Downey, a self-proclaimed “law practice

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management junkie” (p.xvii), has significant law practice experience. He has worked for four firms of varying sizes. He has a graduate certificate in law firm management from George Washington University and advises lawyers, accountants, and their firms on issues including ethics, operations, and risk management. In writing this book, Downey intended to reveal how law firms work to help newer entrants better understand the private law firm environment, leading to greater satisfaction and happiness in a law firm. Although it is difficult to determine whether this book has led to greater attorney satisfaction and happiness, it is easy to see that Downey has written a book that provides readers with a detailed explanation of how law firms operate, how they are managed, how the business is developed, and how revenue is generated.

The book begins with several chapters devoted to describing the various law firm structures. Chapter 1 gives a brief history of law firm creation, beginning with apprenticeships and then describing the Cravath system, a system that forgoes apprenticeship and relies on recruiting young law students out of law school. Once they become members of the firm, these young lawyers are not expected to develop their own clients but to work on matters for the firm’s existing clients. Some will be asked to join the partnership after a period of time and then assume an ownership interest in the firm. This method of law firm development is the one with which most law students are familiar. Downey also discusses virtual law firms, office sharing arrangements, and referral arrangements outside the law firm.

In chapters 5 through 13, Downey begins an in-depth discussion of various partnership and law firm governance arrangements used to run the modern law firm. Downey provides extensive explanations of what it means to hold various positions in the firm, including what it means to be an equity partner, a nonequity partner, a managing partner, an associate, a senior associate, and of counsel. In addition, Downey provides an excellent explanation of what is expected of nonlawyer personnel who work at the firm. This discussion, coupled with the previous chapters on law firm structures, provides readers with a solid understanding of the various governance structures used to run the modern law firm and the duties and expectations of law firm membership.

In chapter 14, Downey provides readers with a review problem dealing with law firm partnership. The chapter is designed to test readers’ understanding of the material in the previous chapters pertaining to law firm partnership. Readers are asked to determine who should be made an equity partner of the XYZ Law Firm and which partners should be deequitized. There are several other problem-based chapters that relate to other topics discussed in the book, including a problem that asks readers to design a law firm practice using a form provided by the author. This problem helps assess the topics discussed in chapters 15 to 21, including the market for legal services, types of law practices, how fees are assessed, other sources of firm revenue, firm profitability, and client and matter profitability.

The important topics of law firm compensation, intake of a client matter (including conflict checks), time billing entries (with examples provided), managing client work, pro bono work, business development, retaining existing clients, managing client relationships, firm culture, risk management, and professional ethics all have dedicated chapters. Scattered throughout these chapters are more problems readers can use to assess their understanding of the material.
%64 Introduction to Law Firm Practice provides an in-depth discussion of what every new lawyer needs to know about the structure, governance, and operation of a law firm. This is an excellent book that should be in every academic law library collection and in every law school career services office. Furthermore, this is also an excellent text for courses on law firm practice and law firm management. Downey’s extensive knowledge on the topic comes through in his thorough discussion of the many topics included in the text. The problems provided in the book are an excellent addition and a great way to assess students’ understanding of the material. The only missing component for those wishing to use this book for a course is a teacher’s manual, either in print or online.


Reviewed by Mary G. Thompson*

%65 In the United States, the suspect’s right to silence is enshrined in the Fifth Amendment. Following Miranda v. Arizona, American law enforcement personnel must give suspects warnings during custodial interrogation and stop all questioning under certain circumstances. American prosecutors take for granted that they may never comment on a defendant’s silence without risk of losing the conviction. Protections for suspects in the United Kingdom differ in ways that most American lawyers will find surprising.

%66 In Silence and Confessions: The Suspect as a Source of Evidence, Susan Easton, Reader in Law and Director of the Criminal Justice Research Centre at Brunel Law School, U.K., explores the right to silence in the United Kingdom, tracks recent developments that have narrowed that right, and uses social science research to discuss the implications of various police, court, and legislative practices. Easton discusses in detail the circumstances under which U.K. lawyers may comment on a suspect’s silence and when silence may be used as evidence of guilt despite the technical existence of a right against self-incrimination. She then discusses the right to silence in the context of international treaties and provides a discussion of both U.K. and U.S. law related to the conduct of interrogations. Her discussion includes the treatment of physical evidence taken from suspects, such as DNA and blood, as well as documents and other nonspeech evidence.

%67 The section of most interest to U.S. readers will likely be the chapter on false confessions. Easton carefully chronicles the relevant social science research and describes the prevalence of false confessions and the circumstances that are most likely to produce them. She describes the classes of particularly vulnerable suspects (such as minors and those with low IQs or education), the perils of lengthy interrogations, and the surprising failure of cautions such as Miranda warnings to discourage suspects from speaking. Easton details fascinating research on the types of false confessions (voluntary, coerced-compliant, and coerced-internalized) and elucidates the reasons why even people who do not fall into particularly vulnerable categories may confess falsely under stressful conditions. The chapter also includes

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related issues that may lead to unfair convictions, such as poor expert witnesses and faulty eyewitness testimony, and describes the problems that follow from overreliance on confession evidence, such as the failure of police to investigate alternative suspects or case theories.

¶68 Finally, Easton discusses problems specific to policing ethnic and religious minorities and terrorism suspects, including the weakening of the right to silence (among other rights) in terrorism cases and related issues specific to Northern Ireland. She concludes with a discussion of current proposals for requiring various degrees of corroboration for the admittance of confession evidence.

¶69 Although Silence and Confessions mainly focuses on U.K. law, there is much for U.S. readers. The comparison of U.K. and U.S. approaches, as well as the illuminating discussion of international human rights standards, can provide important insights into the course to be followed here in the United States. Furthermore, much of the social science research Easton cites is generally applicable, especially with regard to false confessions. The book provides complete tables of statutes and cases cited, as well as an extensive bibliography. I would recommend this book for major criminal or comparative law collections.


Reviewed by Stacy F. Posillico*

¶70 The title An Introduction to Empirical Legal Research suggests a bland and boring introduction to statistics that one might be assigned for a required course. However, this work defies its title and manages to entertain as well as educate. By the time readers reach its conclusion, it will be clear that this book is not merely a primer on statistical research, although there is much of that to be found. At its heart, this book is a call to action for legal scholars, judges, lawyers, and law students to develop a deeper understanding of empirical research and to produce a stronger body of work that can positively affect real change within our governmental policies and transform our legislative and judicial processes.

¶71 Lee Epstein and Andrew D. Martin are not coy about their objective in this regard. “[L]egal scholars (perhaps more than most others) hope to affect the development of law and policy. We certainly do. We want judges, lawyers, and policy makers to read and understand our work. The problem is that these people often lack any training in empirical methods and so have trouble translating the results into meaningful information” (p.15). This book strives to rise above the typical statistics textbook by encouraging its readers to join in the authors’ belief that “more and better empirical research will lead to substantial improvements in legal scholarship, judicial opinions, and public policy” (p.294). This is not a textbook. This is call for change in the world of empirical legal research.

¶72 The book is divided into four parts that address designing research, collecting and coding data, analyzing data, and communicating data and results in turn.

However, it is delivered with witty prose and a conversational style so that one almost feels like the book could be a transcript of an empirical legal research discussion over a cup (or four) of coffee with the authors.

¶73 Part 1 imparts lessons on how one develops an empirical research question, with an emphasis on following scientific procedure as best as one can, while also acknowledging the limits of the scientific method in the social sciences. Readers are also introduced to the world of empirical research and the multitude of statistical databases that exist to assist the novice. A companion website to this book (http://empiricallegalresearch.org/) is also available. The message is clear: empirical legal researchers do not need to reinvent the wheel, but they must pay attention to what has been done already and assess whether their intended research addresses questions that, once answered, will be a benefit to the legal community and be a worthy addition to knowledge about the real world. What one researches matters as much as, or even more than, how one does that research. Interspersed in this information are folksy-sounding bits of advice, such as, “[A]s it turns out, asking someone to identify his or her motive is one of the worst methods of measuring motive” (p.56), and “[T]he quickest way to get a biased response is to ask people” (p.78).

¶74 When discussing the proper methods and manner of collecting and coding data in part 2, the authors weave real-world experience into their instruction. The examples they use to explain complex terms are ones to which any reader can easily relate. They introduce readers to concepts, methods, and databases used by empirical researchers in other fields, and gently guide readers into understanding that empirical legal research will be improved, study by study, if legal researchers follow the lessons learned and best practices developed over time in these other fields. Furthermore, in showing how it is done, readers learn to be skeptical of studies that do not follow such best practices. In other words, now you will know a bad study when you see it.

¶75 At times, the prose style is a bit jarring. Certain key statistical terms are defined within the text so conversationally that, if you are not familiar with statistics, you might miss how important they are to understand. Part 3 suffers from this, and the attempt to colloquially instruct readers concerning computations of sample standard deviations and p-values, null hypothesis testing, two-sample t-tests, regression analysis, and the like may lose all but the most ardent of students. The authors know this, though, for they conclude, “We could go on but we’re sure you get the drift” (p.220).

¶76 In part 4, however, the text comes alive. The topic of communicating results effectively is what raises the most passion in the authors, and it shows. “This is fun stuff. You’ll see” (p.228). Their admonitions to stop using pie charts, cross-tabs, and tables are supported with many examples of how to present results much more effectively. The authors envision a movement to strengthen empirical legal research and to make the case that, if legal researchers are going to perform empirical studies, they had better do so in a way that makes their work meaningful and inviting to readers who do not have a background in statistics. Otherwise, it is almost not worth doing.

¶77 Overall, this book is a worthy addition to any law library and should be encouraged reading for legal scholars, jurists, and government policymakers, as well
as required for law students working on their advanced legal writing projects or as research assistants. As the authors demonstrate (p.292), Judge Richard A. Posner gets it (see *ATA Airlines v. Federal Express Corp.*, 665 F.3d 882, 889, 895 (7th Cir. 2011)), and so should we.


*Reviewed by Alicia G. Jones*

¶78 Jay Feinman, a professor at Rutgers University School of Law, has written a book explaining the American legal system, its origins, and its development. “[E]veryone can learn something about the law. That is what *Law 101* is for. It explains the basics of the law—the rules, principles, and arguments that lawyers and judges use” (p.3). The author’s gift of storytelling allows him to creatively and effectively use anecdotes, movies, and folklore to illustrate legal principles and concepts. Constitutional law, constitutional rights, torts, civil procedure, property, criminal law, and criminal procedure are each given a chapter in the book. The most important legal issues from each subject are then discussed in a question and answer format. The organization and language allow the text to flow from subject to subject and from question to question. It is not stilted, but instead reads almost like fiction, flowing seamlessly between the different aspects of legal theory. This is not a short guide to explaining the basics of American law, but it provides an in-depth treatment of the American legal system, told in a manner that is easy for readers to understand and grasp. In addition, for those people seeking definitions of legal terminology, Feinman has written a companion book, *1001 Legal Words You Need to Know*.

¶79 Feinman intertwines case law, current events, movies, and hypotheticals into discussions of American law throughout the book. For example, the chapter on constitutional law contains a discussion of slavery, race, and *Dred Scott*. A discussion of more recent litigation, such as *Fisher v. University of Texas*, demonstrates the intersection of affirmative action and equality in education in the chapter on constitutional rights. Civil procedure begins with a description of English law, the role of the king in resolving disputes, and how this gave way to our current adversarial system. In this chapter, the author dissects a U.S. Supreme Court case to show the development of a case and its progress through the court system.

¶80 The *BP Deepwater Horizon* oil spill case and the McDonald’s hot coffee litigation help readers understand torts, liability, negligence, and risk. In the chapter on property, characters from *Gone with the Wind* explain property interests and ownership. Readers get a glimpse into the determination of when police can charge a person with a crime from the story of the attempted murder of Don Vito Corelone in *The Godfather*.

¶81 *Law 101* takes readers from feudal laws in England to current American law. It is in the breakdown of issues, terminology, and legal arguments, and the incorporation of everyday life, social conditions, and current events, that Feinman is at

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15. 60 U.S. 393 (1856).

his best. He shows how the law has developed in America over the centuries. Readers truly interested in the law, as well as in learning more about the legal system, or even about a particular area of law, will get the most benefit from this book. A detailed table of contents for all of the questions asked, a table of cases, and an index contribute to the book’s usefulness. If there is a criticism, it is that the non-lawyer might find the chapter on constitutional law dense and difficult to read owing to the complex and arcane terminology, and the historical nature of the subject matter.

¶82 Academic law libraries and law libraries serving the public, academic libraries serving undergraduate students, and public libraries will find this book a good addition to their collections. This book is also a good read for students thinking of attending law school and for those persons who have been away from the practice of law but are interested in getting reacquainted with its basics.


Reviewed by Brian T. Detweiler*

¶83 Flying Solo: A Survival Guide for the Solo and Small Firm Lawyer, Fifth Edition is a practical and easy-to-read guide for the experienced attorney or the new graduate looking to start a solo or small firm practice. The contributors are seasoned solo practitioners or experts from other fields who share their wisdom and advice on the practical aspects of opening and operating a small law office. As the authors make clear, a successful solo attorney must be both a savvy businessperson and a competent lawyer with a firm grasp of management, finance, technology, and marketing.

¶84 The fifth edition of Flying Solo is organized into five parts, essentially mirroring those areas of competency. Each part consists of several individually authored chapters covering specific aspects of the overarching topical area. Among these seemingly disparate topics of discussion, several common themes emerge throughout the book, including the importance of introspection, specialization, and communication, as well as various strategies for lowering costs.

¶85 The title of the first chapter asks readers, “Are you cut out for solo practice?” This begins what becomes a recurring theme: prospective and current solo practitioners are asked to evaluate themselves, their practices, and their procedures. Attorneys should first know themselves to ensure that they have the independent temperament to be happy as a solo, while also knowing which areas of law they would like to target from a marketing perspective. Meanwhile, regular evaluation of practices and procedures, and strategic planning, can ensure greater efficiency, profitability, and adaptability.

¶86 In addition to devoting a chapter to why an attorney should specialize in a particular field of law, the advantages associated with focusing one’s practice appear in other parts of the book as well. Not only does specialization make sense from a competency perspective in today’s increasingly complex society, it also allows a

practitioner to become a recognized authority in a particular area. This recognition may lead to higher fees, referrals from other attorneys, and the ability to represent larger commercial clients. Specialists also avoid the increased malpractice risks associated with practicing in unfamiliar areas and are usually able to work more efficiently than general practitioners, all of which contributes to a more profitable practice.

¶87 Another means of increasing profitability is by lowering costs, which several authors address throughout the book. While some authors present more radical options, like laying off full-time staff and outsourcing nonlegal duties to offsite service providers, others demonstrate opportunities to save money by leveraging technology, like using document assembly software, free and low-cost online resources and collaboration tools, and converting print documents to digital files. And while only the most committed Luddite would argue with the wisdom of “replacing thirty-two filing cabinets with a 32 GB flash drive” (p.386), the authors do an excellent job of alerting readers to potential drawbacks and suggesting procedures to implement new technologies with minimal disruption.

¶88 James A. Calloway describes poor communication skills as “the number one complaint against lawyers” (p.10), which explains why perhaps the most persistent theme in the book is the necessity for solo attorneys to communicate regularly with their clients. Several authors stress that regular communication is essential to satisfy clients. This leads to more business through word-of-mouth referrals, creates higher realization rates because happy clients are more likely to pay their legal bills, and can prevent misunderstandings by keeping clients apprised of an attorney’s progress on a matter. In fact, one author relates how communication can also be an important aspect of marketing: by visiting clients “off the clock” and asking them about their businesses and families, he not only improved his personal relationships with his clients, but also (he estimated) generated “immediate business in more than 80 percent of cases” (p.412).

¶89 Flying Solo is filled with similar advice from many authors with varying experiences and areas of expertise. Although one consequence of multiple authors is that the information in individual chapters can be redundant or even contradictory at times, reading about a topic from different perspectives can also provide more nuanced treatment. The latest edition incorporates information on strategic planning and new trends in technology like cloud computing and social media. However, the omission of chapters on chemical dependency, coping with stress, and closing a solo practice from the previous edition is unfortunate given that these issues are just as important today as they were nine years ago.

¶90 Flying Solo should be on the shelf of every law school career services office and academic law library. The book can be read from cover to cover easily, and probably should be if readers are new to solo practice. Even experienced solo attorneys will find valuable information on making their practices more profitable and efficient.

17. Compare, e.g., “With cloud computing, there’s no need to purchase servers and software; no need to pay expensive annual licensing fees or software upgrade fees; no need to hire IT staff to maintain servers, address security concerns, and stay on top of software updates” (p.298), with “File sizes and upload/download speed may make cloud-based storage impractical, and the cost of local network storage makes it very attractive compared with cloud storage” (pp.393–94).

Reviewed by Angela Hackstadt*

¶91 “I’m Sorry for What I’ve Done”: The Language of Courtroom Apologies uses data collected by M. Catherine Gruber to examine apologies in the context of a federal sentencing hearing. A successful apology must adhere to certain rules, and in the courtroom, almost all of these rules are broken. Because the focus of a sentencing hearing is the imposition of sentence, it is understood that a defendant’s communicative goals are directed toward that focus, which carries negative implications for the speaker. Apologies are culturally mandated speech acts, which means that there are rules about what constitutes an apology and when an apology is appropriate and expected. A sentencing hearing counts as a ritual site in which an apology is expected, especially when a defendant has pleaded guilty, and these apologies are made for serious offenses with real consequences, in a formal, public setting many months after the offense was committed.

¶92 Gruber identifies various communicative strategies defendants use to express remorse and to align themselves with the law-abiding community. To appear as an “ideal defendant,” it is not enough to simply say “I’m sorry” (p.6). A defendant must push back a stigmatized institutional identity and promote an individual identity as a sincerely remorseful, law-abiding citizen. One performance of the “ideal defendant” stance is to state acceptance of responsibility and to acknowledge harm done. The more direct and specific these offense-related statements are, the better. For instance, referring to a felony as a “mistake” could be interpreted as a lack of understanding of the seriousness of the offense. Likewise, less specific statements about who was harmed may show that the defendant is insincere or not fully aware of the consequences.

¶93 Gruber notes the use of nonstandard American English and informal words and expressions in allocutions. This can be attributed to a lack of education or knowledge or it may be an attempt to portray authenticity and individuality. The use of politeness markers, such as formally addressing the judge, may be motivated by an attempt to show potential for future law-abiding conduct. As with informal language, a lack of politeness markers may indicate an unwillingness to underscore the contrast between the stigmatized defendant identity and the judge’s valorized identity. An attempt to get across sincerity, remorse, and rehabilitative potential could include a combination of slang and ritual language. In general, a balance of formula and creativity make for a good apology.

¶94 There are patterns to allocutions, and one need not have experience with the criminal justice system to have access to this cultural script. But there is no magical formula for a successful allocution. Because defendants are speaking from a position of powerlessness in a punitive context, any of these statements can be interpreted as self-serving and, therefore, not remorseful. The limitations on the communicative potential of allocutions are discussed in detail and contrasted with the perceived benefits for defendants.

* © Angela Hackstadt, 2015. Serials and Acquisitions Librarian, Robert A. and Vivian Young Law Library, University of Arkansas School of Law, Fayetteville, Arkansas.
¶95 The book is concise, yet thorough. Only 160 pages discuss the study and results, with the remaining pages devoted to appendixes (including transcripts of all of the allocutions included in this study), notes, bibliography, and index. Gruber acknowledges that larger studies would be worthwhile, for example, on the differences between the allocutions of men and women and on the relationship between criminal history and declining the opportunity to make an allocution.

¶96 The author’s specialty is linguistics, but that should not deter anyone unfamiliar with the field, as the book is well written and quite accessible. This book calls into question a centuries-long practice that has found its way into the American criminal justice system, and Gruber’s discussion is certainly valuable to anyone with a scholarly interest in federal sentencing practices.
Memorial: Nancy P. Johnson (1949–2014)

An Incredible Legacy

¶1 Nancy Patricia Johnson retired as Associate Dean for Library and Information Services and Professor of Law in 2012. She received her B.A. in history from Marycrest College in 1971 and her M.L.S. from the University of Illinois Graduate School of Library Science in 1972. Her first law library position was as the assistant reference/documents librarian at University of Chicago Law Library from 1974 to 1976. She then spent six years at the University of Illinois Law Library as the assistant law librarian and associate professor of library service. Nancy joined the Georgia State College of Law Library in 1982 as a reference librarian. For four years, Nancy worked full-time and went to law school at GSU in the evening. She received her J.D. in 1986, graduating with one of the first classes at the new law school, and became the director of the law library and a member of the College of Law faculty.

¶2 Nancy was an integral part of the development of the college and the law library. Her impact began with some of the first students in the College of Law and continues into the future with the design of GSU Law’s new building. She also had a profound influence on the profession of law librarianship. Throughout her career, and even after retirement, Nancy inspired and nurtured entire generations of law librarians. She mentored law librarians on research, teaching, scholarship, management, and often personal life issues.

¶3 Nancy was a prolific scholar and in more than thirty years authored more works than can be detailed here. Some of her best-known works are Legal Research Exercises, Winning Research Skills, Georgia Legal Research, and Best Practices: What First-Year Law Students Should Learn in a Legal Research Class. Perhaps Nancy’s most famous work is Sources of Compiled Legislative Histories: A Bibliography of Government Documents, Periodical Articles, and Books. This work, which is considered seminal in the field, made finding compiled legislative history sources easier for countless researchers. First published in 1979 and updated throughout the years, the resource is now a key component of HeinOnline’s U.S. Federal Legislative History Library.

¶4 One of the early founders of the CALI (Center for Computer-Assisted Legal Instruction) Legal Research Community Authoring Project, Nancy envisioned the possibility of self-paced, interactive, online legal research training. There are now nearly 150 CALI legal research lessons, and legal research classes across the country that use CALI lessons to support student understanding of research concepts. Nancy’s work with CALI reflected her dedication to teaching. She began teaching
legal research in 1983 and continued throughout her career. In addition to teaching both 1L and advanced legal research classes, Nancy taught classes in several library schools, including Clark Atlanta University’s School of Library and Information Studies. Not satisfied with being an excellent teacher herself, Nancy was committed to cultivating teaching excellence in others. For many years, librarians at GSU Law have taught a for-credit class on legal research to first-year law students—when the class began it was one of the first courses of its kind taught by law librarians.

Nancy’s generous spirit led her to commit many volunteer hours to numerous professional organizations. In addition to chairing countless committees on the regional and national levels, she served on the AALL (American Association of Law Libraries) Executive Board, chaired the Academic Law Libraries Special Interest Section of AALL, and served as president of SEAALL (Southeastern Chapter of AALL) and ALLA (Atlanta Law Libraries Association). A testament to her service to the profession was that Nancy won nearly every major award in law librarianship. In 2014, she received the inaugural Association of American Law Schools (AALS) Section on Law Libraries and Legal Information Award for “outstanding contributions to teaching and scholarship.” Nancy also received the Marian Gould Gallagher Distinguished Service Award, the Frederick Charles Hicks Award for Outstanding Contributions to Academic Law Librarianship, and the SEAALL Life Member Award; in addition, she was inducted into the AALL Hall of Fame.

Perhaps Nancy’s greatest impact was through her commitment to mentoring law librarians. She always volunteered in the AALL mentoring program, supervised numerous library internships and practicums, and nurtured a host of future leaders in law librarianship. Nancy often coauthored works with less-experienced librarians. Through these coauthoring experiences, Nancy could mentor budding scholars as well as give them a publishing opportunity they may not have secured as newer librarians. Similarly, Nancy was a highly regarded presenter at professional conferences, and she sought out speaking opportunities for the librarians she mentored, boosting their profile in the profession. Nancy also focused on developing librarians to take on increased responsibility. Quite a few of her mentees have moved on to be academic law library directors, associate directors, department heads, and federal court library administrators. Nancy’s influence has rippled out through the law librarian community. Many of the librarians mentored by Nancy speak of how she not only helped them develop as librarians, scholars, and teachers, but also provided great support and empathy throughout difficult personal trials.

Nancy was an amazing and a passionate librarian, teacher, and mentor. Her excellence was made all the more remarkable for her humor, kindness, humbleness, and generosity of spirit. Nancy leaves behind a legacy of librarians who strive to follow her example. The profession could ask for nothing more.—Kristina L. Niedringhaus

1. Associate Dean for Library and Information Services, and Associate Professor of Law, Georgia State University College of Law, Atlanta, Georgia.
The Early Years

Nancy had worked part-time in libraries throughout high school and college. She became a school librarian immediately after completing her M.L.S., but she knew that she wanted to work in academic libraries. The University of Chicago Law Library posted a position for a reference/documents/evening reference librarian in the summer of 1974, and Nancy applied. The job had a serious disadvantage—the hours were terrible; she would be working from 1 p.m. to 10 p.m., Monday through Friday. Her husband Bill told me that the high school was most unhappy with her for leaving and told her that it “might not” be possible for her ever to work again in school libraries. Nancy also said that family and friends were unhappy about her decision to work on the south side of Chicago, especially with her late hours. Despite these disadvantages and risks, Nancy did not hesitate, and she knew almost immediately that she had found her career path.

The next summer at the AALL Annual Meeting in Los Angeles, Roy Mersky told me that he had heard that Nancy was leaving Chicago because the hours were so terrible. I have no idea why Roy thought that; Nancy later told me that she was not looking for another job. The AALL Annual Meeting was a real hot bed of gossip in those days. Terrified that we might lose her, the library director, Richard Bowler, and I immediately decided that all of the reference librarians would rotate through the evening hours. (There is nothing like panic to encourage change.) As the documents/reference librarian, Nancy began to develop her incredible expertise and passion for legislative history and government documents. During the few years that we worked together, Nancy and I were young and newly married, and having a great time. I have wonderful memories of dinners, events, and a very hot, summer picnic in her backyard with Judy Gaskell and Donna Tuke and our spouses and friends. Nancy left us in December 1976 to move to the University of Illinois Law Library with her husband, where he completed his Ph.D. Nancy and I loved our work and knew that we both had found lifelong careers. When I think of those early years at the University of Chicago Law Library, I always smile. Now, unfortunately, I immediately realize that Nancy can no longer share those fun-filled memories with me.—Judith Wright

Nancy’s Laugh

My relationship with Nancy goes back forty years. She graduated from the University of Illinois Graduate School of Library Science in 1974, one year before me, and although we did not know each other at the time, we met two years later. I had been hired as a circulation/reference librarian at the law library, joining the illustrious company of Carol Boast and Bob Berring. Bob left in 1976 for Texas, and Nancy replaced him, but since Carol wanted to be the chief reference librarian and

* © Judith Wright, 2015.
2. Former (retired) Associate Dean of Library and Information Services, University of Chicago D’Angelo Law Library, Chicago, Illinois.
** © Lynn Foster, 2015.
I wanted to be documents librarian, Nancy took my place in circulation/reference. We actually worked in the same building for only two and a half years, until I left for law school at Southern Illinois University (allowing Nancy to step into the documents position), but we remained close, at times talking weekly, for the next twenty years, until I left the profession in 1997 for law school administration and then teaching. We coauthored the first few editions of Legal Research Exercises and were active in the Academic Law Libraries SIS during its first years.

¶11 Nancy came to us from the University of Chicago, where she was good friends with Judith Wright and Judith Gaskell, “the two Judies.” For the next twenty years (for me), we formed a circle of friends at national meetings that later came to include Ann Puckett, Bobbie Studwell, and Trish Cervenka, to name a few.

¶12 When we started in the profession, it contained such giants as Morris Cohen at Harvard, Marian Gallagher at UW, and Roy Mersky at Texas. In some senses, it was the golden age of legal education and of law school libraries. Nancy later went on to become one of those giants herself—if she were reading this, she’d be laughing at this point—and her reputation was well deserved, as everything she touched turned to gold—teaching, scholarship, service, and running her law library.

¶13 I remember attending one of the early meetings of MAALL with Carol and Nancy. We drove to Nebraska from Champaign-Urbana, across the midwestern plains and rolling hills, to stay at Boys Town, outside of Omaha. We went to a reception at Kutak, Rock & Huie, a young but up-and-coming law firm in Omaha. Bob Kelley hosted us for a dinner at the newly renovated Creighton Law School. It was a time of beginnings: for us, at the beginnings of our professional careers, for MAALL, and for the still-ongoing digital revolution, which has changed the landscape of librarianship and higher education.

¶14 Whatever stresses we had in our careers, at the regional and national meetings we attended together, the bright spots were always the time we spent together, discussing our “two Patricks” (we both had sons named Patrick, both our only children), our jobs, and our professional and personal lives. Much of our time was spent laughing. As you all know, Nancy’s laugh was distinctive, infectious, and frequent. It’s one of the things about her that I’ll miss the most.—Lynn Foster

One of the Perfect People

¶15 I knew Nancy Johnson for around forty years. She was one of a small group I think of as Perfect People. Perfect People are, essentially, the opposite of me. Perfect People have good judgment. Nancy did. She chose the right husband the first time. She chose the right career the first time (which explains why, though she was much younger than I, she was one of my bosses at the University of Illinois when I was a law student). Throughout her career, Nancy demonstrated her good judgment by hiring good librarians, making them even better, and sending them out to

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3. Arkansas Bar Foundation Professor of Law, William H. Bowen School of Law, University of Arkansas at Little Rock, Little Rock, Arkansas.

direct their own libraries; and by filling in gaps in legal scholarship no one else had seen, and doing it so well as to become essential in every reference collection.

¶16 Perfect People have good habits. Nancy did. She exercised vigorously and frequently, even doing the three-day, sixty-mile walk for breast cancer awareness more than once! She ate healthy foods—well, if you don’t count Ruffles—and she drank alcohol in moderation. She worked hard, and she loved work, whether it was directing the GSU Law Library, teaching law library skills to library science students, or tending the beautiful gardens she created at her various homes. She was an excellent mother, as evidenced by her son Patrick. (Bill may have had a hand in forming Patrick, I admit.)

¶17 Perfect People make others feel good about themselves. Nancy did. I never heard her say a mean or petty thing about anyone. If she did need to express a negative thought, she would scrunch up her face and lower her voice, like she really, truly hated having to say it. On the flip side, she trumpeted others’ triumphs to the skies, making much more of them than she did of her own achievements. I think it’s this last characteristic that makes Perfect People perfect. With all the talent and success Nancy had, it would have been so easy to be arrogant, but Nancy had not a scintilla of arrogance.

¶18 Nancy was, however, quite competitive. When we created Team Nancy to walk in the Georgia Ovarian Cancer Alliance run/walk event in September 2008, Nancy was absolutely determined to raise the most money—and we did, by a wide margin. From that time on, Nancy and Bill were GOCA loyalists. Nancy got a lot of support from GOCA, but I’m betting she gave as much as she got. After the first walk in 2008, Nancy decided not to continue Team Nancy but rather to combine her efforts with other survivors in her support group. But this year, we who survive her decided to recreate Team Nancy one more time in her memory and in celebration of her seven-year survival.

¶19 To say I will miss Nancy is a big understatement. She had become a part of the fabric of my life. She was a wonderful professional colleague, of course, but in the years since my retirement and then her retirement, we became simply friends. I loved visiting her homes in Atlanta and Hiawassee, and I loved having her visit us in Athens. We liked seeing new attractions in Atlanta like the Civil Rights Museum (the last time I saw her), browsing the antique shops in Hiawassee (where I never failed to find something I had to have), and seeking out special boutiques in Athens, Like Aurum Studios for jewelry and gifts, Andree’s Essential Soaps for skin-care products for chemo-ravaged skin, and Healthy Gourmet for delicious, exotic treats. I will be forever grateful that this Perfect Person found imperfect me worthy of her friendship.—E. Ann Puckett

Missing a Good Friend and Colleague

¶20 I met Nancy back in the mid 1970s before I took over her position as documents librarian at the University of Chicago and before she and Bill moved to

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4. Professor of Law and Director of the Law Library Emerita, University of Georgia, Athens, Georgia.

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Champaign, Illinois. We kept in touch, and I saw her regularly at AALL Annual Meetings. Around spring 1987 I had a wonderful visit with her and Bill in Atlanta. Soon after that a group of law librarians from Chicago, usually including Nancy, Judith Wright, Donna Tuke, and I, began to meet for dinner each year at the AALL Annual Meeting. We continued to do this until our last dinner in Boston with Nancy and Bill on July 21, 2012.

¶ 21 Nancy was always cheerful and upbeat and very modest about her impressive accomplishments. She was an author, and her Sources of Compiled Legislative Histories and Georgia Legal Research still are models for aspiring authors. She was an awesome law library director and a mentor to scores of law librarians. And she was a loyal friend.

¶ 22 I want to share one story that illustrates her generosity and how she would go out of her way to help a friend. Around 2001, my partner Jim bought $4000 worth of recycled wood flooring on eBay from a man named Roman. Unfortunately Roman never sent the wood and never refunded the money. Roman was based in Atlanta, so I asked Nancy for help. She guided Jim through the procedure to file in small claims court, and in July we took a red-eye flight to Atlanta to appear in court. Nancy escorted us to the court and stayed with us during the entire process, which went to arbitration. In the end Jim got his money back from Roman. We had lunch and toured the King Center with Nancy and even stayed at her house overnight. The next morning she drove us to a rental car place where we picked up our ride back to D.C. via the Carolinas.

¶ 23 When Nancy was diagnosed with ovarian cancer in 2008, she was positive that she would beat it. She succeeded for many years and kept coming back from every challenge. Though she lost her final fight, she won the lasting love and respect of all who knew her.—Judy Gaskell

Building a Team

¶ 24 I met Nancy in the summer of 1986, not long after she was named library director at GSU Law School. I was in the process of moving to Atlanta from Boston, and she helped me get my first professional job at Alston & Bird. Later, in 1990, she hired me as the first reference librarian/“computer coordinator” when that was a very new concept! To distinguish between the two Nancys in the library, I became Nan. After working with Nancy over the course of sixteen years, I am still Nan to most of my academic law librarian friends.

¶ 25 Nancy had an amazing work ethic in everything she did. And she did a lot. She was active in college and university governance; local, regional, and national law librarian associations; and even law school accreditation committees. You could say she set the bar high on service! But she was also a wonderful scholar and teacher. She was a marvelous mentor for new law librarians. I don’t think I’ve ever

5. Former Librarian, Supreme Court of the United States, Washington, D.C.

* © Nancy Adams, 2015.
met anyone as passionate about the profession as she was. She taught me the many facets of what it means to be a law librarian.

¶26 But the thing I appreciated most about working with Nancy was her ability to foster teamwork and collaboration among her librarians. We became a close group of friends who shared all aspects of our professional and personal lives. I have so many fond memories of celebrations at the library, parties at Nancy’s house, and yes, even those hundreds of librarian meetings. Nancy was a fun person to work with; she displayed so much humor and goodwill. I feel lucky to have worked with her for so many years.—Nancy Adams

Always Thoughtful

¶27 One of the qualities that I admired most about Nancy was her thoughtfulness. I don’t remember her ever having a thoughtless comment in the thirty years that I knew her. No matter the topic, we could have a really good discussion because she always had important comments to offer, usually accompanied by her wry humor. It was a special treat to visit or have lunch with her on my frequent summer trips to Atlanta. I always felt professionally energized after spending time with her. She was real down to the core and incredibly generous with her time and energy. The world was a better place because she was in it.—Patricia Cervenka

Quintessential Law Librarian

¶28 I met Nancy in 1992 when I took law librarianship at Clark Atlanta University. She taught the course. Probably because of that, I later did an internship at her law library. I particularly loved the reference desk. It was always busy and sometimes whacky. I loved the reference corner that was adjacent to the desk, with all of those wonderful materials available to answer any question that might arise. I was so impressed that Nancy had selected all of the titles. I later went to work at GSU as its public services librarian.

¶29 I learned so much from Nancy. I remember her amazing generosity to patiently respond to questions, to help people think their issues through, her willingness to listen, and her excitement about being a law librarian. She really enjoyed it, and she loved building a collection in what could be described as a challenging facility. While I worked there, there were always leaks above the Rhode Island and South Carolina materials. We had a Richard Simmons exercise group behind the library and would get numerous complaints about the noise and the idiocy of the university in placing an exercise center behind the library. She patiently endured all of this, plus dreadful copy machines, and worked with all of us—Rhea Ballard, Nancy Adams, Edna Dixon, Ladd Brown, Joe Morris, and Karen Douglas—to develop our

6. Librarian, U.S. District Court, Atlanta, Georgia.
* © Patricia Cervenka, 2015.
7. Professor of Law and Director of the Marquette University Law Library, Milwaukee, Wisconsin.
** © Lisa Smith-Butler, 2015.
potential. We always had a “message of the day” with a quote. I have forever after carried that practice with me to every place I work. It provides information about who is out, what is going on in terms of classes and meetings, and inspiration with which to begin the workday.

¶30 What I remember most about Nancy was her helping me deal with a very sick child. My daughter, Victoria, was one when I started working at GSU. She had seizures that were extremely scary. It was a very difficult time, and I wondered whether I could continue to work while trying to cope with a child who was very sick. Nancy would come talk to me about her experiences with Patrick. I learned that he had been a preemie and learned what she and Bill did to cope with those challenges and also continue to work. It helped, and I hung in there. Eventually my baby outgrew the seizures and grew up. I have never forgotten Nancy’s generosity in sharing her pain and difficulty with me to help me overcome some of my own. That to me was the essence of Nancy—giving of herself to help others. She helped me figure out how to be a working mother and wife. In short, she was a role model. I don’t think I ever told her that, and I regret my silence.

¶31 It wasn’t all sweetness and light. I was chastised, and sometimes it was painful. But I learned and almost always tried to please her and make her proud of me. Once I knew she was ill, I made sure that she knew how much she had influenced and helped me. She shaped and formed my aesthetics about libraries and what it means to be a librarian. I still remember many of her thoughts and ideas and use them to this day in my work life. For me, she represented the quintessential law librarian. I’ve thought of her quite often since I learned about her death. I try to remember to pass along her passion for research to students and her love of her profession to other librarians on a daily basis. I think I can best honor her memory in this way.

¶32 I was lucky to meet her at the beginning of my working life as a librarian. She enriched my life, and I hope because of her, that I am able to enrich others. I am sorry that she won’t get to see Zia grow up. That would have meant so much. She and I talked about baby clothes toward the end of her life. She had a son and I had a daughter. I then had a step-grandson while she had a granddaughter. I noted that girls’ clothes were more fun to buy than boys’. She agreed.

¶33 I am glad to have known her and proud to have worked for her. She is gone too soon, but she was a wonderful mentor, colleague, and friend. I know all of us miss her, but my thoughts are particularly with her family during this time as they try to become accustomed to learning to live without her daily physical presence. That loss, I think, always feels at first like an amputation. It is just hard. But it is balanced by the knowledge that she truly did have a wonderful life and was loved by many.—Lisa Smith-Butler

8. Associate Dean, Information Resources, Charleston School of Law, Sol Blatt Jr. Law Library, Charleston, South Carolina.
Mentor Extraordinaire*

¶34 It was my good fortune that Nancy Johnson hired me into my first academic law librarian position. I enjoyed the work and had no trouble publishing or finding and thriving on committee work because of her mentorship. But it was obvious to Nancy that I was a hesitant presenter. After one of her conference proposals was accepted, Nancy told me she had too much on her plate and asked whether I would stand in for her. At the time I thought nothing of it, but I soon realized it was Nancy’s way of encouraging me to venture into my zone of discomfort. Nancy was also very much about comfort, too. As soon as she learned I was pregnant, she made it her business to procure a couch for my office in case I needed a nap. These are just a few examples of the countless professional and personal kindnesses that were so characteristic of Nancy and that repeat themselves as her mentees have opportunities to pay the kindness forward.—Beth Adelman9

She Had It All**

¶35 Nancy was my former boss, my mentor, my confidante, my fashion critic, my cheerleader, my devil’s advocate, my coconspirator, my enabler, my proofreader and editor, my career adviser, my compassionate listener, my drinking buddy, my life coach, my reality check, and my dear friend. How does one briefly describe the life of someone who has played so very many important roles in one’s life? Which of her accomplishments, which accolades, which activities will convey what she was, what she meant to me and others, and what she will continue to inspire in all who knew her? Which anecdotes should I share?

¶36 Is it Nancy the scholar whom I should focus on? Her more than thirty years of scholarly accomplishments certainly are significant. Is it her service to the profession that captures her essence? Nancy had an extraordinary record of sustained service to AALL and to the profession of academic law librarianship in her more than thirty-five years as an academic law librarian. What about Nancy the teacher, for she was certainly an accomplished teacher? She taught legal research in law school classrooms since 1983, and she taught various subjects in library schools at the University of Illinois Graduate School of Library Science, Clark Atlanta University School of Library and Information Studies, and the University of Washington Graduate School of Library Science.

¶37 What about Nancy the mentor? How do I describe that part of her? She was profoundly and uncommonly generous as well as selfless and lacking of ego. She had this way of giving people what they needed to help them grow and learn and achieve. She mentored countless law librarians, and her mentorship of librarians of color helped to diversify our profession.

¶38 Yet it is Nancy the incredibly compassionate and caring human being whom I hope to convey. Thus, I offer this personal anecdote from my own life. My mother,

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* © Beth Adelman, 2015.
9 Director, Charles B. Sears Law Library, SUNY Buffalo, New York.
Gloria Wheeler, died suddenly and quite unexpectedly in October 2007 of a massive heart attack. Nancy was extremely professionally accommodating with me during that time, but in the succeeding months, she was also exceedingly generous with me emotionally. When my recently widowed father came to Atlanta to visit, Nancy insisted that I bring him to dinner at her house. It was a somewhat depressing and awkward dinner. I recall that my Dad, an old-fashioned, midwestern, “meat and potatoes” kind of guy, wouldn’t eat the wonderful Greek salad that Nancy had prepared to go along with the meal. Also, the conversation kept turning to his wife, my mother, and his reminiscences of her, things he would miss about her, and how lost he felt without her. Yet Nancy and her husband Bill were both so patient, understanding, and empathetic with this man whom they’d never met before. My father’s grief broke my heart that evening. Yet what I recall most is that I was just so very thankful that my Dad could open up and talk to these two compassionate individuals, whom he really did not know at all, about his grief and pain. The whole scene was so much more than one expects from one’s boss. It is, however, a great example of how Nancy existed in the world. She was uncommonly giving and caring and decent and good.

¶39 Nancy had an ever-present playful side too. Although Nancy and I appeared to be complete opposites in many ways, we really meshed well as a management team and as sidekicks for some interesting adventures. Nancy was not a fan of the reality TV series *Project Runway*, but she did learn to appreciate my love for Tim Gunn, one of the show’s stars. Nancy understood that I had an irrational crush on Tim. Oddly, though, it was Nancy who took me on my first Tim Gunn stalker excursion. Nancy was the one who came running (yes, running!) into my office one afternoon with the newspaper in hand, pointing to the notice that Tim Gunn was appearing that evening at Macy’s at the Perimeter Mall in Atlanta. Nancy said to me, “We are going, aren’t we?” So we did. The adventure culminated in her discovery that you were required to buy $100 worth of Claiborne women’s clothing to get a photo with Mr. Gunn, so she immediately bought a suit (which she later returned) and secured a place in line for me. We were both so elated that I became the second person in line and the only man to get a photo with Tim Gunn. We both wondered where all of the other gays were that day!

¶40 When Nancy was diagnosed with stage-four ovarian cancer in 2008, she called a meeting of all of the law librarians at GSU to break the news. She was so strong and encouraging in her remarks, and she stressed that she planned to beat this cancer. As she spoke to us, I burst into tears and couldn’t control my crying. So Nancy stopped the meeting, walked over, put her arms around me, and began comforting me. It embarrasses me to tell this story, but it does illustrate a pure Nancy moment.

¶41 There are other places to find long lists of Nancy’s accomplishments as a law librarian, but I offer these anecdotes as attempts to convey Nancy the friend. I met Nancy for the very first time in 2006, so I knew her for only eight short years. Yet the impacts she had on my life and on my career are incredibly profound. The remarkable part is that many, many people feel the same way. She worked hard, gave of herself, held herself and others to high standards, and enjoyed the people around her. She went to the gym regularly and always remained remarkably fit. She
loved to garden and to sip white wine. Happy hours at the Atlanta Botanical Garden were so much fun with Nancy. She demonstrated to me the things one does to have full, rewarding professional and personal lives. When I think about how to be a better person I think of Nancy P. Johnson. How lucky I feel to have known her.

—Ronald Wheeler

10. Director of the Law Library and Information Resources, and Associate Professor of Legal Research, Suffolk University Law School, Boston, Massachusetts.
Memorial: Marie Wallace (1929–2014)

“A Delight to Remember”

¶1 Marie Wallace served as manager of the Los Angeles Library of Latham & Watkins for six years from 1982 to 1988, and that role included acting as the leader of the Latham library operation firmwide. She established a superior organization and attorney support environment that continues to this day. When I arrived as library manager of the Washington, D.C., office in 1988, it was recognized that every office needed at least a basic set of four people to offer library services effectively: a manager, a reference librarian, a library assistant, and a library clerk. Moreover, that staff and service level existed in every one of our six offices, even the smaller ones. It was well beyond what most law firms had.

¶2 Marie instituted several traditions that we are pleased to continue to this day. In 1983 she hosted the first in-person meeting of the library managers from all offices. The agenda topics thirty-one years ago could be as current as 2014: automation of library services, coordinating research across offices, and developing online training modules, as she wrote: “It is becoming more and more difficult to acquire and maintain proficiency on the mushrooming number of online databases. This is true for attorneys as well as librarians.”

¶3 In subsequent meetings, she continued her advocacy, often with senior managers of the firm present, for both staff and attorney training and for library possession of that newest of automation devices—the personal computer. In 1986, just a few years after the introduction of the IBM PC, she declared in her annual library report: “The evolution of the library from a passive, overhead expense to a productivity resource and profit center hinges on automation.” At the same time, she delivered training to all the new associates of the firm in a program entitled “The Computer Has Dismantled Library Walls.” Her foresight and acquisition of resources provided the foundation for the modern research network we deploy today.

¶4 Most of all, it was Marie’s high standards for quality research and direct customer service that were the key to her value and the library’s presence in the firm. In a Reference Service Goals document she authored and had approved as official firm guidance by our governing committee, the standard was set to extend reference hours to service all offices and attorney requests. It took us more than twenty years, but we are virtually a 24-7-365 operation as the Latham library system operates around the clock and every day of the week.

Marie’s legacy continues. We still treasure the “Little Instruction Book” she wrote on how to conduct training and use it for guidance in everything from formal seminars to online videos. It is full of wise nuggets, of which I will recount only one: “Eliminate the litany ‘new associates don’t know how to research’ from your thinking; substitute ‘I can help new associates develop practice skills.’”

That was Marie, always creative, positive, service focused, and a delight to remember.—Bob Oaks

“A Lively and Inspired Presenter”

The Guide on the Side, Marie Wallace, was one of the initiators of the Teaching Research in Private Law Libraries Conference (TRIPLL) and an integral part of planning and presenting this conference for many years. LexisNexis hosted the Graylyn Conference on Effective Teaching of Legal Research in a Technological Environment for law school librarians for several years in the late 1980s. Marie was asked to present at this conference in 1989, and there, in conversation with Barbara Geier and Tory Trotta, an idea was formed. The three librarians felt the need for a similar conference for private law librarians—devoted to improving the quality of instruction in law firms. They made a proposal to LexisNexis, outlining their thoughts on topics and speakers. LexisNexis quickly accepted their proposal, and planning was soon underway.

The Conference on Teaching Legal and Factual Research in Private Law Libraries was first held in 1990; the name later changed to Teaching Research in Private Law Libraries. Marie chaired the TRIPLL planning council and presented many sessions during the conferences from that first TRIPLL in 1990 through 1996. I had the pleasure of first working with Marie on planning and presenting the 1993 conference, and worked with her each year until her departure from the program.

Marie opened each TRIPLL conference by telling the attendees that they had a triple mission: to Enjoy, Participate, and Envision. This is also how Marie seemed to approach life. She certainly enjoyed whatever she was doing—with her law firm, with the TRIPLL conference, with her many volunteer activities, and with her involvement in Toastmasters International and the American Society for Training Development. She always participated in a wide variety of activities, often taking a leadership role.

Marie was passionate about teaching and training. She presented on many different topics in the TRIPLL conferences and other forums. She often referenced the “Guide on the Side” (trainer), the “Sage on the Stage” (teacher), and the “Personality on the Stage” (presenter). Marie’s role was frequently all three. She turned many of these presentations, and others, into blog posts on llrx.com, which you can still access today.

Marie was also a strong proponent of “storyboarding” in the teaching environment. Storyboarding involves the telling of story, with a beginning, a middle, and an end, which reinforces the learning experience by anchoring it in real-world
examples. By teaching and modeling this practice, she encouraged law librarians to incorporate it in their own training opportunities and made us all better teachers.

¶12 In writing about her experience with TRIPLL, Marie commented, “Today across the country practicing attorneys are more effective researchers because of the instruction they receive from private law librarians.” Marie imagined future possibilities and made them a reality, with all the energy and enthusiasm she could muster.

¶13 Marie was a lively and inspired presenter, a wise instructor, and a joy to all who knew her. Law librarianship was made better through her involvement. —Cindy Spohr

3. Senior Director, Librarian Relations Group, LexisNexis. Fort Wayne, Indiana.
Erratum

In Kenneth J. Hirsh’s article, Like Mark Twain: The Death of Academic Law Libraries Is an Exaggeration (106 LAW LIBR. J. 521, 2014 LAW LIBR. J. 29), paragraph 22 was incorrectly printed. The correct paragraph appears below. LLJ regrets the error.

¶22 Finally, I now turn to the third point of Milles’s contention, that the library will no longer be an iconic place. This is already a trend, as evidenced in both new law school construction and the repurposing of traditional library spaces in existing law school buildings. This has come about due to a combination of factors that include the shift to digital materials, the need to provide expanded space for teaching and administrative departments, and the realization by all concerned that space formerly occupied by book stacks can be put to different use.37 Recently opened law school buildings, such as Eckstein Hall at Marquette and the Thomas Jefferson School of Law, still have significant dedicated library space, though at least at Marquette the library is designed to be integral with the rest of the building in a concept called the “the library without borders.”38 As law libraries shift more resources into digital form, less space is needed for traditional holdings of reporters and journals. Many law schools have removed their runs of bound journals, and, more recently, several schools have canceled their print subscriptions to the West National Reporter Service. More and more, library directors view modern law libraries as hybrids of electronic and print resources, with their key deliverable now being a high level of customized service by staff rather than a collection of legal publishing materials.

37. For other examples of such conversions, see Lauren M. Collins, Changing Spaces, AALL SPECTRUM, Sept./Oct. 2014, at 32.

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