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THE EMPEROR'S NEW LAW LIBRARY: THE DECLINE AND FALL OF ACADEMIC LAW LIBRARIES OR A NEW CHAPTER?

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*"I was in a Printing house in Hell & saw the method in which knowledge is transmitted from generation to generation."—William Blake, from "The Marriage of Heaven and Hell"*²

ABSTRACT

This polemical Essay explores the mutating nature of academic law libraries and the roles of their librarians and directors. It addresses several representative arguments debating the viability of academic law libraries, and, in the end, concludes that they will survive, albeit in diminished form and status. Law libraries will continue to provide an impressive array of vital services, including formal Legal Research instruction, establishing Legal Research Clinics and other clinical support, and even generating a revenue stream via grantsmanship and vibrant connection to the alumni and donor bases. It is possible to create models of sustainability for academic law libraries if innovation is permitted to prevail. While libraries and librarians, then, will survive (if not thrive), the prognosis for academic Law Library Directors as we now know them is somewhat more dire. Economic crises and changing law school administration can lead to significant erosion of law library directors' authority and status. The Author argues that this is a dangerous development, but it may well

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² WILLIAM BLAKE, [MARRIAGE OF HEAVEN AND HELL](#) 26 (John W. Luce & Co. 1906).

represent the fate of academic law libraries Much is contingent upon the ABA, which is also subject to market forces akin to those shaping law schools. Ultimately, in this opinion piece predicated upon her extensive experience in law libraries, the Author proposes a new form of consistent ABA oversight of law libraries in conjunction with the AALL (American Association of Law Libraries) leadership serving in an ombudsman capacity, so that academic law libraries might yet evolve in a manner commensurate with their potential to advance legal education.

I. INTRODUCTION: The (Law) Library of Babel: Disruption and the Evolving Academic Law Librarian

“When it was announced that the Library contained all books, the first impression was unbounded joy. All men felt themselves the possessors of an intact and secret treasure. There was no personal problem, no world problem whose eloquent solution did not exist—somewhere in some hexagon. The universe was justified, the universe suddenly became congruent with the unlimited width and breadth of humankind’s hope.”³

Once upon a time in a place not so far away, the academic law library was a hallowed, predictable place housing the tomes essential to legal scholarship and practice. Academics, practitioners and students alike knew what a law library was, and should, be. Primary legal authorities lined the shelves like soldiers in formation, bolstered by phalanxes of finding tools, secondary resources, and, finally, the stalwart bastions of legal scholarship, monographs and journals. The library space was deemed to be inviolate and legal authority sacrosanct and impenetrable to the uninitiated. And presiding over this insular kingdom was the academic law librarian, privy to the secrets affording access to “the law.” These days are long gone, of course.

³ JORGE LUIS BORGES, [THE LIBRARY OF BABEL](#) 115. (Andrew Hurley, trans, Penguin 1988).

The contemporary academic law library has become a bustling social environment and study space, used more by students than by scholars, who are most likely to perform their research and writing remotely, now that technology offers different access points to legal information. Not only has technology transformed the study of law, but the culture of legal education has experienced a sea-change, ostensibly privileging practice over theory.⁴ This change, too, has infused the academic library and has presented academic law librarians with new opportunities to teach and to demonstrate that legal research is a quintessential skill that is at the very heart of practice-readiness.⁵

This Essay will examine the role of the academic law librarian and unpack the numerous ways in which academic law librarians are well-positioned to further the mission of the legal academy. Indeed, Jorge Luis Borges was correct when, via his narrator, he wrote: “The Library is unlimited but periodic. If an eternal traveler should journey in any direction, he would find after untold centuries, that the same volumes were repeated in the same disorder—which, repeated, becomes Order: the Order.”⁶ Allegory aside, it remains the challenge of the academic law librarian to create a new order from the ever-disruptive, ever-evolving order of yore.

To wit, then, it is a truth universally acknowledged that the legal academy is under popular siege, which means, by logical extension, that academic law libraries share a similar fate because the two institutions are inextricably intertwined. One need only consider the barrage of gleefully vitriolic *New York Times* articles targeting law schools in order to understand that the legal academy has much

⁴ See Katherine R. Kruse, *Legal Education and Professional Skills: Myths and Misconceptions About Theory and Practice*, 45 MCGEORGE L. REV. 7, 8 (2013).

⁵ See Linda K. Fariss, *Issues Facing Academic Law Libraries – New Challenges, New Opportunities*, Articles by Maurer Faculty, 37, 38 (2012).

<http://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1550&context=facpub>.

⁶ *Id.* at 118.

to explain and justify in its own defense.⁷ More significantly, though, the legal academy must redefine its role in response to new realities. Mere defensiveness will prove to be ineffective; rather, law schools must formulate an active, accurate vision of their role in a brave new world. Then they need to reify that vision. The same holds true for law libraries, rapidly becoming the noticeably poor stepchildren of law schools. Accordingly, there is unsettled and unsettling discourse about all of this in the recent law library literature considered here. Accordingly, this Essay is, *inter alia*, an attempt to interrogate two prominent (and representative) pieces in the literature—namely James G. Milles’ “Legal Education in Crisis, and Why Law Libraries Are Doomed”⁸ and Kenneth J. Hirsh’s “Like Mark Twain: The Death of Academic Law Libraries Is an Exaggeration”⁹—and to present another view proposing a solution, of sorts, to the pervasive anxiety permeating law librarianship and the legal academy generally.

II. THE GLASS

A. The Glass Half-Empty

Erstwhile law library director and current law professor at SUNY Buffalo Law School, James G. Milles, provoked much discussion among law library directors when he published his article, “Legal Education in Crisis, and Why Law Libraries Are Doomed” in 2014. Adopting a contrarian stance, Milles predicts the demise of the academic law library—or, leastwise, of the academic law library as we have heretofore known it. In making this claim, he proceeds to clarify his meaning. “I do not mean that all law libraries will disappear. . . . What I mean is that the law library as 1) *an iconic place within the law*

⁷ See e.g. Noam Scheiber, *An Expensive Law Degree and No Place to Use It*, N.Y. TIMES (June 17, 2016), http://www.nytimes.com/2016/06/19/business/dealbook/an-expensive-law-degree-and-no-place-to-use-it.html?_r=1.

⁸ James G. Milles, *Legal Education in Crisis, and Why Law Libraries are Doomed*, 106 LAW LIBR. J. 507 (2014).

⁹ Kenneth J. Hirsh, *Like Mark Twain: The Death of Academic Law Libraries Is an Exaggeration*, 106 LAW LIBR. J. 521 (2014).

school, 2) managed financially and administratively as part of the law school, and 3) with staff devoted to the law school, will become increasingly rare.”¹⁰ He argues that the ABA has abdicated its responsibility and support for law libraries.¹¹ In fact, “if law schools do not plan carefully, law libraries may well be among the first on the chopping block.”¹²

Why might this be the case? With the economic downturn,¹³ the tight legal market¹⁴ and increased awareness of perilous student debt¹⁵ and the inevitable and incontrovertible shortfall of tuition-bearing law students,¹⁶ the legal academy is struggling to stay afloat.¹⁷ There are increased numbers of law schools and fewer well-qualified students willing to assume massive debt in loans.¹⁸ Fewer legal jobs—particularly the lucrative ones—are available, and clients now balk at paying extravagant legal fees.¹⁹ None of this is news any longer, of course. The glaring downturn in the legal market has persisted since 2008, with some fluctuation. For law schools, all of this leads to fewer students, fewer tuition dollars—disastrous to law schools since they are tuition-driven—more law school indebtedness to their parent institutions (if applicable), and, significantly, budget-cuts within law schools themselves. As conditions become increasingly dire, law libraries are feeling the pain of budget reductions.²⁰ As Milles aptly notes in a Facebook posting:

¹⁰ Milles, *supra* note 8, at 508.

¹¹ *Id.*

¹² *Id.* at 509.

¹³ *Great Recession*, INVESTOPEDIA, <http://www.investopedia.com/terms/g/great-recession.asp> (last visited Nov. 29, 2016).

¹⁴ Kyle McEntee, *Law Grads Still Face a Tough Job Market*, BLOOMBERG LAW (May 4, 2016), <https://bol.bna.com/law-grads-still-face-a-tough-job-market>.

¹⁵ Valerie J. Calderon & Jeffrey M. Jones, *College Admissions Directors: Debt Concerns Cost Applicants*, GALLUP (Oct. 6, 2016), <http://www.gallup.com/opinion/gallup/196175/college-admissions-directors-debt-concerns-cost-applicants.aspx>.

¹⁶ Natalie Kitroeff, *The Best Law Schools Are Attracting Fewer Students*, BLOOMBERG, Jan. 26, 2016,

<http://www.bloomberg.com/news/articles/2016-01-26/the-best-law-schools-are-attracting-fewer-students>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Employment Rate of New Law Grads Up for the First Time Since 2007, Helped by Smaller Class Size*, NAT’L ASS’N FOR LAW PLACEMENT (Aug. 2015), <http://www.nalp.org/0815research>.

²⁰ See Fariss, *supra* note 5, at 1.

I don't know a single law school that doesn't love its librarians. But I also don't know a single law school that I would rely on to give up other things to protect its autonomous law library when the pressures for centralization grow strong enough. Would your law school turn over Admissions or Development to the central administration to keep the law library under law school control? Or would your faculty give up sabbaticals, take on increased teaching loads, or forgo faculty hiring, to save the library? Or maybe they want to keep the law library so they can raid its budget and space for other needs?²¹

Milles is correct; when push comes to shove, libraries, as we currently know them, are arguably expendable.²² And, yes, law library directors will undoubtedly lose tenure status and Technical Services Departments, readily able to be centralized, will be absorbed and administered by university library systems. Does all of this mean that law libraries are truly “doomed,” as Milles archly suggests? Not necessarily—as Kenneth J. Hirsh eloquently argues in his retort to Milles.²³

B. The Glass Half-Full

In “Like Mark Twain: The Death of Academic Law Libraries Is an Exaggeration,” Kenneth J. Hirsh takes up the gauntlet thrown down by James Milles.²⁴ As Director of the Law Library and Information Technology and Professor of Practice at the University of Cincinnati College of Law, Hirsh is intimately familiar with the array of challenges confronting the legal academy and, in particular, academic law libraries. As the title of his article suggests, Hirsh examines the crisis in law, employing a different lens. Prudently, he begins by acknowledging the existential threat confronting law schools, and, by inference, academic law libraries.²⁵ Clearly, there are too many law school graduates and too few positions to accommodate them.²⁶ In addition, tuition is astronomical, so law

²¹ See [Milles](#), *supra* note 8, at 508.

²² See *id.* at 38-39.

²³ See [Hirsh](#), *supra* note 9.

²⁴ See *id.*

²⁵ [Hirsh](#), *supra* note 9, at 521.

²⁶ *Id.*

students incur “often unsustainable student loan debt loads.”²⁷ Moreover, high-priced tenured senior faculty members are reluctant to cede their place in the academy to younger—and, quite candidly—cheaper faculty members and wish to cling to their traditional curricula, despite demand for courses grounded in experiential learning components.²⁸

So what prompts Hirsh’s cautious optimism? First, faculty research, even if modified, will always be with us, and, barring the exceptional outliers, law librarians, unlike university librarians, uniquely possess the training and expertise to fully assist in law-related faculty research.²⁹ Second, law libraries are conveniently located within, or in close proximity to, their law schools, so they provide easy access and cultivate community among captive student and faculty constituencies.³⁰ Third, librarians have expanded their role in “managing repositories, directly conducting research for faculty or managing research assistants, managing the article submission process, and encouraging faculty to publish open access, e-book versions of treatises, practice manuals and casebooks.”³¹ Increasingly, librarians teach practice skills in their own legal research courses and/or other courses.³² Librarians may also participate in other law school programs, such as Academic Support (now known, in some quarters, as Academic Excellence).³³ Hirsh also takes issue with Milles’ contention that academic law libraries will lose their status as iconic places.³⁴

Admittedly, the nature and usage of library space will change—indeed, has already changed—from material-oriented shrine to collaborative study space.³⁵ Hirsh aptly concludes: “The space may

²⁷ *Id.*

²⁸ *Id.* at 522.

²⁹ *Id.* at 526.

³⁰ *See id.* at 526-27.

³¹ *Hirsh*, *supra* note 9, at at 527.

³² *Id.*

³³ *See id.*

³⁴ *Id.* at 528.

³⁵ *Id.*

not be as large and iconic as it once was, and in some instances it may not carry the name ‘library,’ but there you will still find librarians and ready access to the work they do.”³⁶ In truth, of course, Milles and Hirsh do not, in the end, hold radically divergent viewpoints. Rather, they choose to look at the same glass from different perspectives. Both authors are correct, which is not at all surprising, given their expertise and depth of experience.

C. The Glass Re/Viewed

How can the law library best serve its parent law school? This is the fundamental question that academic librarians must address. Alas, there is no universal, one-size-fits all response, but that is patently obvious. Numerous permutations and combinations of factors are at play. For instance, is the law school in question public or private, or is it perhaps for-profit? Does the law school have a religious affiliation, or is it secular? Are there competing law schools nearby, or is the law school the only one in the state? Does the law school subscribe to a mission involving extensive community outreach, or is its mission perhaps more narrowly focused? Is it located in an urban area or a more rural, remote one? These are but a few of the factors that might shape a law school and academic law library, and the manner in which they converge can offer a multitude of possibilities.

Ultimately, though, the law library must respond to the needs of its individual parent law school (and university, where relevant) and its stakeholders, as evidenced in the literature on academic law library mission statements.³⁷ In order to meet all of these needs, law librarians must be wholly attuned to the law school’s mission. Indeed, the law library’s own mission should consciously reflect this alignment. A law library is courting doom of the Milles variety if it deviates from expectations and

³⁶ *Id.*

³⁷ [Virginia J. Kelsh](#), *The Law Library Mission Statement*, 97 LAW LIBR. J. 323, 324 (2005).

forges ahead unilaterally. After all, there are many excellent initiatives in law library-land that should never see the light of day if they do not comport with the institution's needs and goals. Librarians who minimize or ignore this mandate do so at their own peril, which may very well be obsolescence of sorts, or, at the very least, marginalization.

D. People Over Stuff

Since academic law libraries began running out of space, and, more importantly, since the market crash and crisis in legal education began in 2008 (or before), the nature of law library collections has been hotly debated.³⁸ Can libraries afford to continue purchasing and housing materials in multiple formats, especially since the major vendors of both print and electronic resources have increased prices exponentially? One need look no further than the annual bills from vendors such as Thomson Reuters, West Academic Publishing, and CCH—to identify a few—in order to grasp this reality. Should libraries continue to offer redundant materials in print, when these can be reliably accessed in electronic format? Will government document depositories survive in the current format? All these questions and more have been asked and answered—in a resounding “NO.”

The more interesting question pertains to privileging people over stuff. How, then, can a library best utilize its talented librarians and staff to optimize the law library's value to the law school? In other words, how can the library's people provide the most bang for the law school's buck? Principally, then, the law library's chief value is in the services its people can offer, rather than in the

³⁸ [Taylor Fitchett et al.](#), *Law Library Budgets in Hard Times*, 103 LAW LIBR. J. 91 (2011).

amount of volumes and volume equivalents that its collection holds.³⁹ And how can a library retool to offer the best return on investment?

III. FROM THE STACKS TO THE STAGELAW LIBRARIANS IN THE CLASSROOM

A. The Introduction to Legal Research Course

Unlike virtually all other academic librarians, law librarians increasingly hold the same terminal degree as tenured and tenure-track professors. Thus, academic law librarians hold the J.D. degree, in addition to the requisite degree in Library/Information Sciences. Not only do they understand the nature of research and information, but they also understand—or have the potential to understand—black letter law and legal scholarship, in general. Principally, though, academic law librarians are subject-specialists, as are regular members of the law faculty. Trained and practiced in legal resources and the legal research process, academic law librarians are the experts in conducting legal research, a skill that is fundamental to the successful practice of law.⁴⁰ After all, an attorney is responsible for knowing how to find, and finding, the legal authorities on-point for supporting a client's case. Lacking mastery of sophisticated—or, at the very least, basic—legal research skills, an attorney risks committing malpractice, as does any law school certifying students who graduate deficient in practical skills. Accordingly, it is eminently sensible for the subject experts to function as the expert instructors for legal research courses in the law school setting.⁴¹

³⁹ See [Lynne F. Maxwell](#), *The Whole Is Greater Than the Sum of the Parts: Making the Most of What You Have*, 107 LAW LIBR. J. 333 (2015).

⁴⁰ [Filippa Marullo Anzalone](#), *Some Musings on Teaching Legal Research*, 20 J. OF LEG. WRITING INST. 5, 6 (2015), <http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=2012&context=lsfp>.

⁴¹ *Id.*

This presents a challenge to the competing model of assigning Legal Reasoning and Writing professors to teach Legal Research in addition to the already daunting task of teaching basic writing skills- before even reaching the intricacies of Legal Writing and the CREAC formula.⁴² When basic reasoning skills and writing mechanics consume increasing amounts of time in Legal Writing classes, legal research becomes the poor stepchild, relegated to the margins of instructional time.⁴³ This is wholly understandable; there aren't enough instructional minutes in the Legal Writing curriculum to do the impossible—teaching everything equally well.⁴⁴ Moreover, Legal Writing professors are less likely than academic law librarians to have time to keep up with all of the new legal databases and interfaces that proliferate and mutate⁴⁵. For instance, at the time of writing, Lexis Advance and Bloomberg Law are fairly new players in the Legal Research field. Is there enough time in a Legal Writing course to effectively teach these resources or others, such as Fastcase or Cornell's LII? Is there even time enough to teach the West Digest print correlates to the West Key Number system? After all, students can benefit from understanding the structure of the West taxonomy and how it shapes the practice of legal research. Even if law librarians appear as guest lecturers in the Legal Reasoning and Writing classes, instructional time is still at a premium, so depth of instruction may be sacrificed to breadth of content.

If law schools establish an Introduction to Legal Research course taught by academic law librarian professors, a significant burden can be removed from Legal Writing faculty, who would have

⁴² [See *id.* at 7.](#)

⁴³ [Id.](#)

⁴⁴ [Id.](#) This was a major subject of discussion at my previous institution, the Villanova University School of Law, when, in 2012, the Academic Planning Committee proposed that the credit allocation for the Legal Reasoning and Writing course be increased from three to four credits. The faculty subsequently approved this recommendation.

⁴⁵ Vendors such as Westlaw (Thomson Reuters), Lexis and Bloomberg regularly conduct Librarian Updates on the use of their databases and to introduce new products. While these vendors sporadically offer trainings for other faculty members, including Legal Writing faculty, in my experience such sessions are rare and poorly attended.

more time to concentrate on teaching legal reasoning and writing principles.⁴⁶ Shifting to an Introduction to Legal Research model can also provide to the Legal Writing faculty additional time for invaluable in-class exercises and critical peer review sessions⁴⁷. Clearly, the students can be the ultimate beneficiaries of such a reallocation of instructional resources and expertise.

In conclusion, academic law librarians are uniquely qualified to teach legal research and Introduction to Legal Research courses because, unlike other members of a law school faculty, they are trained and credentialed in both the law and in Library/Information Sciences.⁴⁸ Thus, the depth of their expertise resides in the subject specialty of legal research.⁴⁹ Furthermore, academic law librarians engage in lifelong professional development programs and activities that enable them to keep abreast of current and evolving developments in legal research. National organizations, such as AALL (American Association of Law Libraries), CALI (Center for Computer-Assisted Legal Instruction) and regional organizations such as SEAALL (South East Association of American Law Libraries), provide opportunities for academic law librarians to network with each other and to contribute to knowledge about the practice of legal research. Moreover, academic law librarians usually manage vendor presence and programming in their law schools. Finally, these librarians receive frequent vendor trainings and updates, which provide information on the latest tools in the legal research universe.⁵⁰ Academic law librarian professors are then perfectly positioned to impart this information to their students.

IV. A MISCELLANY OF OTHER SERVICES

⁴⁶ *Id.*

⁴⁷ [Anzalone](#), *supra* note 40.

⁴⁸ *Id.* at 6.

⁴⁹ *Id.*

⁵⁰ See [Hirsh](#) *supra* note 9.

A. Sustainability

Academic law libraries can contribute to their own support and sustainability by offering services such as Legal Research Clinics, by engaging in grantsmanship and by connecting with the law school's alumni and donor bases. These are but a few examples of enterprises that could allow academic law libraries to expand their endeavors to generate much-needed revenue streams.

B. Legal Research Clinics

In addition to teaching courses in Legal Research, academic law librarians are well-positioned to offer a number of other services to law schools and their communities. Of course, libraries continue to offer faculty services, which goes without saying, but there are less frequently tapped services that libraries can provide, such as the Legal Research Clinic pioneered by Cornell. (I am quite jealous because I have wanted to establish such a clinic for years but have never had sufficient staffing to proceed.) The Cornell Legal Research Clinic “invites legal research requests from local non-profit organizations and entrepreneurs, individuals, and legal service providers” on a variety of subject matter issues of varying complexity.”⁵¹ The Cornell model is intriguing, but it is by no means the only method of administering a Legal Research Clinic. While many libraries have experimented with embedding librarians in law school clinics, libraries could offer general support to their law schools' clinics by providing one-stop drop-in services for clinical students. Such Legal Research Clinics could be minimally staffed but would fill a gap for students who could benefit from extra research assistance. Moreover, these Legal Research Clinics would also provide enhanced opportunities for librarians to

⁵¹ Cornell Legal Research Clinic, CORNELL UNIV. LAW SCH., <https://law.library.cornell.edu/lrc>, (last visited on Aug. 17, 2016).

teach advanced legal research strategies in a practice-based setting in which students are likely to appreciate and value the instruction. Clearly, with adequate staff and space resources, law libraries could tailor their clinical services to best serve the needs of their institutions. In other words, such clinical offerings could be broadly or narrowly tailored in accord with mission and curriculum. Thus, the very notion of legal research clinics is exciting and rife with creative opportunities and challenges. Libraries in position to extend their services would do well to consider the value of instituting a Legal Research Clinic to benefit their stakeholders.

C. Show Me the Money

Many of us in the legal academy are acutely aware of the budget crisis in legal education. Unfortunately, law schools with which I am familiar operate in reactive, rather than reflective, mode to the announcement that budget cuts are necessary. Since libraries actually have budgets so that they can purchase the costly materials needed for student instruction and faculty scholarship, short-sighted administrators raid (or, in lucky instances, unsuccessfully attempt to raid) library funds.⁵² Perhaps this panic-driven approach to survival works in the short-term, but library funds are not as prodigious as numbers might seem to suggest, and, once raided, are forever depleted. Law school administrators would do better in the end to encourage librarians to devise creative means of generating funds. In this way, libraries could serve as “the gift that keeps on giving,” rather than a piggybank that can be raided when times are tough. Forward-thinking administrators can encourage libraries to capitalize on the creative resources that already characterize libraries and tap them for ideas, not cash. What,

⁵² [Fitchett et al.](#), *supra* note 38 at 95. “Many deans are looking to library budgets as a source of funds.”

precisely, do I mean by this? Here are several examples of ways in which libraries can pay their own way and even contribute financially to their institutions.

D. Grantsmanship

In other areas of universities, grants are a major funding sources. Certainly, medical schools and other STEM departments understand –indeed, demand—that grants provide a hefty revenue stream.⁵³ Law schools, on the other hand, have not emphasized grantsmanship, possibly because they haven’t needed to do so. This became eminently clear to me one day when I held a staff meeting in which, invariably, budget cuts were the center of discussion. One of my colleagues, whose husband is a physicist, regarded me quizzically, and when I asked her what was perplexing her, she asked why professors don’t seek grant funding for their research. Everyone else does. Why, indeed, do law schools not solicit grants? Is legal scholarship so arcane that it bears no immediately discernible economic value? (Maybe) If so, why is this? Should this kind of scholarship persist? The more likely explanation, to me, is that law professors have not heretofore needed to worry about revenue streams and, as a consequence, are naïve when it comes to even considering funding sources for their work. Law librarians can educate the faculty in this regard, but why not take it a step further? Law librarians can emulate those in the STEM professions and proceed to seek their own grants for the library. Such grants exist at both state and national levels to support initiatives such as digitization and archive

⁵³ National Science Foundation, *Active Funding Opportunities*, https://nsf.gov/funding/pgm_list.jsp?ord=date&org=NSF (last visited on Oct. 26, 2016). “The National Science Foundation funds research in most fields of science and engineering. It does so through grants and competitive agreements...”

development.⁵⁴ Even university libraries do this, albeit with the luxury of large staffs. Generally, the legal academy is retrograde when it comes to financial resourcefulness and fiscal ingenuity, but law libraries can lead the way, not only educating the remainder of the law school, but modeling new behavior that is deliberate and deliberative, not desperate and despairing.

E. Connecting with Alumni and Donor Base

Development officers in law schools can be very possessive of alumni and donor lists, jealously guarding opportunities for outside contact with these promising populations. After all, these officers quite reasonably wish to assert proprietary control over contact with potential donors because excessive requests for gifts can quickly tap out good will from even the most devoted donors. Nonetheless, libraries suffer when they cannot conduct outreach campaigns of their own to support needs unique to libraries. If law school administrations encouraged collaboration between their Development Offices and Libraries, it is likely that potential donors to the library could be identified and courted without significantly diminishing gifts to the law school itself. Consequently, with the support of enthusiastic donors to the library, law schools could cut back on library funding, as libraries assumed more responsibility for generating their own revenue streams.

F. Sustainability, Redux

Ultimately, then, I am arguing for the possibility, and implementation, of models for library sustainability. Legal Research Clinics, grantsmanship and direct alumni/donor relations are but a few possibilities for generating library sustainability. Of course, it takes personnel, collaboration across law

⁵⁴ *Explore Funding Opportunities for Law Libraries Task Force Report*, AM. ASS'N OF LAW LIBR. (2000) <http://www.aallnet.org/Archived/Leadership-Governance/committees/task-force-report.html>.

school departments, creativity, initiative and, most of all, administrative support for the libraries' venture into innovation and entrepreneurship to succeed. Nurturing revenue streams is not a zero-sum game pitting law schools against law libraries. With true collaboration, everyone comes out ahead.

V. THE EMPEROR'S NEW LAW LIBRARY: PENNYWISE AND POUND FOOLISH

Undoubtedly, then, law libraries and law librarians will persist, albeit in arguably diminished roles within the law school ethos. The fate of the Law Library Director is perhaps more precarious, however. In my twenty-odd years in the arena of academic law librarianship, I have witnessed a remarkable decline in the ability of Law Library Directors to direct their law libraries.⁵⁵ Oftentimes, in the past, academic Law Library Directors held appointments at the Associate Dean level, whereas now, some law schools (which I dare not name to protect the guilty) actively balk at even naming J.D. law librarians as directors, despite the appearance of the ABA directing to do so.⁵⁶ Why? Because it is cheaper and more convenient for law schools to marginalize Library Directors.⁵⁷ Librarians holding only an MLS/MSIS degree do not command salaries as high as those holding the dual degrees⁵⁸. In addition, as Library Directors retire or resign in exasperation and despair, many law schools exploit their most talented librarians by appointing them as Interim Directors earning significantly lower

⁵⁵ [Fitchett et al.](#), *supra* note 38 at 95.

⁵⁶ See ABA Standards and Rules of Procedure for Law Schools, Standard 603(c) (2016-2017), http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2016_2017_aba_standards_and_rules_of_procedure.authcheckdam.pdf.

⁵⁷ [Fitchett et al.](#), *supra* note 38 at 95.

⁵⁸ 2015 AALL Biennial Salary Survey and Organizational Characteristics, AM. ASS'N OF LAW LIBR <http://www.aallnet.org/Documents/Publications/Salary-Survey/pub-salary2015/2015AALLSalarySurveyExecSum.pdf> (last visited Nov. 29,2016).

salaries than directors command,⁵⁹ in addition to saddling these surrogate directors with additional responsibilities and providing little in the way of authority to execute those duties. Indeed, some of these interim appointments continue for several years, while law schools economize at the expense of their libraries.⁶⁰ Even worse, some law schools appoint faculty members (who generally lack knowledge about libraries, not to mention requisite experience in managing them) to direct the law library on an interim basis. Why, then, are such trends pernicious and, in the long run, problematic for law schools? Let me count the ways!

A. Associate Dean or Bust

In order for an academic Law Library Director to successfully advocate for the law library—and, believe me, the Director is the *only* one who will take on this risky and thankless challenge—the Director must in reality be a senior member of the law school’s senior administration. In other words, I am making the radical assertion that, in order for the Library Director to serve as a *bona fide* team member and player, the Director must be an *actual member* of the team. Thus, to be a true team player, the Director must in reality be invited to *join* the team. Every function of the law school touches the library; consequently, the Library Director needs to participate in meetings between the Dean and the Associate Deans of every stripe. Here are some cogent examples.

When finances are being discussed, it is imperative that the Library Director be at the table for the discussion. After all, the Library Director has the largest departmental budget in the law school to administer.⁶¹ Having immediate access to information about budget cuts and law school initiatives

⁵⁹ *Id.*

⁶⁰ [Fitchett et al.](#), *supra* note 38 at 95.

⁶¹ “When a dean looks at a law school budget, the biggest expenditure after faculty salaries is the library.” [Fitchett et al.](#), *supra* note 38, at 95.

is absolutely indispensable for the Library Director in order to ensure that the library's (students') needs are being met, even if on a shoestring budget. Frequently, then, as evidenced by my own experience and through informal conversations with similarly situated colleagues, when budget cuts are announced, the library invariably bears the lion's share of the cuts, and the sooner the Director knows cuts are imminent, the sooner she can make the necessary accommodations and decisions.

When the academic curriculum is the focus of the Deans' meetings, the Library Director must be present because, as (hopefully—and I will get to this later) a member of the faculty, she will be involved in supporting the curriculum, either in a teaching capacity or as the administrator of library programs designed to support the faculty and curriculum.⁶² It is enormously helpful—and eminently reasonable—that the Library Director be involved in such discussions and privy to their content, because who, after all, is responsible for assisting all of the students and faculty? The librarians and library staff, of course! Receiving information secondhand, usually too little too late, is counterproductive to the mission of the law library and the law school itself.⁶³ Moreover, it is simply counterproductive and irresponsible for Deans and their Associate Deans to hoard information that is vital for the Library Director, so that she can best serve the law school on a diminished budget.

Similarly, it is critical that the Law Library Director be present when discussions about admissions and academic support arise. The library staff will be working with all first year students, who will visit the library and will require assistance as they acquire legal research and writing skills.⁶⁴ If the J.D. librarians teach in the first year curriculum, it is helpful for them to know well in advance how many students will be entering the 1L class and how many sections the librarians will be

⁶² [Id at 99.](#)

⁶³ [Id.](#)

⁶⁴ See [Anzalone](#) *supra* note 40.

responsible for teaching. Also, it is beneficial for the Law Library Director to participate in meetings focusing on matters of academic support because the Director will be responsible for providing appropriate and sufficient materials –and training—for students participating in academic support programs.

These are but a few arguments for true inclusion of the Law Library Director on the Associate Dean level of the team. Ultimately, because of the library’s centrality, everything happening in the law school impinges upon it in some fashion. To pretend otherwise is shortsighted and foolish. The claim that it is unnecessary for the Law Library Director to hold Associate Dean standing and to attend Deans’ meetings is patently false. If anything, the Director’s role in the administration should be central, but, more often than not these days, it is anything but that. Nowadays, many academic Law Library Directors hover in the margins, hoping that someone will listen to them, and that is a very lonely space to inhabit.

B. How Did It Come to This? (Evolution or Devolution?) A History Lesson

In the past decade or so, it appears—at least to me—that the traditional role of the Library Director has largely been forgotten. Gone are the days when there were four principal senior law school administrators: the Dean (of course), the Associate Dean for Academic Affairs, the Associate Dean for Development, and the Associate Dean for Library and Information Services/ Director of the Law Library or some variation on these titles, which have changed through time as technology has overtaken print in many respects. In the late 1990s, numerous law schools added a new Associate Dean position, that of Associate Dean for Faculty Research and Development.⁶⁵ Finally, in the mid-

⁶⁵ “In recent years the number of Deans has grown exponentially. There are Deans of Graduate Programs, Deans of Experiential Learning, Deans of Instructional Design, Deans of Administration, Deans of Faculty Research and

to-late 2000s, another popular administrative position was created, namely, that of Associate Dean for Administration and Finance.⁶⁶ The finance position differed from the others in that it did not require the J.D. degree or even experience in the law school environment. Those of us who have inhabited the legal academy for years understand that “law schools are different”—*i.e.*, they operate differently than universities, and they have different needs. For instance, the notion and practice of faculty governance is much more central to law schools than to university colleges. The new cadre of Administration and Finance Associate Deans must necessarily learn such differences on the job., a steep learning curve, at best.

Another noteworthy difference is that Library Directors, at that time ABA-mandated members of the faculty, had dominion and control over the library budget allocated to them by the Dean. Law Library Directors did not – and still should not--report to the Associate Dean for Administration and Finance. While this may be difficult for newcomers to the legal academy to understand, it actually makes a great deal of sense. Library Directors understand the information resource needs of students and faculty, while non-JD finance administrators are largely clueless when it comes to making wise decisions about library budgetary expenditures. In my experience, Associate Deans for Finance frequently see dollar signs when they scrutinize the library budget over which they should have no control. When panic strikes, as it so often has in the recent past, Associate Deans for Administration and Finance see a quick fix in the apparently (and relatively) large library budget.⁶⁷

Development, *etc.*” David Frakt, *Conversations about Law, Culture and Academia*, THE FACULTY LOUNGE (January 15, 2015), <http://www.thefacultylounge.org/2015/01/cost-cutting-in-an-age-of-declining-law-school-enrollment.html>.

⁶⁶ *Id.*

⁶⁷ [Fitchett et al.](#), *supra* note 38, at 95. “Many deans are looking to library budgets as a source of funds.”

This is a prescription for disaster, as library funds are raided and library budgets are eviscerated.⁶⁸ I am not arguing that library budgets should be immune from reductions when law schools themselves are experiencing cuts. I am asserting, though, that Law Library Directors should be the decision-makers and ultimate arbiters of library expenditures. I have repeatedly witnessed instances in which desperate amateur (to my mind) finance administrators interfere in library matters, and, as a result, quality—and even quantity—of service suffers. Also, interference by Associate Deans for Administration and Finance undermines the authority of Library Directors, who do not report to them and should, in fact, be positioned alongside them on same line on the organizational chart, since both entities report directly to the Dean. Somehow, though, perhaps through the ignorance of Associate Deans for Administration and Finance who are newcomers to the legal academy—or perhaps their desire to subjugate Library Directors and colonize libraries, this traditional reporting structure has been eroded. Sadly, this doesn't even occur as a formal restructuring. Rather, it infiltrates and undermines the traditional order because law school administrators neither know nor want to know the true position and function of the Library Director. Conveniently, and, I think, largely unconsciously, they reinvent the role of the Library Director to suit their purposes. Again, changes may not be (all) bad, but senior administrators should be aware that restructuring should be a result of conscious deliberation. Clearly, though, the Library Director should have a seat at the table. Absent candid and inclusive discussion, the marginalization of library personnel and function renders it impossible for a Law Library Director to truly perform her job.

C. The Changing of the Guard

⁶⁸ *Id.*

Previously, I have alluded to the inexperience of many Associate Deans of Administration and Finance when they enter the *terra incognita* that is the legal academy; however, the finance administrators are not the only ones who are unaware of historical context. Yes, I am referring to the rising generation of Deans and academic Associate Deans. Literally, they just don't know better. To illustrate, I will provide an anecdote from several library directors I have known. Here it is, in dialogue form:

Director #1: I knew I was in trouble when the Dean didn't invite me to the opening dinner for the site team during the last ABA inspection, even though he had invited me to the dinner during previous inspections.

Director #2: If you think that's bad, my dean and administration didn't even know they were *supposed* to invite me.

Most likely this omission was not generated by malice. Rather, the law school administration simply did not know better, never having seen the traditional model in action and failing to understand why that model evolved in the first place. Still, the fact that the Library Director was beneath notice in this instance is telling. This is yet another example illustrating that, the lack of Associate Dean status directly marginalizes the Library Director, who, consequently, is the only member of the law school's senior administration who is not acknowledged as such.

While this seems to be the wave of the future, is it, indeed, a bad thing? Perhaps Law Library Directors should be demoted to a lower rung on law schools' organization charts? Certainly, this can clear the way for takeover of the library by the University or law school administrations. Without a Library Director holding substantial, recognizable status, no one remains in a position to defend the library from arbitrary, and oftentimes irrational, incursions by the Associate Dean for Finance. So, yes, I think this is a pernicious trend from the library perspective. Deans may—and do-- argue, though, that Library Directors are recalcitrant and obstructionist when they advocate for the integrity of the library. Unfortunately, pleas from Library Directors can fall on deaf ears because they argue

inconvenient truths: libraries cost money. Yes, libraries are costly, and that isn't due to extravagance. Quite simply, legal materials are exorbitantly expensive, and library materials budgets will always need to be allocated in hundreds-of-thousands of dollars, as any academic Law Library Director can affirm. Even stripped of expensive serials and West products (reporters, digests, statutes from other states), library bills will be shocking, especially to the uninitiated (administrators). So, should libraries and Library Directors lose status and funding during fiscal crisis in law schools? It depends, I suppose, on one's position within the institution, but I do not expect libraries to regain their former prominence anytime soon, or, perhaps, within my lifetime.

VI. ABA, WHERE ARE YOU?

In days of yore, academic law libraries could rely upon the ABA to support their needs, at least during the time immediately following the sabbatical inspection visit. This ritual ABA site visit was an occasion for libraries (and law schools) to manipulate ABA clout and gain financial resources from the parent institution to complete their wish lists. Law Library Directors sought to persuade the librarian member of the site team that additional funding was critical so that projects could be initiated and completed. Alas, those days have long since vanished, along with ABA support of libraries, in general. Indeed, the ABA Standards still mandate the existence of academic law libraries and their attendant core library materials in some format or other⁶⁹, but, aside from the drive-by site visit, there is no actual oversight. Consequently, once every seven years, the ABA scrutinizes law schools and libraries on a rolling basis to determine whether, and to what degree, they comply with the ABA

⁶⁹ ABA Standards and Rules of Procedure for Approval of Law Schools, Stds. 601-606 (2016-2017), http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2016_2017_aba_standards_and_rules_of_procedure.authcheckdam.pdf

Standards (which are often ambiguous, even to the ABA!). In my experience, much of the site evaluation is arbitrary, contingent upon the composition of the site team itself. For instance, during the past two site visits in which I have participated, one library team member principally focused upon acquisition of library databases such as “The Making of Modern Law.” On the other hand, the librarian on the second inspection team concerned herself with physical arrangements such as the amount of space between stacks. In any event, though, the law library is examined exclusively by the representative law librarian in the group and overlooked by the remainder of the team. In the end, of course, the team librarian’s pet peeves and projects inevitably shape the final report, usually in innocuous, and most likely unconscious, fashion.

This is all fine, but once the site visit is over, and ABA compliance has been established, institutions revert to type for another seven years, which can be exceedingly problematic. After all, seven years is a long time, and, in the face of financial exigencies, law school administrations are frequently tempted to plunder the law libraries’ budgets, which, *prima facie*, may appear to be exorbitant but in fact reflect the astronomical prices of legal materials, most of which are mandated by the ABA. Itself. Over the course of seven years, libraries can suffer irretrievable damage, as desperate cost-cutting measures dominate the legal academy.

Perhaps surprisingly, I am not altogether unsympathetic to the challenges facing law school administrators who feel pressured to take desperate, radical measures, but I do advocate for a more tempered longitudinal view that could aid in mitigating acts of financial desperation that forever dictate the character of academic law libraries. This is where the ABA could intervene productively. While the ABA continues to publish an array of Standards and Interpretations governing law libraries, these are becoming increasingly dilute, particularly since there is no enforcement mechanism (or, admittedly,

any interest in one) beyond the periodic site visit. If, perhaps, the ABA could establish such an enforcement mechanism, academic libraries might survive (relatively) intact. To this end, I propose that the ABA and the AALL (American Association of Law Libraries) leadership, form a standing committee or board that would serve as a kind of intermediary between the ABA and academic law libraries. The purpose of this joint committee would be to serve in an ombudsman capacity, encouraging Law Library Directors to share their particular concerns. At the very least, this committee could provide support to beleaguered Law Library Directors, and, in dire cases, even intervene and enforce the Standards within scofflaw institutions before permanent damage undermines the law library. Admittedly, I have not fully considered the intricacies of such a rough proposal, nor, clearly, is it my intention to do so in this Essay. It is to be hoped, however, that this idea might spark a larger dialogue between, and among, Law Library Directors, law school administrations and the ABA Section on Legal Education.

VII. CONCLUSION

Incontrovertibly, the Golden Age of academic law libraries—and, indeed, of law schools themselves—may very well have passed, which is not necessarily wholly abhorrent since change is inevitable. The very nature of academic law libraries is mutating, necessitating shifting roles for their librarians and Directors. In this Essay, I have addressed several representative arguments debating the viability of academic law libraries, and, ultimately, conclude that they will survive, albeit in diminished form and status. Law libraries will continue to provide an impressive array of vital services, including formal Legal Research instruction in many institutions, establishing Legal Research Clinics and other clinical support, and even generating a revenue stream via grantsmanship and vibrant

connection to the alumni and donor bases. It is possible to create models of sustainability for academic law libraries if innovation is permitted to prevail. While libraries and librarians, then, will survive (if not thrive), the prognosis for academic Law Library Directors as we now know them is somewhat more dire. Economic crises and changing law school administrations can lead to significant erosion of Law Library Directors' authority and status. Accordingly, I maintain that this is a tragic development, but it may well represent the long-term fate of academic law libraries. Much is contingent upon the ABA, which is also subject to market forces akin to those shaping law schools. Ultimately, I propose a new form of consistent ABA oversight of law libraries in conjunction with the AALL (American Association of Law Libraries) leadership serving in an ombudsman capacity, so that academic law libraries might yet evolve in a manner commensurate with their potential to advance legal education. Only time will tell, or, as the Magic 8 Ball would have it, "Reply hazy; try again later." Nonetheless, along with James G. Milles and Kenneth J. Hirsh, I remain cautiously optimistic.