

# What are Law Libraries For?

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In November of 1999, I will have been a librarian at the Duke University School of Law in Durham, North Carolina for 20 years. Duke is generally considered to be one of the top law schools in the United States; its current student body is about 680, 75 or so of whom are international lawyers enrolled in either a one-year LLM program or an advanced doctoral program. The rest of our students are studying in a three-year post-baccalaureate program for a first professional degree in law, the juris doctor. The law library has over 535,000 volumes, which places it among the largest, though not the very largest, of American law libraries. Over the past ten years, the law school and the library have invested heavily in information technology; our students are required to own computers and we have installed network capabilities in our classrooms, throughout the library, and in all faculty and staff offices.

This is the point from which our law school and library will face the challenges of the 21st century. In my current position as senior associate dean for library and computing, my responsibilities include thinking about and planning for the law library, and, of course, the people who work there. I had the honour of addressing some of those issues at the BIALL meeting in Belfast,<sup>1</sup> and am pleased to have the opportunity to do so again.

## Looking Back at Change

A couple of years before that meeting, in the spring of 1994, I was asked to participate in a panel discussion about the future of law libraries. To prepare, I tried to get a sense of how much light could be shed on the future by looking back at the (then) 15 years that I had been in my position at Duke. At that time, it was easy to see the impacts of technology on everything we did in the library, and how much we had come to rely on computers for ordering, paying, processing, cataloging, binding, and accessing materials in our local collections, for supporting research in commercial databases such as Lexis and Westlaw, and, increasingly, for communications via e-mail. (At that point, of course, the potential of the Internet and the World Wide Web for research and communications were just becoming visible on the horizon.)

In 1994, however, I found that not much of what I was then doing in my job or what the library was doing to support the research and educational

missions of the law school could have been predicted by the activities of 10 or 15 years earlier. Looking back at the memoranda and annual reports that I had written to the dean of the law school during the previous decade or so, I noted several things:

One was that I had the time to write lengthy, discursive annual reports on the details of library life. By 1994, these literary efforts had already been largely replaced by the immediacy of regular e-mail communications. I thought that the annual reports were fine pieces of writing, but had little evidence that they were ever read carefully by their intended audience, the dean of the law school. I did know that my e-mails were read, however, since the dean always responded to them, occasionally more quickly than I would have preferred.



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I found, too, that some things that had seemed to be of great importance in the 1980s seemed to have much less priority. I spent a lot of ink and printer paper writing about processing and cataloging library materials. I wrote one year in the annual report about the advantages of replacing our card catalog with a computer-output microfiche (COM) catalog, only to move on in a year or two to a lyrical description of the benefits of an 'integrated online library system,' which would provide one-stop shopping for library users. In my 1994 talk, I noted that we

had just installed our second online system, but that neither system did all that I had described to the dean 10 or 12 years earlier. [That is still true in 1999, but somehow the issue seems much less pressing.]

Technology, which had seemed so exotic in the 1980s, had become commonplace. In one annual report, I discussed whether we needed to install a single Westlaw terminal in the library. (After all, we did already have a stand-alone Lexis terminal.) A year or so later, I reported that we had purchased the library's (and the law school's) first personal computer (an action which I had to justify in a five-page memorandum to the dean and the university's vice-president for computing). By 1994, we were buying computers in bulk for faculty, staff, and students. Both Lexis and Westlaw, as well as a multitude of other databases, were available on them all.

This review of past history proved to have little predictive value for how my daily activities and concerns had changed. Yet, it did reveal that, despite technology's impacts in all that we were doing, the core activities — *acquiring, organising, and preserving information, assisting users, providing instruction in information retrieval* — had continued to be important, even though the ways that we were doing them were changing. At the end of my 1994 remarks, I wondered how long it would be before developments in information technology would affect not only how librarians do what they do, but the essence of those activities themselves?

### Identifying Library Functions

Continuing to ponder these matters five years later, I have been impressed recently by the analysis of an academic librarian writing in the journal: *Information Technology and Libraries*.<sup>2</sup> In the title of his article, David W. Lewis asks: 'What if libraries are artifact-bound institutions?' and he begins his discussion with two key additional questions: 'What are libraries?' and 'What are libraries for?'

In answering the first question, Lewis comes quickly to the point that libraries have traditionally been about 'gathering, organizing, preserving, and using *things*' (emphasis added). Yet, at the end of the 20th century, the things that libraries collect are in decline. Printed materials will soon lose their central role as sources of information to digital information stored electronically and distributed via networks. In a user-centered network environment, where most individuals have Internet-connected computers on their desks, information seekers will not need local collections of printed artifacts ('books and serials and their derivatives') to obtain the information they require. As a result, the institutions (such as libraries), which were formerly needed to support the older information technologies (such as printed materials in local collections) 'may no longer be necessary'.

Therefore, in discussing his second question ('What are libraries for?'), Lewis tries to identify the social good that libraries provide. This should make it easier to think about the library without having to focus on the particular (and possibly obsolescent) technologies and artifacts usually associated with it. The approach should also help librarians avoid the unhappy fate of 19th century railroad magnates, who are frequently cited for recognising too late that their business was not railroads, but transportation.

What, then, are libraries for? Lewis argues that libraries are best 'seen as the means through which communities and organizations subsidize information'. The library subsidies both help promote equitable access to information and deal with the problem of 'uncertainty of information need'. Individuals cannot know or predict all of their information needs in advance, nor can they afford to purchase information in anticipation of possible future needs. As a result, organisations and communities fund libraries in order to enable individuals 'to respond to unpredictable or expensive information needs'. In fulfilling this role, libraries perform their core activities of acquiring, organising, and preserving information. To assist individuals in finding and using information (typically held in local collections), libraries provide searching and indexing tools, instruction, and personal assistance. They also serve as markets and repositories for scholarly and other information that is not commercially viable and might not be otherwise available.

Lewis predicts that information subsidies will continue to be needed in the networked information environment, but that the subsidies will take new forms. In the networked environment, because information seekers are less dependent on local collections to meet their needs, there is no guarantee that the subsidies will be continue to be provided through libraries. Instead of purchasing artifacts to store information locally, organisations will use site licences or other devices to enable individuals to access the information they need from remote computers. One can foresee a future in which organisations simply move the library funds 'once spent on buildings, printed materials, and staff [to purchase] contracts that provide access rights' to information for their constituents. Libraries, of course, are already in the business of purchasing site licences to access digital content and could well continue to be the vehicle for information subsidies in the mixed-media information environment of the foreseeable future. But this is a subsidy of a different kind than libraries have traditionally provided and one which could be provided through other means.

Many libraries, including law libraries, also collect significant amounts of information that does not have enough commercial value to be offered in the marketplace through site licences or

similar devices. In the network environment, however, it is much easier for creators of information to make it available directly to those who need it. Much non-proprietary information, including the primary sources of law, is created by government bodies or agencies and is already being published on public Web sites, where it is easily accessible (at least in its raw forms) without direct access charges for individual users. Under present models, Web-based public information is not purchased by the library and cannot be preserved by the library, and it is harder for the library to use its traditional devices (cataloguing and classification) to organise it. Rather, most of the information subsidies are provided by the public agency creating or publishing the information. In the United States, the growth and ease of Web-based publishing in the public sector has called into question the long-standing role of depository libraries providing public access to federal government information.<sup>3</sup>

Emerging electronic systems for distributing scholarly information will also affect the library's traditional role in subsidising information. Law has been fortunate compared to other areas of knowledge because much of its scholarship has been disseminated through journals published by societies, associations, and educational institutions,

rather than through a few commercial publishers. As a result, the costs of purchasing law journals have been much lower than those for journals in science, technology, and medicine — the so-called STM journals, which have devastated the acquisitions budgets of libraries supporting research collections in those areas.

Subscription costs are among the factors that have motivated creators and disseminators of scholarly information in the STM disciplines to explore the potential of evolving technologies to improve systems of scholarly communication within those disciplines. Lewis discusses such well-known and successful efforts as the Los Alamos pre-print archive for research papers in high-energy physics (<http://xxx.lanl.gov>), which has funding from the US government. As Lewis points out, the Los Alamos archive has proven to be an efficient, effective, and rapid channel for scholarly communication in physics. But, it is also an approach to scholarly communication that directly links researchers and readers, and bypasses traditional publishers and libraries. The information subsidy traditionally provided by local library collections is replaced by a single electronic service for national (and international) audiences.

The pre-print archive example represents one possible model for communicating scholarly information and may not be appropriate for all STM disciplines, let alone the social sciences, the humanities, and law. Government funding, which is unlikely to be available for law or other disciplines, is a key part of its success. In addition, the patterns of scholarly discourse vary among the disciplines and, for many, might require more in the way of formal publication (print or electronic) and peer review than is provided by the physics electronic archive. Even the primary benefit of quick dissemination of research results might not be suitable in all areas.

Yet, it is certain that legal scholars, like those in other disciplines, will look to network technologies to solve deficiencies in their systems of scholarly communication. In the US, while the system of law school-based journal publication has provided low subscription rates for libraries, its other inefficiencies have long been criticised by law professors and others. Bernard Hibbitts's recent writings have catalogued those criticisms and provided ideas for technological solutions such as Web-based self-publishing by law faculty and establishment of electronic archives by professional associations.<sup>4</sup> Under such approaches, information subsidies would be provided by authors themselves (or more likely their own institutions), or by a professional group, such as the Association of American Law Schools. In either case, the library's traditional local subsidies will no longer be needed to acquire information or, perhaps, to provide access.

### Reflections

Lewis's article does not predict the immediate demise of the library as we now know it. And he is fully aware that, historically, new information media have not fully supplanted what came before and that information is likely to continue to be published in many formats to meet many needs.<sup>5</sup> It is clear, however, that the networked information environment, by providing users with direct desktop access to an increasingly larger portion of the information most important to them, will change the nature of the information subsidies libraries

have provided. Consequently, it has the potential to devalue the library's core activities of acquiring, organising, and preserving information, and perhaps to make them obsolete.

At the least, we must question the continued centrality of acquisition and preservation in a digital environment where information is less likely to be purchased or preserved locally. The library's future role in organising information for access at the local level is both problematic and potentially fruitful. An information scientist noted recently that both print and digital documents require constant organising or they will become inaccessible but points out that, because the library's 'primary order-making practices' were developed in support of books and their derivatives, these practices do not appear ready to accommodate digital information.<sup>6</sup> Why not? As Mark Field wrote in *The Law Librarian*, librarianship has 'a continuing disregard for cataloguing, classification, and indexing, and yet these are the tools of the information navigator'.<sup>7</sup>

Lewis's question: 'What are libraries for?' is the correct one for librarians to be asking at the turn of the century. His analysis of information subsidies is helpful both in separating discussions of the library's future from the artifacts and technologies with which it is usually associated, and in highlighting the library's social role within an organisation. But libraries do more for their organisations than provide information subsidies. In the end, one wonders whether, in responding to the challenges posed by digital and networked information, librarians have focused too much on what they do to facilitate access to information and too little on the role that the library plays in developing a sense of community within an organisation. Peter Lyman has pointed out that the traditional library is more than a collection, but is 'a shared intellectual resource and site for a community', and asks whether networks can 'be designed to facilitate the moral values of community, such as trust, reciprocity, and loyalty'.<sup>8</sup> Lyman notes that '[t]he social functions of the library are not easily measured in terms of outcomes'. We all need to keep this in mind as we ponder the future.

### Endnotes

1. Richard A. Danner, 'The Effects of Information Technology on Law Librarianship: An American Perspective,' 37 *Law Librarian* 203 (1996).
2. David W. Lewis, 'What if Libraries Are Artifact-Bound Institutions?,' 18 *Info. Tech. & Libr.* 191 (1998).
3. See generally Harold B. Shill & Lisa R. Stimatz, 'Government Information in Academic Libraries: New Options for the Electronic Age,' *Journal of Academic Librarianship*, Mar. 1999, at 94.
4. See, e.g., Bernard J. Hibbitts, 'Last Writes? Reassessing the Law Review in the Age of Cyberspace,' 71 *N.Y.U. L.Rev.* 615 (1996).
5. See Robert Hauptman, 'On the Fate of Libraries: A Response to David Lewis,' 19 *Info. Tech. & Libr.* 109 (1999); David W. Lewis, 'Response to Robert Hauptman,' 19 *Info. Tech. & Libr.* 109 (1999).
6. David M. Levy, 'The Universe is Expanding: Reflections on the Social (and Cosmic) Significance of Documents in a Digital Age,' *Bull. Am. Soc. for Info. Sci.*, April/May 1999, at 17,19.

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7. Mark Field, 'Re-shaping: The Information Profession in the 21st Century,' 29 *Law Librarian* 211, 214 (1998).
8. Peter Lyman, 'Digital Documents and the Future of the Academic Community,' in Richard Ekman & Richard E. Quandt, eds., *Technology and Scholarly Communication* 366, 377 (1999).