

1997

Thinking About the Year 2020

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I. Background

New York Law School is a free-standing law school, not affiliated with any parent institution, located in lower Manhattan. It has a full-time faculty and instructional staff of about sixty, with dozens more adjuncts, and a student body of approximately 1,500 enrolled in day and evening programs. The school is modestly endowed, relying on tuition revenues to meet virtually all of its operating expenses. It is accredited by the ABA, and holds membership in the AALS. It offers a traditional course of instruction leading to the JD degree, with no higher degrees offered. Other than its geographic location (proximate to courts and many government agencies) and its dedicated and hard-working faculty and staff, it has little to distinguish it from other law schools in the vicinity.

In thinking about how to approach this exercise, I realized that it was quite plausible to begin with the assumption that in twenty-five years my institution would no longer exist. Of course, this would not make for a very lively outline of the future. I decided that it made little sense to proceed directly to my outline without first spelling out various assumptions that would tend to point to the continued survival, at least in some recognizable form, of NYLS.

Thus, my outline posits the continued existence of NYLS as an institution providing a program of education that prepares students for the practice of law in the year 2020. In particular:

- NYLS still exists as a community of scholars in a fixed physical place—most likely lower Manhattan. The model of an educational institution attracting students to a campus—a fixed set of physical facilities—has been eroded by the widespread availability of inexpensive video teleconferencing and the increasing acceptance of the phenomenon called "distance learning." Nonetheless, society still acknowledges value in the concept of a school where people gather to receive education face-to-face. (Perhaps this concept is artificially preserved to some degree by professional accrediting bodies.)
- NYLS's program has successfully adapted to the many changes in the practice of law that have taken place over the preceding decades. Notwithstanding the automation of many tasks that lawyers used to do manually, artificial intelligence has not triumphed completely, and society still perceives the law as a learned profession. (Again, some of this perception may be due to the perseverance of professional trade associations and accrediting groups.) Nor have societal changes drastically reduced the nation's

job market for lawyers. NYLS thus continues to offer a program of instruction grounded in legal rules, skills and philosophies; and still attracts tuition-paying students in sufficient numbers to cover its operating expenses.

- NYLS is still built around a law school model resembling that which prevailed in 1996, at least to the extent that the school employs a faculty of academically-trained individuals whose principal responsibilities are to teach and to conduct scholarly research in law and related disciplines. While the academic tenure system may not have survived intact, there remains an elite group of senior employees who run the school. (For want of a better designation, I'll call them professors and deans.) These professors and deans received their education under archaic models, and still hold to some of the values implicit in these models. (An example might be the primacy of the printed book as a device for receiving knowledge.)

My hypothetical survival scenario for NYLS permits me to envision specific issues pertaining to a library that functions in support of the programs and activities of the school.

II. Issues

Peter Schanck's and Dick Danner's contributions to this volume¹ provide excellent and comprehensive treatments of these issues as they pertain to academic institutions. As I see no purpose in repeating what these learned gentlemen have written, I will instead build upon their papers with my own ideas.

A. Staffing

Schanck and Danner agree that there is little likelihood of long-range growth in staff size, at least in mid-sized academic law libraries, to help us cope with what Schanck calls "the incredible concatenation of developments in the legal profession, higher education, technology, information sources, and so forth."² Both Schanck and Danner see reallocation of duties and retraining of existing staff as inevitable.

I see no basis for disagreement with these predictions. I would, however, suggest two potential sources of additional staffing for libraries that are able to take advantage of special situations. First is the funding of staff lines through library-based entrepreneurial ventures, such as the

1. Richard A. Danner, *Renaissance Matters*, in *A Renaissance in Law Librarianship* 61 (Richard A. Danner, ed. 1996); Peter C. Schanck, *Toward a Renaissance in Academic Law Librarianship*, in *id.* at 47.
2. Schanck, *supra* note 1, at 47.

marketing of special research services. Several large academic libraries are already engaged in such ventures. (Columbia comes to mind as an example.) One might expect that advances and refinements in information technology might present entrepreneurial opportunities of this kind to more libraries. Second is the creation of library staff positions as a byproduct of what Schanck calls the "more structurally fluid and cooperative"³ library. Under this model, as I understand it, the library will become more centrally involved in special projects and programs undertaken by the law school. Ultimately, the library will come to be seen as the logical home for information consultants affiliated with these programs. To the extent that such programs are specially funded, the portion of those funds allocated to information functions will automatically accrue to the library.

Admittedly, this paints a rosy picture of the future (one that Danner in particular may have difficulty seeing through his perpetually smog-colored glasses.) It is by no means axiomatic that every library will be able to avail itself of situations of the kind I have described. For example, NYLS library lacks any kind of special collection that could serve as the foundation for an entrepreneurial venture in the marketing of specialized research services. Many other mid-sized academic libraries are undoubtedly in the same position. And a library's ability to wrest staffing benefits from the resources of special law school projects and programs depends entirely on an enlightened spirit of good will and intramural cooperation that simply does not exist in every law school setting.

B. Technology

Schanck and Danner focus on the increasing capacity of technology to deliver data directly to the end user's desktop. The nub of this issue is the extent to which increasingly sophisticated end user interfaces will transform and/or render obsolete broad categories of work that librarians have traditionally done. Where you come out on this issue depends on how fast you believe end user interfaces will develop, and how durable you believe traditional librarians' skills will be in the face of these developments.

Danner envisions a relatively short timetable for the perfection of end user interfaces that render superfluous to legal researchers many of the skills by which professional librarians have traditionally earned their living. Further, he casts doubt on the durability of these skills, citing their historical undervaluation by the very users for whose benefit they are provided.⁴

My own feeling is that our skills will be durable at NYLS and kindred law schools, at least for the next twenty-five years, because traditional modes of research and teaching will be resistant to change. Even if

3. Schanck, *supra* note 1, at 50.

4. Danner, *supra* note 1, at 62.

sophisticated end user interfaces become available within the next several years, I feel it unlikely that they will gain a level of universal acceptance among legal academics sufficient to completely, or even partially, displace the skills of professional librarians. This prognosis follows logically from one of the assumptions I made at the outset regarding the overall survival of NYLS. In the year 2020 NYLS will still be run by professors and deans: purveyors of education, who themselves received their education during an era when the printed word was by far the dominant mode for receiving higher education. Under these circumstances, it seems inconceivable that even the most sophisticated desktop databases will have substantially supplanted the printed word as media for teaching and doing research in the law school setting.

The next twenty-five years will be a transition period, marked not only by growing complexity, but also by growing diversity of media in the information environment. End-user interfaces for databases of legal information will progress through generations of increasing power, just as personal computers have done. Perhaps the electronic casebook will become an accepted tool for teaching law school courses (assuming the case method of law teaching endures.) Perhaps technology will even give birth to an electronic information device that is as simple, durable, economical, reliable, comfortable, and efficient as a book. But the printed word will remain, at least, as an option, and often as the exclusive medium for obtaining particular classes of information. So long as legal academics have options for obtaining information through different media, the printed word among them, there will still be a demand for our traditional librarians' skills (though, sad to say, these skills are not likely to be valued any higher they traditionally have been.)

C. Training/Education/Skills Requirements

Once again, Schanck and Danner do a fine job of highlighting the major issues in this category as they apply to mid-sized academic law libraries. Schanck points to current problems in library education, with the resultant decline of the MLS degree, as having an impact on future credentialing requirements for library personnel. Danner questions the need for librarians to replicate the high levels of technical knowledge of the technologists next to whom they will be working.

It seems to me that what will save the academic law library in the next twenty-five years is that academics will stop thinking of it exclusively as a place where librarians work. Most law schools are already hiring what Schanck casually refers to as "MIS personnel in the library." Some law schools are placing these personnel under the jurisdiction of the library director, and others are reconfiguring the job of library director into a "Dean for Information Services" or some similar title. These are trends that seem certain to accelerate in the next several years.

Both Schanck and Danner envision a more structurally fluid library that plays a central role in supporting the broad missions and priorities of the law school of the future. In this vision, the Dean for Information

Services would direct a team of information specialists who would have diverse requirements for training and skills. In a perfect future, Schanck says these same personnel would also be information generalists with broad backgrounds in legal, social and humanistic knowledge. There would, of course, be no need for replication of narrow technical knowledge among multiple staff members; it would be the responsibility of the Dean for Information Services to ensure that the team of specialists was trained and skilled in the right mix of non-redundant information specialties.

In addition to competence in significant aspects of information technology, I would point out another set of skills that most academic law librarians will need to acquire over the next twenty-five years. During this period the practice of law in the United States will become increasingly global. This trend will effect many facets of academic libraries' functions, including collection development and public services. One consequence will be a need for more universal training in sources of foreign, comparative and international legal information. Virtually all members of an academic law library's professional staff will have to become conversant with foreign and international legal systems, as well as sources of law.

D. Parent Institutions

As my parent institution is a free-standing law school, my library serves the interests of only one institutional master. In my introduction I have already described New York Law School, and predicted specifics of its survival into the year 2020. Beyond this I have nothing to add.

E. Services

Again, Schanck and Danner provide incisive commentary on many ways that public services will evolve in the academic law library of the future. I find particularly persuasive Danner's assertion that it will become more important for us to provide customized services tailored to the specific needs of users within our institutions, rather than to develop collections of materials and services in anticipation of possible needs. I also have a few ideas of my own to add.

I believe that we are now living in a data-naïve age. Until very recently, the integrity of virtually all primary sources of law was guaranteed by the permanence of the printed page, and by the reputations of a small group of well-established legal publishers. When primary sources went online, their digitized form lacked the first guarantee, in that the data comprising them was susceptible to electronic manipulation. Still, virtually everyone in the legal community accepted, and continues to accept without question, the integrity of primary sources as retrieved from Lexis and Westlaw. With the introduction of primary sources on the Internet, legal researchers are now presented with data that also lack the second guarantee, namely, an established publisher or other official body that vouchsafes its accuracy. Do these legal researchers, and those who rely on their research findings, appreciate the potential for corruption of data on the Internet?

Although I have no empirical information that would answer this question, I have grave doubts that they do. As Danner points out, law faculty and practicing lawyers on the Internet seem to manifest an utter lack of concern about the authenticity or accuracy of the data that they find there.⁵ Yet our entire legal system relies heavily on the integrity of primary sources of law, a fact to which West Publishing Company would readily attest.

The current data-naïveté of the legal community suggests a new category of services that librarians will provide in the future. As electronic options for primary sources of law proliferate, librarians will be called upon to evaluate the authenticity and accuracy of these sources for their patrons, and to recommend research sources based on these evaluations. While it is difficult to predict exactly how this will play out, it seems inevitable as a general trend in an information climate where traditional guarantors of data integrity have to some extent left the field.

As a corollary to this, I believe that future academic law librarians will face a host of responsibilities in evaluating new electronic legal information sources, be they primary, secondary, or a combination of the two. This is merely an extension of our traditional role. Any public librarian has always known that there are differences between *Esquire*, *GQ*, *Playboy*, and *Penthouse*. A good public librarian has been able to explain these differences, in a nuanced way, to an inquiring patron. Similarly, a good modern law librarian is able to explain that there are technical differences between *Shepard's* online and *USCA* online that make one of these sources generally superior to its hard-copy counterpart while making the other generally inferior. These are examples of the types of data expertise that our patrons will neither have, nor be able to obtain automatically through end user interfaces, for at least the next twenty-five years. And even Danner, our dogged pessimist, sees roles for librarians of the future as participants in the design of end user interfaces, and as facilitators and teachers of effective electronic searching by end users.

F. Sources of Funding

My discussion of staffing, above, includes suggestions regarding the potential for funding additional library staff lines from two sources: entrepreneurial ventures and cooperative efforts with funded law school programs. Funding derived from either of these sources could equally well be applied to other library expenses as to augmentation of staff. Other than this, I have nothing to add to what Schanck says.

G. Clientele

Schanck, Danner and I agree that there is little likelihood of significant change to the constituencies that constitute the core clientele of our libraries. In the case of NYLS, the chance of change is even slimmer,

5. Danner, *supra* note 1, at 62.

inasmuch as we are a private institution and do not consider ourselves a public academic library.

H. Physical Facilities

I am in general agreement with Schanck's observations regarding the future of our physical facilities. He has covered all the major issues. There is only one additional consideration that I would add.

If we are to envision, as most of us do, library collections becoming increasingly dependent on information from computer-based sources, we must also envision systems for transforming this information into media that researchers can actually use. Until now, we have had only three options for the ultimate display of computer-based information to the end user: a printed page, an illuminated projection (such as one gets from a microform reader,) and a projection on a CRT screen. Anyone who has spent any significant amount of time trying to conduct research with sources projected onto screens will testify to the imperfect nature of these media. Although I lack empirical data, I nonetheless feel confident in assuming that the printed page is by far the preferred medium for people who must spend protracted periods of time reading detailed textual information. And this describes the process of research in the academic setting.

In my discussion of technology above, I hypothesized that scientists might eventually deliver up an electronic information device that is as simple, durable, economical, reliable, comfortable, and efficient as a book. The laptop personal computer, which is as close as we come today, does not even approach this ideal. When one reads of imminent advances in information technology, they usually fall into such categories as computing power, information storage capacity, or computer recognition of voice or handwriting or natural language. Science does not appear to be on the verge of rendering obsolete the printed page. Indeed, I very much doubt that a breakthrough of this magnitude is likely to occur within the next twenty-five years.

Anyone who agrees that printed documents are likely to remain the preferred medium for research in the academic law library for years to come, and who also sees increasing amounts of information being acquired or held in digitized form exclusively, should perceive a new set of challenges for academic law librarians of the future. We will be faced with the task of printing out information from computer sources on an ever larger scale. Thus, we will have to focus greater attention on print technologies, and on systems of document production and delivery. We will also have to resolve copyright issues in such a way as to facilitate these automated document production and delivery systems.

I believe that the increased volume of printing demanded by academic patrons will have an impact on the library facility of the future. Certainly, researchers will still opt to produce simple documents on their personal printers where warranted. But the production of long runs and of large documents containing complex formats such as footnotes, diagrams, and

graphics will be best handled by sophisticated printers dedicated to these tasks. In an integrated information environment, printing functions should be centered in the library, where library staff will manage the complex systems by which these documents are produced and distributed to end users.

III. Recommendations

Reviewing what I have written above, and what Schanck has written, I find myself, like Danner, with little more to add by way of recommendation. I strongly agree with Schanck that AALL should re-dedicate itself to producing programs that educate us in the areas that he has identified as being important to the future. (Admittedly, this is not an especially profound observation.) I would also second Schanck and Danner's assertions that moves to revive a certification program for law librarians would be a waste of effort by the Association.