The Twenty-First Century Law Library*

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On November 6, 2008, the J. Michael Goodson Law Library at the Duke University School of Law held a number of events in celebration of its newly renovated and expanded space. This is an edited version of the program, "The 21st Century Law Library: A Conversation," that was held as part of that celebration.

¶1 **Richard A. Danner:** I want to welcome you to our program this afternoon. This is one of a series that we are holding at the law school to celebrate the new Stanley Star Commons and the J. Michael Goodson Law Library. We are here to have a conversation, and for that conversation I'll be joined by two distinguished colleagues. What we want to do today is talk about the role of the academic law library in legal education.

¶2 A few moments ago, someone came up to me and said, "Why do we have law libraries anymore?" Questioning the role of the library, particularly the role of the law library, might have been unthinkable fifteen or twenty years ago, when many of the people in the room were in law school. But it's now a common question, prompted by the tremendous challenges that law libraries and other libraries have faced as the information we collect and organize and make available has moved from largely print formats to largely digital formats.

¶3 And so now there are questions to ask about the purposes of libraries, and about why we need law libraries in this new digital world. Why should we care about books and libraries when so much of the information that lawyers, law students, and legal scholars use and need is online, accessible anytime, anywhere, and in many instances to anyone?

¶4 Why do we build new law libraries? Why do we tear old libraries apart and rebuild them? And why should great law schools, with resource needs in many areas, continue to devote large sums to develop and maintain their libraries? Is what we are here today to celebrate really worth it? I won't keep you in suspense because the conclusion is going to be, "Yes! Of course it's worth it!" I'm quite sure that the continuing value of the law library is clear to my colleagues who are with us this afternoon, but let's hear what they have to say.

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¶5 Blair Kauffman is Law Librarian and Professor of Law at the Yale Law School. Blair and I have been friends since we were both law librarian "pups," which was a while ago. Blair is one of our most thoughtful colleagues as a law librarian, and in many ways the conversation that we'll have today is a variation on those that we have been having for many, many years together.

¶6 John Palfrey is the Henry N. Ess III Professor of Law and Vice Dean of Library and Information Resources at the Harvard Law School—a position to which he was appointed earlier this year. John is the co-author of the recent book, *Born Digital*,[1] a fascinating discussion of the impacts of digital technologies on the lives of the new generations who are born into and raised in the digital world and who have known only a world of computers and networks. It's worth noting too that John comes into his new position at Harvard without prior experience as a law librarian.

¶7 **Blair Kauffman:** First let me say what a privilege it is to be here. Those of us in the library profession have long admired Duke Law School and the Duke Law Library. If you want to find out how to do things right, Duke is one step ahead of everybody else. So recently, on the issue of open access repositories, we can look to Duke to see what they've done. If you want to know how to serve this new generation of legal scholars who are doing empirical legal research, look to Duke and see what they're doing. The rest of us who are just beginning to struggle with some of these major issues in librarianship can look at Duke.

¶8 Of course, Duke is not the first to renovate or build an addition to its library. Over the past decade numerous law schools have completed major law library renovation and addition projects. John and I are both beneficiaries of major renovation projects that occurred in the late 1990s at Harvard and Yale, institutions that had long neglected the infrastructures of their libraries. I know at Yale, from the time the Sterling Law Buildings were constructed, in 1929–1930, building maintenance was deferred. We invested heavily in a library renovation in the late 1990s, and library usage has increased every year subsequent to completion of that project.

¶9 More recently, I was at Stanford looking at their recently renovated library, and their usage has more than doubled over the past five years. The University of Chicago also has just completed a renovation project of its library. I think these renovations are strategically wise decisions for law schools to be making. It's money well spent, even though we've got this born-digital generation of students that John has written about entering our law schools. Interestingly, the born-digital students tend to be even more frequent users of libraries. The people who guard the entrance to the Yale Law Library tell me that our current 1Ls are the heaviest library users they've seen yet. It's an interesting situation that during this digital age, students are flocking to libraries. I think it's because libraries, as Dick has pointed out in previous talks, are what architects call a "third place"—where your home is your first place, an office or a classroom is a second place, and social places, like dining halls and lounges and coffee shops and bookstores and libraries are a third place.

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1. John Palfrey & Urs Gasser, Born Digital: Understanding the First Generation of Digital Natives (2008).

¶10 The library is a third place that speaks to individual study and research. It's the one thing that really distinguishes residential education from other types of education. During this digital era, where you can go online and learn—for example, Concord University offers a J.D. degree that can be done totally online—the library is what holds the students to the law school. They spend more time in the libraries than they do in the classrooms. They may be in the classroom three hours a day; they may be in the library six to ten hours a day. So spending money renovating the library is a wise decision. We've seen evidence of this in the law schools that have invested in library building projects, where afterwards library usage is up more than ever. What users are doing in the libraries is something else that I'll address in a minute.

¶11 **Danner:** Blair has provided a good introduction to my next question. One of the things that we have found at Duke—and this was true both before we closed the library for renovation and since we reopened it a couple of months ago—is that there's a lot of student use of the library. The new library is an open, naturally lighted, pleasant space; the students come to it: they use the carrels, they use the table seating, and they're all over the place, on all floors. And that is what we want. The students seem to like the new space; we built it for them, and that's what we want to see. But, besides providing study space for students, what is the role of the academic law library? Law schools must have great spaces for students to study in, do their work, and have access to technology. However, all these things—good work spaces, power to the table top, wireless access to technology—don't have to be in the library. I think that the bigger question for us is: what beyond providing beautiful study hall space is the library is supposed to do in this new environment?

¶12 **John G. Palfrey:** Thanks, Dick, and thanks so much for the honor of being up here. I come at this as a technologist or a person who studies technology and the law, and I became interested in the role of libraries because of what I was seeing young people doing with the technology. Over three or four years I did a research project on digital natives, resulting in a book called *Born Digital*, which looks at how young people use these technologies in ways that are different from their parent and grandparents. And, of course, it's not everybody using it the same way—there are variations within the population—but certainly those people who are born after 1980, who have access to technology and some skill in this, clearly do rely on digital technologies much more than books. I think it is absolutely the case that our students are less likely to go pull a book from the shelf than they are to go online and look for something.

¶13 In our focus groups and interviews with young people, particularly the ones who are now in high school, we asked them to imagine being assigned a research project where they were supposed to look up something that they didn't know much about. We would ask them, for example, what they would do if they had to do a research project on the Spanish-American War. One hundred out of one hundred kids that we asked said that they would start by opening their laptop, or some other digital device, they would go to Google (and it was Google every single time, not Yahoo or some other search engine), they would type in "Spanish-American War," and hit enter. They would then get a set of search results and the top one, or the third one, would be Wikipedia. They would click on that, and they would go to

the Wikipedia page. Almost everybody in our sample would use this exact process. The only variation that we heard was that some would cut and paste the top of what they found into their research paper and then hand that in. That was the "not-sophisticated" way to do it. At the other end of the spectrum, there were the skeptical kids, the kids who thought, "Gee, my classmate could have been here five minutes ago on Wikipedia, and made some edits to it to mess me up and introduced some false fact, so I don't believe any of this." So you had this huge range of sophistication in terms of the response to technology.

¶14 What we found was that kids really do suffer from information overload—the notion that there are so many different sources to rely on. I would ask the younger ones about libraries: "Did you ever think to go to a library?" By and large they would only go to the library if they were assigned to do it, told that they needed to cite a book. Their instinct was to go to the digital sources. One kid looked at me and said, "Man no, I've never been to a . . . wait a minute; I did go to a library once. It was on a field trip."

¶15 I thought, after listening to these kids in these interviews, that more than ever they need excellent guidance on how to do research, on how to sort through the multiple sources that they're getting online. It's not that we just need to give them an Internet browser in the middle of a law school environment somewhere as a place to sit—it's that we need to provide structured environments.

¶16 I agree that having physical space as a manifestation of the intellectual heartland of the school is crucial. But I also think there is a growing role for the academic law librarian. It's not just reference librarians, it's the people in the back office too, who are figuring out how to catalog and make these materials accessible. Just as you have this push toward open access to faculty scholarship, we need to let kids know how to find that faculty scholarship and distinguish between a source that's online from another kind of source. I think the fact that young people are going to Google and to Wikipedia first is a call to arms in a way. It's a requirement that law librarians have a greater role in legal education. I don't want us to send Harvard Law School students out in the world thinking that a keyword search is the only—or best—way to look up a statute or to figure out where a law journal is. We need more than ever to give that structured experience that's missing today.

¶17 **Kauffman:** I think these teenagers who are going to Wikipedia to find answers for their research papers may even make it all the way through college and actually get admitted to Harvard and Duke and Stanford—and yes, Yale—law schools and still think that they can just find it all by going on to Google. We're finding that's the case with many of our students. They may just come into the library and use it as a study hall unless we intervene and teach them otherwise. I call this intervention assertive reference, because fewer and fewer students come to the reference desk on their own—they think they know how to do research, because it seems so easy. It's like turning on the television set; it's an appliance. You turn on Google and you put in the question and the answer comes back. So we have to think strategically about where we can intervene and get those teachable moments to show students that in reality doing legal research is more complicated today than it's ever been before.

¶18 There are so many choices—not only choices between online databases and print, but also knowing when it is best to use print and when to go online. It's a very complicated process. At Yale we've been offering more and more legal research courses. Traditionally we've offered a research component in the first year, a first-semester small group course, and this has been the only formal legal research instruction provided to most Yale law students. While we continue to participate in this course, it's not realistic to expect students will learn very much about legal research simply from this short introduction, so we use this opportunity to encourage them to take one of our other more substantial research courses. Because some students may never take these additional courses, we've also intervened in the clinical programs, and we have a liaison with the clinics. What we've found is that demand is overwhelming. Now most of the clinics are coming to us and inviting librarians to provide research instruction in areas of the law covered by that clinic.

¶19 **Palfrey:** And my guess is that law firm practitioners would be encouraging this, right? Because one of the things I've heard from our alumni is that we're sending out too many students into law firm practice who don't have the best research skills and, in fact, too often have to learn legal research on the job. The clinics could well be one of the environments in which we provide that instruction.

¶20 **Kauffman:** I think that as a result of the more complex legal research landscape, we're getting more and more questions that require much more assistance than in the past. It's not the one-to-five-minute quick answers such as, "Where do you find the federal statutes or the federal reporter?" It's more of a research collaboration. "How do I go about writing this paper?" And it can actually take one or two hours, possibly with repeated visits. So the nature of the process of reference is changing.

¶21 **Danner:** There's no doubt that those things are all necessary. Clearly there's a need to have better instruction, and to promote better understanding of how to practice legal research. One of our alumni, Morgan Varner (Duke Law '66), has endowed a fund for the law library to explore just those questions—how to make sure that these digitally knowledgeable students are able to do the kinds of legal research that are required in their professional careers as lawyers.

¶22 Because of this funding, we have been able to develop courses in that area. We teach an Introduction to Law Office Technology course that has a component on legal information literacy, and we're introducing a new course this spring on Business Information Sources that will be taught from that same perspective. There are things that can be done to improve legal research training, and we've had a fair amount of success with what we have tried here.

¶23 We've talked now about the importance of the space, and we've talked about legal research instruction. Yet, we are still talking primarily about the role of the law library in support of students. Spaces for students to study, teaching students, participating in their education. But what is the current and future role for the academic library at research institutions—and I think all law schools are research institutions—in support of the faculty? What I'm most interested in, and what I ask our reference librarians to focus on, are services for the faculty.

¶24 Service to the faculty is one of the reasons why we established Duke Law's open access repository for faculty scholarship[2] and our program to support empirical research. We also run a research assistants program. As you know, it's very rare to see a member of the faculty come into the library. Why should they if we bring everything to their desks? I don't think the faculty are going to come back into the library, but then what is the role of the library in supporting scholarship and faculty research?

¶25 **Kauffman:** I think it's to collaborate with them on their research. Find out what they're doing. We're seeing substantial changes in the kinds of research that faculty do. For example, there are more and more empirical legal researchers at some of our law schools. How can we support this group of faculty beyond the more traditional kinds of research that we've been used to supporting? It may be, as you're doing here, by helping them create data sets, having somebody on your staff who knows something about statistical analysis software like STATA and who can work with their students and their research assistants. It's understanding the work they're doing and being in touch with it as much as possible in order to provide them with the kind of research services that they need to support that work.

¶26 I think the situation you mention about faculty presence in the library is analogous to the law firm environment. What's happened in law firms is that lawyers stay in their offices. They have less need to come into the library now, so the library's physical space in law firms has pretty much disappeared. Our deans and our faculty who visit law firms might get the impression as a partner tours them through that there's no longer a library, but in fact law firms are spending more on libraries, librarians, and legal information than ever before.

¶27 Looking at the survey of law firm libraries that was published in the *American Lawyer* last summer[3] covering the top 200 law firms in the country, I was astounded to see a 25% jump in the amount that law firm libraries were paying for legal information over the year before. This was not just for online information, but for print information as well. The print is just less visible. They also are paying more for salaries. There were either more firm librarians on the payroll, or they're getting paid more. So law firm libraries are very much alive, but associates have offices, and they don't need to come into the library to do their work. Students don't have offices, which is why we need to provide this physical space for them as well as support for their research.

¶28 **Palfrey:** As I've taken over this job in the last few months from Terry Martin, the great law librarian who did it for twenty-seven years, I've been trying to learn the job. One of the ways I've been doing that is by speaking with as many of my faculty colleagues as I can in order to see what they want—to get a sense of how well-served they are or how we can serve them going forward.

¶29 It's very clear to me that the Harvard Law Library has done an exceptional job. It has a very devoted group of reference librarians who have served the faculty

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2. Duke University School of Law, Scholarship Repository, http://www.law.duke.edu/scholarship/repository (last visited Feb. 5, 2009).

3. Alan Cohen, *Competitive Advantage: Business Intelligence—Finding, Analyzing, and Leveraging It—Reshapes the Role of Law Librarians*, AM. LAW., Aug, 2008, at 61.

extremely well for a long time as partners in just the way that you describe. Particularly for those faculty who have been there for a long time and for those faculty for whom traditional legal research is the mode, we have to have the materials that they would like. It's increasingly available in very convenient formats. They ask for something, they get it very quickly, whether it's brought to them in physical format or digitally. It's expensive, of course, to do it, and it's important that we maintain our collections in this traditional mode, and it takes a lot of work. But we do that core job of being a law library very, very well.

¶30 My sense is that the people who have some greater level of frustration on our faculty are those who have come from other places, people who are doing things in more interdisciplinary modes, where the law library is not exactly set up in the way that they would think it might be to support their research. At the Harvard Law School we've had a huge growth in new faculty members. We have added forty-two new full-time faculty members in the last five years, and many of them are doing international or interdisciplinary work. The challenge for us is to think about what it means to be a law library at our core, to be very, very good at that provision of the traditional services and not mess that up, and at the same time, to figure out what to do for somebody who is doing legal research in a way that is like a social scientist. Do we buy a second set of those social science materials that other schools might have within the university? Do we provide them with the same data sets that the business school might have? Do we give them Bloomberg terminals, for instance? Do we add an empiricist to our reference librarians? I think the answer is yes, but at some point the school has to decide whether or not, as a resource matter, we should do these things—have a group of reference librarians and the support behind that, in technical services and otherwise, and absorb the costs to cover not just the legal materials but also all these social science materials.

¶31 There are lots of gnarly problems buried in there, but the answer has to be yes. We have to be core partners to these international and interdisciplinary faculty just as we are for classic doctrinalists doing U.S. law. But there is at some point quite a challenge coming ahead—is this a zero sum game or is it something where we're going to figure out expansive ways to do it? I think it's wonderful that you have alumni who are willing to give specific funds to deal with some of these more experimental, forward-looking things, and maybe that's the answer. Maybe the answer is that law schools have to rely upon their forward-looking alumni to do it, but I think there's also a question as to what the core functions of the law library are, and how we expand the kinds of things we do, while maintaining what we've done well in the past.

¶32 **Kauffman:** The cost of the information is very, very expensive. Not only are we collecting our core materials in online format, we're also expanding the base of information we need to support these broader faculty interests. Even though we're blessed with very rich collections in print formats, and with nice endowments to support them, it's still beyond our means. All of us are cutting our collections back and trimming the sails somewhat, and redirecting those resources. Law firms are spending much more than even the Harvard Law Library on information resources. That was one of the things that shocked me in looking at the *American Lawyer* survey. The average law firm is spending over $5 million a year on its information

resources[4]—the big law firm libraries—which I think is more than what Harvard is spending.

¶33 **Palfrey:** It is. Let me put that back to you in the form of a question. Let's say you've got an empiricist who is doing work on data sets related to something in the business world or corporate world, and the Yale School of Management has all the materials that they need. Do you buy it at the Yale Law School library, and likewise, do you repeat the things that the Yale School of Management has in skill sets?

¶34 **Kauffman:** We're all blessed to be on rich campuses with very rich library resources, so I think we duplicate as little as possible, and we coordinate with the other libraries on campus to get those information resources where we can. And we think very carefully about how we expand our services. Again Dick has shown us the way here in how to tip-toe into the empirical legal research world by bringing in a Ph.D. student to help extend those services. I think that's probably the way that we will venture into it to begin with.

¶35 **Danner:** I think it's helpful to think about services for the faculty that don't necessarily need to be done by the library. UCLA and other law schools have fairly large programs to support empirical research that aren't within the library. Other schools may have repositories that are not managed by the library. But, law libraries do often have the resources and the flexibility to take initiatives in those and other directions. Those are the sorts of things that libraries can do to be creative with the resources they have and to look in different directions.

¶36 Blair said that the future was in collaboration, and John agreed. I think that's a key point, but it is also something that librarians have talked about for a very long time. Back when I was in library school, I wrote a paper about how reference librarians could collaborate with faculty and others in order to make their jobs more fulfilling and also to provide better support and create better relationships with the researchers with whom they are working.

¶37 But, although this is something that librarians have talked to each other about forever, there are all sorts of things working against it. Particularly in law schools, librarians aren't necessarily as ready as we might like to say to a faculty member: "I want to meet with you for an hour about your research. Let's have lunch together and see how I can collaborate with you." There are cultural obstacles that make these things hard to do.

¶38 There are also our professional concerns about the differences between reference service and doing research—saying to the faculty that we do reference, but we don't do research, because that's for your student assistants. I think that this distinction is becoming increasingly difficult to justify. If we really want meaningful collaborative relationships with faculty researchers, we can't draw those lines as distinctly as we might have wanted to draw them before.

¶39 I have had discussions with deans about overall resource allocations within the institution. Your school might have a professor who demands very little in the way of institutional resources for research assistants, for travel, or any of the other things for which people can ask for money, but who is very productive. He or she

4. *Id.* at 62.

publishes a lot of articles, helps the school in the rankings, etc. Yet, what happens when that professor comes to the library and asks a librarian to do a little bit more than what the traditional line between reference and research might allow. From an institutional perspective, since the professor is very productive and is using very few resources overall, shouldn't the library bend that line a little bit if asked to do something that may go beyond what we think about as doing reference? Those are the kinds of things where the decisions are more complicated and more difficult now than they were before.

¶40 **Kauffman:** Well, there is that concern of getting overextended and getting into this "research assistant's land." One faculty member can totally eat up a librarian's time.

¶41 **Danner:** Here, we have tried to think about the range of resources available to faculty members to support their research: they have librarians; they have a faculty support person; they have personal research assistants for whom they pay, and the library research assistant program in which, for projects of fewer than ten hours, we provide a trained student research assistant. They have several different alternatives, and it's not clear why the faculty member ought to have to sit and figure out who's the best person to help with the research problem.

¶42 One way to think about doing this, which I think makes sense, is to organize those different resources into a team, which can triage the requests. Who should manage that team? Should it be the student research assistant? Should it be the faculty support person? Or should it be the reference librarian? This is a role in which librarians are not doing research assistant work, but are involved with everyone who is providing research support and organizing it. Ultimately, it is the reference librarian who will know best who should work on a particular problem.

¶43 **Palfrey:** I want to go back to the question of the centrality of the law librarian in a digital age. One of the things we found recently, in talking one-on-one with faculty members, is a situation where, if we asked what topic they were interested in, they would describe, for example, a particular project relating to the city of Sao Paolo and some legal issue there. And we would say, "Well, you could get the information you're interested in through one of the online resources we have for you. So much of this has been digitized. We spend hundreds of thousands of dollars a year on these data sets." The faculty member would then say, "I try. I type 'Sao Paulo—city' into this database, and I get simultaneously too much and too little. So I can try to use these resources myself, but they are a complete maze to me, and I get stuff that's unusable, and I get frustrated, and then I give up and don't look up that information."

¶44 I think one of the keys in this moment of transition is not just that we have digitally savvy young people coming in, but that we also have in some cases digitally not-always-so-savvy faculty members, who are struggling and wish that they could walk in and pull the book off the shelf and browse and say, "Oh gee, that's the one I want." That says a couple of things to me. One, it says that we can't rush too, too fast to an all-digital world. We need to maintain the hybrid collection; we actually need stacks for books sometimes. There are lots of other reasons as well, for example, archivally, and for other sound long-term reasons, that we don't want to have this purely virtual version of a library. But a second reason is that we need to focus

on user interfaces—ways to get at all of this information that we're paying for—and also guides. This comes back to the role of either the reference librarian or the student research assistant, which is to be guides to the things that we're paying for, which are very expensive, as well as to be educators—educators of senior faculty members who are actually not getting as much as they used to despite the proliferation of this information and the high cost of it.

¶45 **Kauffman:** I think the ideal solution is the research assistant working with the reference librarian and faculty member. What we see are research assistants coming into our library and working on a project for two weeks, and then going to a librarian, who finds the answer in ten minutes.

¶46 **Palfrey:** That scenario probably mimics life in a law firm or in a legal environment, where you have a junior associate, who's trying to get something for the senior partner, and you've also got a law firm librarian, or a senior associate somewhere in the mix. It's not dissimilar, this kind of team orientation to get the relevant information and package it so that the senior person can help analyze it.

¶47 **Kauffman:** And Dick has suggested a nice solution for this by having the librarian manage this process.

¶48 **Palfrey:** I see now why some people say the job of the library director is really an empire builder. You come up with all these reasons why everything should be centralized in the law library.

Following this discussion, questions were taken from the audience:

¶49 **David Noble (Duke Law Class of 1966):** I find that I can get anything that I want—for example, if I need a statutory section—just by typing something into a computer. Nobody uses books for legal research any more, do they?

¶50 **Kauffman:** Walking around your library today, I interviewed some students, some of whom were *Duke Law Journal* students, and they told me there is information they simply cannot find online—they have to go to print resources. They pointed out some statutory material, and even some items they have to use microforms to access. For that they requested from the library a portable microform reader, which they have in their *Duke Law Journal* office. Thus, while you may be able to find everything you need online, others may not be quite as sophisticated researchers or may have research needs that go beyond the kinds of materials you require.

¶51 **Deborah Jakubs (Rita DiGiallonardo Holloway University Librarian and Vice Provost for Library Affairs, Duke University, Durham, North Carolina):** I agree with a lot of what you're saying about interdisciplinary work, and new kinds of clientele and different kinds of questions. In the context of the changing needs or the ease with which people are finding information on their own, I would like your ideas on how you think the relationship between the law library and the main library system is changing, or not changing, or could change or improve. What new forms of collaboration should we be using?

¶52 **Kauffman:** The dirty secret is that law school faculty members demand and get far better library services than any other faculty members on campus. And that's a major reason we have independent law libraries, so we can provide that type of high level service.

¶53 **Jakubs:** What if a faculty member is moving into legal issues?

¶54 **Kauffman:** We welcome that person to the law library.

¶55 **Jakubs:** And then you pull them away from the main library because you are treating them so well.

¶56 **Palfrey:** There are perhaps two ways into this. I'm still so new at the job that it's idle speculation more than anything else, but speculation born of problems that I've already seen in two months. One problem is the frustration that researchers in other parts of our university feel when they can't get access to some things that are in the Harvard Law Library in digital format because of our licensing. We have a number of things that we pay a great deal of money for, and we'd love to get licenses for the whole university, but the way the contracting has worked, it's limited to our faculty members. That seems to me a crazy outcome—that in a university setting we are denying access to researchers in other parts of the university. But likewise, we have the same reciprocity problem with our business school, which buys lots of other things. So it seems to me that one possible form of collaboration and collective action is around the negotiation of licenses for these electronic resources. There has to be more market power in what we're doing, either as the creators of the information, or as the primary buyers of it. We should be able to break down this particularly silly boundary.

¶57 I think the other problem goes to the core question of, not are the libraries collaborating across these boundaries, but are the faculty themselves collaborating much? At least within Harvard, we have the most "stovepipe" place you can imagine, where people in different schools are working on similar projects, but not working together. For example, I work in the study of the Internet, and there are dozens of other faculty, at every other school, who are studying the same things. And it's a bear to figure out how we actually can work together. My sense would be that if the underlying problem were solved somehow, if we figured out ways to collaborate better, I think our respective reference librarians and those who are building the collection would also do it.

¶58 Now I understand this is Pollyannaish—there's an incentive structure for getting tenure—you produce on your own, and you do it really well, at least in the legal field. So it runs against some of these incentives, but somehow it's related to that core question of how do we collaborate on research, not just how do we collaborate in sharing resources.

¶59 **Danner:** Duke University is highly interdisciplinary, and encourages collaboration between schools and individual faculty members. Blair has alluded to the traditional independence and autonomy of the law library from other campus libraries. I think that, if the culture of the university encourages interdisciplinary work, then perhaps the libraries can work together to create structures to facilitate interdisciplinary work, even given the disciplinary bases for promotion and tenure. In those cases, I think there are possibilities for collaboration among the libraries, and I don't think we should hold on too tightly to the autonomy that we've prized so much.

¶60 **Palfrey:** That's the link between the university librarian and the schools and facilities that is so important. It seems that if these units and people are pulling together, you have the possibility of a lot more collaboration.

¶61 **Kauffman:** I don't want to leave the impression that we don't work together with our university libraries. I meet together with my colleagues once a week in the university library system—the directors of all the campus libraries and the associate university librarians, and we have great cooperative relationships. We could not provide the kinds of services to our faculty and students that we do without the rest of the university library system. They deliver books right to our doorstep, and we deliver books to their doorsteps. Our negotiation of licensing for databases is always for campus-wide access. Sometimes we just cannot get the vendor to agree—I think Lexis and Westlaw are the prime offenders on that front. But most vendors agree, and we have campus-wide access and benefit tremendously from the campus digital resources that are licensed. We also, like Harvard, have a joint campus shelving facility. We cannot fit all of our print materials in our library and rely on the campus shelving facility to store a growing portion of our print collection.

¶62 **Danner:** We have the same thing.

¶63 **Palfrey:** As of this year more than half of the Harvard collection is off-site.

¶64 **Kauffman:** We're at about a third.

¶65 **Thomas Metzloff (Professor of Law, Duke University School of Law, Durham, North Carolina):** Ten years ago, I would not have predicted the world that we have now—with things like Wikipedia, which sometimes is very interesting and useful—and the ways my students access information. What will be happening ten years from now? Is there some legal Google that's going to be created? Where is all this going in terms of research, given the Internet and all these databases? It's beyond my ability to comprehend.

¶66 **Kauffman:** I think that we will continue to see print as an important format well into the future, but obviously more and more will be digital. Are we going to see the Google equivalent for law? Yes, Google is digitizing law books left and right.

¶67 As I talked to some of the *Duke Law Journal* students today I asked them about looking at materials in digital format. They said they like to find them digitally, but then look at them in print. Whether that means printing them out, which is not a very green way of doing it, or using the library copy—if it's going to be more than a couple of screens, they prefer to look at it in print. John and I both have an Amazon Kindle, and I had predecessors to that; I have it with me and have been reading *Nixonland* on my Amazon Kindle.

¶68 **Palfrey:** Obviously, predicting the future is a dangerous business, and I'm no good at it. But some people on this faculty, Jamie Boyle and Jen Jenkins and others at the Center for the Study of the Public Domain here, are leaders in thinking about it. So if they're successful in some of the things that they're doing, I think it will be a brighter future ten years from now. I think some of the answer will come down to what kind of materials you're talking about. Going back to the earlier point about the ease of looking up a statute online, my guess is that ten years from now, primary legal materials from any country that has resources will be freely available and in good, formal, stable formats. There are lots of efforts in this regard. I think that the basic core of materials—statutes, case law, etc.—will be in digital format.

¶69 For everything else, my sense is that it will be born in digital format. For example, think about the *Wall Street Journal* or any other newspaper. It's born as a digital object. A book, when we write it, it's a Microsoft Word file first. The fact that we print it out in book format is an artifact. It's a good artifact— it's one of the great technologies, actually, the book. But I think that it will come out in four or five or six different formats. You'll have the choice of having the highly searchable one, whether it's through Google Books or Google Scholar. You'll have one that's in the Amazon Kindle and the Sony Reader. You might have one that has an interactive quality to it with video and audio and so forth. Or you'll buy the printed one at Border's or through Amazon. My sense is that what we'll get good at is price discrimination between these different formats. Everything will be based on a born-digital object that is then output in ways that are useful for a particular purpose or particular audience. But that's a hopeful version of the future.

¶70 **Marian Parker (Associate Dean for Library and Information Services, Wake Forest University School of Law, Winston-Salem, North Carolina):** When you ask if there is a Google for law, yes, Google really is going after a legal collection. The U.S. Government Printing Office has an RFP out right now to digitize the entire legacy collection of all government documents, so everything will be freely available to everybody at some point. Every state in the United States is looking at doing its right part in making the primary sources of law available in an authenticated and preserved manner, in a digital format for everybody. And they will be going back in time too, we presume. The rapidity with which the change is happening is faster than I think any of us predicted. There is also at the very same time an ongoing effort for permanent preservation of the printed object from which these things were digitized if they were not born digital, and for preserving the born-digital copy at some point too. There will be light archives and dark archives of all this information should anything ever need to be replicated if it's destroyed. That's going to happen within the next fewer-than-ten years.

¶71 **Palfrey:** I think that one of the hard questions that we'll have to ask ourselves is actually kind of a flip of this, which is, of your scholarship and the work that you're doing as a faculty member, how are we going to preserve that? To the extent that you're creating things that may be not preserved in the ordinary format, we have to rethink what our archives are. Do we want to archive a lot of the e-mails, which are actually a very tricky matter. Technically it's tricky, but it's also a question of, do you want all of it saved? Or the articles and other outputs and videos of your classes, should we be saving those things? I think for a dean or a senior faculty member today, who may be someone librarians will be looking at someday, it's a live question that we should be asking.

¶72 **Carol Avery Nicholson (Associate Director for Technical Services, University of North Carolina at Chapel Hill Law Library, Chapel Hill, North Carolina):** One of the reasons that we continue to need print is that all lawyers don't have access to these electronic resources. Some of them go out and practice in small firms that really can't afford the $5 million budget, so that's one reason we also need to keep a variety of formats.

¶73 **Palfrey:** And also there is the question of the skills to use those books. Think of the public interest lawyer who comes out knowing only how to use

Westlaw, and who goes into a place where they are actually pulling stuff off the shelf. That I think is also a live problem.

¶74 **Terry Martin (Interim Director, University of Texas Jamail Center for Legal Research, Austin, Texas):** Let me go back to your initial question: Do we need law libraries? I think you've made the case for library as place. Every law school should have a good place for the students to go. You've made the case for the sophisticated reference librarian who can assist the faculty members and help them structure their research, find resources, manage information, teach the students. I'm not sure you've made the case for separate collections in any format. Because if the collections are moving into digital format, why is every law school library licensing information from Lexis and Westlaw? Why aren't there bigger conglomerates spending the time and doing the negotiations and maybe coming to better conclusions?

¶75 When I started in this business I often looked at a lot of our collection—the law reviews and the reporters as kind of intermediate copies, because the use copies were the ones that got taken to the photocopy machine, and then people took the copies home. Now you can get that information online, and people download it to their laptops. The role of the library is only kind of a licensor, but every law school is doing the same kind of negotiations. That seems kind of silly. Maybe we should let John negotiate for the country.

¶76 **Kauffman:** Do you think that Lexis or Westlaw would sell it to us for less money if John was doing the negotiations for all of the law school libraries?

¶77 **Martin**: The problem is that except for Lexis Lite, you don't have university access. Look for example at what West has done with its LMA; there are different deals with every school. Whereas if AALS did it for us, perhaps the results would be better.

¶78 **Palfrey:** I'm sure that the answer is "yes," AALS should be doing this. But I think that you guys have done a lot of work on collaboration in the past that is tricky to do. We haven't talked that much about international collections, but one of the things that we puzzle over a lot at the Harvard Law School is how we can collect in all jurisdictions in the world, at least at some level—basic laws, and law from places where there are unstable regimes. It's important that someone is collecting that. But despite how much money we have, we cannot buy everything in every jurisdiction. It seems that one way to do better sharing might be in this area. We probably buy very similar things in U.S. law, but we probably buy quite different things in other jurisdictions. As all of our leading law schools are seeking to have a more international experience for our students, and to draw in LL.M.s and S.J.D.s, this seems to me a crucial thing for us to do together. Even if we're not negotiating the West agreement together, we could be negotiating what we are strong in.

¶79 **Kauffman:** John, we're all hoping that you won't pull back on that foreign and international commitment, because the rest of us rely on you.

¶80 **Danner:** I'm not sure whether that's the note on which we want to end, but please join me in thanking John and Blair for visiting with us today and having this conversation.