

# Vision: The Essence of Professionalism and Key to the Future of Law Librarianship as a Profession\*

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*Mr. Sears argues that the unique characteristic of professionalism is vision. The true professional understands the current status of the profession, anticipates the trends that will impact it, and adopts or facilitates the incorporation of those that will benefit the profession's clientele.*

¶1 From the earliest days of the American Association of Law Libraries (AALL), the status of the law librarian has been at issue.<sup>1</sup> In an early address to the membership, President E.A. Feazel quoted the definition of *profession* in the *Century Dictionary*<sup>2</sup> and then posed a series of questions to determine whether or not law librarianship qualified as a profession under that definition. He concluded that it did not or “at least admit[ed] that the general public would so answer.”<sup>3</sup> In so concluding, he argued that law librarians “cannot successfully maintain that we have elevated that occupation to the dignity of a profession or that we are members of a profession” until law librarians “make the definition . . . descriptive of themselves.”<sup>4</sup>

¶2 The standard that Feazel derived from the definition he referred to in his address included possessing an understanding of the occupation, a professional (special) knowledge of practical benefit for others, and a professional attitude.<sup>5</sup> According to Feazel, three “branches” (or “departments”) of “special knowledge or science which the law librarian should possess, that he may make practical application of them in his work . . . [were] [t]he science of law, library science, and legal bibliography.”<sup>6</sup>

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1. See E.A. Feazel, *The Status of the Law Librarian*, 2 LAW. LIBR. J. 21 (1909). For a more recent perspective, see Richard A. Danner, *Redefining a Profession*, 90 LAW. LIBR. J. 315 (1998).
2. “[T]he calling or occupation which one professes to understand and follow; a vocation in which a professional knowledge of some department of science or learning is used by its practical application to the affairs of others either in guiding, advising or teaching them, or in serving their interests or welfare in the practice of an art founded upon it. The word implies professed attainments in special knowledge as distinguished from mere study or investigation and an application of such knowledge to the uses of others as a vocation as distinguished from its pursuit for one’s own purposes.” Feazel, *supra* note 1, at 21–22 (quoting WILLIAM DWIGHT WHITNEY & BENJAMIN E. SMITH, *THE CENTURY DICTIONARY: AN ENCYCLOPEDIA OF THE ENGLISH LANGUAGE* (1889)).
3. *Id.* at 22.
4. *Id.*
5. *Id.*
6. *Id.*

¶3 Feazel argued that to achieve professional status would require self-education, cooperation, and a professional spirit. Of these three characteristics, he focused most on professional spirit. Feazel admitted that this characteristic was “entirely too difficult to define”<sup>7</sup> but attempted to clarify the concept with several illustrations. The illustrations were of those who had sacrificed time, effort, and resources to the advancement of the Association and, thereby, the profession.<sup>8</sup>

### Professionalism

¶4 Two questions that arise from Feazel’s address are “what is a profession?” and “what is a professional?” Historically, law, medicine, and theology were all considered professions. The characteristics that differentiated these occupations from others were a unique body of knowledge, acquired by specialized training, the application of which was licensed by an entity that ensured the quality of the services rendered and the ethical conduct of the service provider. In addition, professionals often organized themselves into associations to provide a myriad of services, including continuing education and training.

¶5 In his book, *The System of Professions*,<sup>9</sup> Andrew Abbott summarized initial efforts at defining professionalism: “Professions were organized bodies of experts who applied esoteric knowledge to particular cases. They had elaborate systems of instruction and training, together with entry by examination and other formal prerequisites. They normally possessed and enforced a code of ethics or behavior.”<sup>10</sup>

¶6 The issue of professionalism is not unique to law librarianship.<sup>11</sup> Even activities that are presumed to be professions are plagued by concerns of professionalism. What is it? How is it taught? Can it be taught? How is it learned? What does it mean to act professionally?

¶7 However, Abbott defined professionalism differently. He saw it as the institutionalization of expertise, characterized in terms of interprofessional battles<sup>12</sup> or contested jurisdiction.<sup>13</sup> To him, “jurisdiction is the defining relation in professional

7. *Id.* at 24.

8. *Id.*

9. ANDREW ABBOTT, *THE SYSTEM OF PROFESSIONS: AN ESSAY ON THE DIVISION OF EXPERT LABOR* (1988).

10. *Id.* at 4.

11. See, e.g., Comm’n on Professionalism, Am. Bar Ass’n, “. . . *In the Spirit of Public Service:*” *A Blueprint for the Rekindling of Lawyer Professionalism*, 112 F.R.D. 243 (1986); TASK FORCE ON LAW SCHOOLS & THE PROFESSION: NARROWING THE GAP, AM. BAR ASS’N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM (1992) [hereinafter MACCRATE REPORT]; PROFESSIONALISM COMM., ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, *TEACHING AND LEARNING PROFESSIONALISM* (1996) [hereinafter TEACHING AND LEARNING PROFESSIONALISM].

12. ABBOTT, *supra* note 9, at xii.

13. *Id.* at 2.

life.”<sup>14</sup> Central to his argument, this interprofessional competition, is the transiency of the professions, their “growing, splitting, joining, adapting, dying.”<sup>15</sup>

### *Jurisdiction*

¶8 Because the essential characteristic of professionalism, according to Abbot, is jurisdiction and competition for that jurisdiction, any profession that is to survive as such must constantly reinvent<sup>16</sup> itself based on the evolving environment in which it exists. The pace at which it must reinvent itself is dictated by the pace at which various factors (e.g., technology) within the environment are evolving. Failure to reinvent condemns it to nonprofessional status as competing professions prey upon its jurisdiction by offering more efficient and effective means of providing professional services.

¶9 Abbott’s definition of professionalism—the competition between activities for intellectual jurisdiction over a knowledge system<sup>17</sup>—is a liberal one. It allows for the inclusion of a wide variety of occupations beyond those historically considered professional, i.e., law, medicine, theology, etc.<sup>18</sup> Despite the fact that this definition was far more inclusive than traditional definitions of professionalism, its focus was solely on competition between activities—a perspective sometimes described as constructionist.

### *Vision*

¶10 Inherent in the idea of intellectual jurisdiction over a knowledge system is the “art” or problem-solving ability of a professional—the ability to apply abstract knowledge to new situations, to exercise disciplined judgment.<sup>19</sup> It is this ability that distinguishes the professional from the nonprofessional, not the lawyer’s briefcase, the physician’s white lab coat, or the clergyman’s collar. Such accouterments merely represent the problem-solving capability of the profession and abilities of the professional. The expertise of the professional exists in the individual.

¶11 On the other hand, the individuals who have completely immersed themselves in the day-to-day work of an occupation to the extent that it has become routinized and reduced to products such as forms, checklists, policy and procedures

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14. *Id.* at 3.

15. *Id.* at xiii.

16. The term reinvent describes the effort on the part of professionals to counter a process by which the activities of a profession become so routinized that the profession is threatened with deprofessionalization. To avoid this predicament, the profession must shed itself of such activities, relegating them to paraprofessionals or staff, and create, develop, and expand related but new expertise to offer. For example, an attorney uses a paraprofessional or secretary to compile information and prepare documents, which the attorney then reviews, applying his professional knowledge and experience to ensure that the documents accurately reflect his client’s situation. Meanwhile, the attorney is always considering new ways to better serve the interests of his clients. A number of trends can impact the status of a profession, but perhaps the most rapid and pervasive trend has been the application and adoption of technology to professional activities.

17. ABBOTT, *supra* note 9, at 8–9.

18. *Id.* at 8.

19. *Id.* at 7–8.

manuals, programs, and organizational systems<sup>20</sup> are merely “competent technicians;”<sup>21</sup> no matter how expert they may be. The expertise of these activities resides in their products. The “professional” who has become completely preoccupied with the technical and the routine of an occupation has devolved to the status of a bureaucrat. In such a case, the individual has ceased exercising creative and adaptive (i.e., professional) abilities in applying a body of expertise to new situations.

¶12 By defining professionalism in terms of jurisdiction over an area of expertise, Abbott focuses primarily on the reaction of a profession to encroachment by other professions into its field. While a contest for jurisdiction may result from professional competition, Abbott appears to have given short shrift to a more traditional perspective of professionalism.

¶13 Competition can be viewed as the driving force behind professionalism. However, a traditional perspective, sometimes termed *functionalist*,<sup>22</sup> is more compelling: understanding the current state of the profession and foreseeing how it must evolve to remain viable and relevant in the ever-changing environment in which it exercises its expertise. My thesis is that individuals act professionally to the extent that they *envision* new and innovative ways of addressing problems and concerns in a given discipline or situation. Therefore, the essence of professionalism is vision.

¶14 Unlike the constructionist approach,<sup>23</sup> which is based on competition among professions for jurisdiction, the functionalist approach is based on service, emphasizing the application of specialized expertise to meet important societal needs.<sup>24</sup>

### Librarianship as a Profession

¶15 Given the general definition of the term profession, one has to consider the characteristics of librarianship that qualify it as a profession. Historically, the unique areas of abstract knowledge over which librarians exercise expertise are collecting, organizing, preserving, and retrieving<sup>25</sup> for a patronage that perceives the library as the principal repository of knowledge and information. The abstract knowledge of librarianship is represented by the masters of library science (MLS) degree and its variants. Professional librarians usually hold an undergraduate degree in some other discipline as well as an MLS. This combination results in a

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20. Andrew Abbott, *Professionalism and the Future of Librarianship*, 46 LIBR. TRENDS 430, 434 (1998).

21. TEACHING AND LEARNING PROFESSIONALISM, *supra* note 11, at 8.

22. ABBOTT, *supra* note 9, at 6, 15.

23. This approach is similar, in some ways, to the *monopolist* perspective, which emphasizes the control of the profession for advantage. *Id.* at 5–6.

24. See Danner, *supra* note 1, at 352.

25. See Am. Ass'n of Law Libraries, *Ethical Principles* (Apr. 5, 1999), *reprinted in* AALL DIRECTORY & HANDBOOK 2005–2006, at 423 (45th ed. 2005), *available at* [http://www.aallnet.org/about/policy\\_ethics.asp](http://www.aallnet.org/about/policy_ethics.asp).

subject matter specialist who can develop collections in a specific area, organize the collection to facilitate access to the collection, and refer patrons or otherwise assist them in accessing the collection. The control exercised by librarians is inherent in these library functions, the application of an expertise derived from the study of a specific discipline in conjunction with the expertise to organize available materials in that discipline to facilitate access to them.

¶16 As applied to librarianship, the last element of professionalism, often referred to as legitimacy,<sup>26</sup> is the perception of patrons that libraries are the principal source of knowledge and information. It has become more problematic in light of advances in technology and the proliferation of computers and online databases.

### *Collecting*

¶17 Collection development and management require a thorough knowledge of the collection and an accurate perception of the patrons who use it. Both of these elements of collecting require assessment—collection assessments and assessments of the responsibilities, interests, and expectations of the collection's users.

¶18 The professional judgment of collection development librarians comes into play as the collection is compared with patron needs and new titles are considered for acquisition to improve the collection and better meet the needs of library patrons. A related activity is identifying titles within the collection that no longer meet the needs of patrons and deselecting them from the collection.

### *Organizing*

¶19 Cataloging is the classification of acquired library materials to facilitate their future access by library patrons. This process entails reviewing newly acquired library materials and organizing them according to detailed classification schedules developed by catalogers intimately familiar with the subject matter areas and the evolution of those areas over time. Despite the classification schedules, catalogers can exercise professional judgment, to some extent, over the item's call number, based on other titles within the specific library's collection and certainly over the amount and quality of information provided in the bibliographic record.

### *Preserving*

¶20 The preservation of the collection describes a wide variety of activities ranging from simple shelving and stacks management through maintaining, storing, and protecting library materials to identifying and archiving and digitizing parts of the collection. Librarians with these responsibilities exercise professional judgment in balancing the implementation of measures appropriate to preserve the collection with a commitment to maximizing, as far as possible, access of patrons to library materials.

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26. William M. Sullivan, *Medicine Under Threat: Professionalism and Professional Identity*, 162 CANADIAN MED. ASS'N. J. 674 (2000).

### *Retrieving*

¶21 Like preserving the collection, retrieving materials from the collection describes a variety of activities ranging from providing and maintaining a card catalog or online equivalent to providing the value added by reference assistance to better access the content of materials within the collection. The professional judgment of librarians involved in these activities is especially evident in the reference interview when a librarian poses a series of questions to determine more precisely the nature of the patron's requirements in order to more effectively guide and assist the patron.

### *Trends Challenging Status of Librarianship as a Profession*

¶22 All occupations reflect various challenges inherent in the society in which they operate. Like other professions, librarianship has been challenged by a number of trends over the course of its existence. More recently, two such trends that have had a significant impact on the profession are technology and the economics of declining budgets. Although neither were direct challenges to the jurisdiction of librarianship, as described by Abbott, these trends forced the profession to evolve because of the far-reaching implications they had on professions, as a whole, and all functions within the library, specifically.

### *Technology*

¶23 Like all other professions, librarianship has had to grapple with the implications of technology as vendors have developed computer applications to improve library operations. For example, at a basic level, the computerization of library services caused a major paradigm shift, not so much in the information itself, but in the collecting, organizing, preserving, and retrieving of that information. The unique areas of abstract knowledge over which librarians had long exercised expertise were repeatedly and sometimes successfully challenged by vendors offering computerized library services. With the development of the capability to routinize the creation of library end products that were previously the result of professional expertise, the result has been a trend toward the deprofessionalization of some areas of librarianship.

¶24 For many areas of librarianship, the change was limited to the format of the information, for example, the card catalog versus the computer record. For reference, on the other hand, it was actually an improved accessibility to more extensive information with the advent and proliferation of online databases. While all areas of librarianship were affected by computerization, the impact on technical and access services, fortunately, came from companies that had an interest in libraries as a market.<sup>27</sup> These vendors sought to sell hardware and software to improve the efficiency of library operations, not replace them. In other areas,

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27. ABBOTT, *supra* note 9, at 222–23.

such as reference services, some online database providers came to be perceived as direct competition to their areas of expertise. The vendors who were successful offered services that were qualitatively equal to those that had been provided by professional librarians, yet they were provided more efficiently in terms of time, resources, and effort by the vendor.

### *Declining Budgets*

¶25 Somewhat related to the application of technology to the many functions within the library is the problem of declining budgets. Budgets have literally declined as revenues of sponsoring institutions have declined. But budgets have also constructively declined as the cost of library materials have increased, as well as the costs of purchasing and maintaining library support technology. With unmanageable increases in the prices of library materials, especially serials and online services, libraries have been forced to look at manageable costs, such as processing, and to consider various alternatives to maintain the library as a going concern. One strategy employed to manage the challenge of declining budgets is the outsourcing of specific library functions.

¶26 Outsourcing has been considered a viable option to permanent staffing because librarians deem it less expensive, benefitting from the economies of scale derived from using specialized services. It also offers libraries more flexibility and allows them to focus on the core functions. Lower costs and flexibility are a product of a library's ability to define the parameters of a given "project" and then to tap into the expertise for only as long as it takes to complete the project. These types of projects could be described as generic functions that are not specific to libraries, i.e., accounting, book binding, microfilming, photocopying, preservation, Web page development, etc. However, outsourcing has not been limited to generic functions. Even those functions that were considered as core, such as cataloging, collection maintenance and management, and reference, have fallen prey to outsourcing. Unfortunately, the net result has been a forfeiture of professional jurisdiction, as described by Abbott, with its attendant abstract (theoretical) knowledge in some areas of librarianship.

¶27 Contributing to the success of outsourcing has been the routinization and automation of professional functions to such an extent that the services once provided by professionals can now be provided by technically proficient paraprofessionals or even nonprofessionals.<sup>28</sup>

¶28 Despite the inroads made by outsourcing into the professional realm of librarianship, in the area of cataloging, for example, an area of expertise already compromised to some degree by copy cataloging performed by paraprofessionals, staff, and even students, the original classification of older and rare materials and

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28. *Id.* at 10, 51.

the creation of the respective bibliographic record remains an application of the abstract knowledge and expertise of the cataloger. Even the selection of which sister institution's bibliographic record to copy and use in copy cataloging is discretionary with the institution's cataloger.

### *Vision*

¶29 In light of these and other challenges facing the profession, librarianship has needed to reinvent itself to remain viable as a profession, to maintain its professional status. However, these trends should not have come as a surprise to library professionals. Some library professionals envisioned the impact of technology on library operations. Other librarians anticipated the impact of stagnant or even decreasing budgets, necessitating cost-cutting measures such as outsourcing and an increasing reliance on paraprofessionals and staffs with the consequent deprofessionalization of these areas of librarianship.

¶30 Given the inevitability of these and future trends, librarians should not attempt to forestall the impact of such trends, although they will want to minimize their disruption on current library operations. Rather, the efforts of librarians should be pointed toward anticipating trends and facilitating the incorporation of their positive aspects into library operations and services. Facilitating the adoption of those aspects that improve the quality of the services rendered by librarians would include providing guidance and allocating resources to those library functions and operations that anticipate the impact of such trends. All the while, the professional should continue to survey the horizon for developing trends.

¶31 The real challenge of professional librarians is not to react, as Abbott claims, to encroachments by related activities on the jurisdiction of librarianship, but to envision the future and anticipate the possible impact of trends. As Alan Kay, the inventor of Smalltalk, the "inspiration and technical basis for the MacIntosh and subsequent windowing based systems" has stated: "The best way to predict the future is to invent it."<sup>29</sup>

## **Law Librarianship as a Profession**

¶32 In most academic fields, the educational involvement of subject matter librarians with students during the course of their studies is, at best, tangential. However, the nature of the study and practice of law, especially in a common law legal system, necessitates a greater role for law librarians in the educational process. Law students must develop a proficiency in legal research to support both their academic efforts and their eventual success in their professional practice. The

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29. Key Smalltalk People: Alan Kay, <http://www.smalltalk.org/people/alankay.html> (last visited Oct. 13, 2005). According to an e-mail from Kay quoted on this site, "[t]he origin of the quote came from an early meeting in 1971 of PARC, Palo Alto Research Center, folks and the Xerox planners. In a fit of passion I uttered the quote!"

practice of law is knowledge-based. The education of law students is a process of developing in them the ability to find, analyze, and apply the law.

### *American Legal Materials*

¶33 To begin with, American legal materials are the most integrated and computerized of all disciplines and all legal systems. One reason for this situation is that the American legal system is a common law system, based on the legal doctrine of stare decisis. Stare decisis means literally “to stand by things decided.”<sup>30</sup> This doctrine dictates reliance on precedent, past judicial decisions, when similar issues arise. Given the requirement to rely on precedent, the integration of various types of legal materials facilitates efficient and effective research of legal issues and preparation of associated work products.

¶34 A related factor is purely financial in nature. Because common law is dependent on precedent, the ability to more thoroughly research an issue than opposing counsel within the inevitable time constraints of practice should produce a better work product and a better prepared attorney. The more successful the attorney, the greater the opportunity for the attorney to reap the resulting financial rewards.

¶35 Finally, a third factor is the competition between LexisNexis and Westlaw, as well as a number of other smaller publishers and online vendors. These vendors have established and expanded their businesses by providing efficient and effective access to legal materials.

¶36 The challenges faced by the library profession generally are also shared by law librarians, albeit with some additional ramifications.

### *Collecting*

¶37 The most important issue of collecting legal materials is cost. Professional publications as a whole are expensive and legal materials are no exception. The fact that most legal titles are serial in nature—even treatises are updated by pocket parts and supplements—translates into a considerable ongoing expense to maintain a collection and keep it current. And collections have grown in size as specialty law journal titles (e.g., environmental, feminist, human rights, international, public policy, technology, etc.) with their attendant costs have proliferated.

¶38 A related issue is the multiple versions of legal documents that law libraries receive, each with its own unique characteristics. For example, a given case may be published in an official reporter, multiple unofficial reporters, and loose-leaf services, and also be available online. Therefore, collection development librarians must constantly consider the costs of hard-copy versus online materials (including the requirement by some vendors that a library must maintain hard-copy versions to qualify for online materials at a reduced rate) in light of such concerns as the

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30. BLACK'S LAW DICTIONARY 1414 (7th ed. 1999).

rapidly evolving nature of online databases; the continuing availability of online materials; and the accessibility of online materials, especially in academic law libraries, to practicing attorneys and pro se patrons.

¶39 Under these circumstances, law librarians must constantly exercise professional judgment, weighing the benefits of acquiring documents in multiple formats, each with unique characteristics, against the soaring costs of legal materials and declining collection development budgets. In addition, law librarians involved in collection development must make professional calls as to the format of legal materials, given the patron base that is being served and the overall service goals and priorities of the library (i.e., academic support, private and public practice, public access, etc.).

### *Organizing*

¶40 Although not particularly onerous, law libraries are often organized by collections in addition to the general or main collection, i.e., state and federal reporters, statutes, legal periodicals, loose-leaf collections, etc. This organization is designed not only to facilitate access by law students and faculty, but also by nonlaw students and faculty, attorneys and judges, and even pro se patrons seeking to research and resolve their own legal problems.

¶41 Probably no other area of librarianship has been impacted as dramatically by technology as technical services. Fortunately, as has been mentioned, technological developments in this area were generated by companies that viewed libraries as a market. The Research Libraries Information Network (RLIN), for instance, emerged as a bibliographic information system to facilitate, in part, the cataloging and interlibrary loan operations of member institutions.

¶42 One of the challenges to technical service librarians wrought by technology has been accounting for and making accessible those legal databases that are contracted for but neither owned nor controlled by the law library to patrons through the use of some form of library record. A related challenge is keeping those records current as the information in databases owned by third-party legal information providers is expanded, contracted, realigned, and otherwise modified on an ongoing basis.

¶43 Another challenge facing technical service librarians is the evolution of the format of legal materials and the development of the concept of integrated resources to account for items that lose their identity, such as Internet Web sites that disappear when they are overlaid with updated data.<sup>31</sup>

¶44 It is disconcerting that even with the proliferation of technology in this area, the growing trend has been toward outsourcing the processing of law library materials. This trend has continued despite, for example, catalogers of legal materials having been very proactive in developing and expanding foreign and inter-

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31. Loose-leaf updates that are interfiled in a set and thereby lose their identity are hard-copy equivalents to overlaid Internet Web sites.

national cataloging schedules as the publication of foreign and international legal materials has rapidly expanded to keep pace with the globalization of societies worldwide—a prime example of professional activity.

¶45 Finally, accurately accounting for and making available evolving online resources are issues that demand the application of the law librarian's abstract knowledge to new situations—the disciplined judgment of the professional to arrive at a resolution.

### *Preserving*

¶46 The preservation of legal materials is complicated by the pace at which they are generated by the government—state legislatures and Congress, state and federal courts, and state and federal executive and administrative agencies—and the consequent sheer volume of such materials published by the government as well as private vendors. Again, law librarians must weigh the benefits of maintaining documents in multiple formats, each with unique characteristics, against the costs associated with their attendant shelving, growth, and even technology requirements.

### *Retrieving*

¶47 One of the most profound impacts of computerization on the law library has occurred in reference work and, by association, legal research instruction. Unlike other areas, the computerization of this area was not instigated by librarians but by computer database providers external to librarianship, i.e., LexisNexis, Westlaw, etc. These companies offered an approach to researching vast amounts of legal information that was faster than traditional manual legal research methods. Also, unlike other companies which viewed the library as a market, these companies were perceived as being in direct competition with reference services and legal research instruction. Their efforts were not seen as improving the efficiency of library services but as replacing them.<sup>32</sup>

¶48 The pace with which technology has evolved and the degree to which it has been applied to legal materials has challenged the very concept of law librarianship. The major publishers have acquired and maintained large publication capabilities. However, their ever-increasing use of technology to provide researchers, including both students and attorneys, with user-friendly programs to access legal information not only challenged the professional essence of reference librarians, but also the very existence of the law library. Nonlaw librarians often ask, “If everything can be found online easier and faster than in a traditional law library, is the library even needed?”

¶49 Reference librarians can take some solace in the observation of an attorney and adjunct legal writing professor who stated that the best attorneys are those who

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32. Abbott, *supra* note 20, at 434.

have learned to research in the books because they are better able to conceptualize a full-blown legal research methodology and, therefore, better able to conduct thorough research of legal problems than those who have only learned online legal research. In addition, he noted that attorneys with training in hard-copy legal research were more thorough researchers, not only in hard-copy resources, but in online resources as well.<sup>33</sup>

¶50 However, reference librarians must do more than take comfort in such observations. As has been noted, the major challenge to reference librarians is rapidly expanding online legal resources with increasingly sophisticated programs that facilitate direct patron access to those resources. This challenge to the traditional role of assisting patrons in accessing legal information threatens to supplant reference librarians, especially from the perspective of legal professionals, who perceive computerized access to legal information as tolling the death knell for law libraries and law librarians. The new generation of law library patrons, especially law students, may or may not believe such comments, having been weaned from books at a fairly early age as even elementary schools have pursued various forms of classroom computer-based instruction.

¶51 Reference librarians, especially, must exercise their professionalism, recognizing the realities of the present and envisioning the possibilities of the future. One way is for reference librarians to master and teach the capabilities of online services, that is, act as a mediator between the patron and the online service. A related challenge for reference librarians is to incorporate technology into the reference process and the teaching of legal research, balancing the strengths and weaknesses of electronic and hard-copy legal resources. Best would be to teach the hard-copy resources to provide the conceptual approach to legal research and then to teach the online resource, demonstrating the advantages and disadvantages of both approaches.<sup>34</sup> In this way the students witness firsthand the best of both worlds.

### *Trends Challenging Status of Law Librarianship as a Profession*

¶52 Like librarianship generally, law librarianship has been significantly affected by technology and declining budgets. In addition, the role of law librarians has

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33. Lance N. Long, Remarks at the J. Reuben Clark Law School, Advocacy I (Aug. 2003). He noted the importance of terms of art that law students encounter in the course of hard-copy legal research, terms that are essential in focusing both hard-copy and online legal research.

34. One notable challenge for users of online services is the lack of a controlled vocabulary. Hard-copy indexes, digests, and annotated legal materials are based upon a controlled vocabulary that cross-references synonymous words and phrases that may be used in legal materials to a single word or phrase. The word "child" is synonymous with terms such as infant, baby, toddler, boy, girl, youngster, adolescent, juvenile, youth, etc., all of which may be used by judges in their court opinions. These words would all be indexed under and cross-referenced to a given term. In this case, for instance, the word "child" could be selected by a published legal index as the normative term.

Online services, on the other hand, are based on the application of Boolean logic to search files (word lists) and terms and connectors (e.g., and, or, not, etc.) to construct a search command that establishes the relationship of the words to one another. Without the inclusion of a comprehensive list of synonymous terms in the search command, the user of the online service misses any document that used one of the synonymous terms.

been challenged by vendors vying to capture a market share of servicing the information needs of an extremely profitable knowledge-based profession—attorneys. Online vendors have constantly pushed the envelope of technology, applying it to areas traditionally reserved for reference librarians (conducting and teaching legal research), information technology librarians, and paraprofessionals and secretaries. The only limitation on online vendors has been computer capacity for online storage and search engine capability for the access of legal information.

### *Legal Research and Reference*

¶53 Most notably, LexisNexis and Westlaw have taught online legal research training in law schools, law firms, and government offices. This effort has been viewed by many reference librarians as direct competition to their areas of responsibility. In response, some reference librarians have taken over the actual instruction of online databases, some have given specific guidance to vendors providing the instruction, and some have simply allowed the vendors to teach whatever they thought was important (often resulting in an overview of the “latest and greatest” from their databases).

¶54 Recently, LexisNexis and Westlaw have initiated a more cooperative approach to working with reference librarians, providing instructional materials to support those with teaching responsibilities. LexisNexis developed its “Lessons in Legal Research” and Westlaw developed its “Instructional Aids,” digital pictures, research exercises, and online seminars.

### *Technological Support*

¶55 With regard to technological support of law schools, both LexisNexis and Westlaw have developed Web Courses and The West Education Network (TWEN), respectively, to provide alternatives to local computer intranet access to law school and library course materials, i.e., syllabi, PowerPoint presentations, assignments, etc.

### *Knowledge Management*

¶56 One of the newest innovations offered by LexisNexis and West is in the area of knowledge management (KM). Total Search is the KM system offered by

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Westlaw has specifically tried to replicate the strengths of the hard-copy digest online with a search command that substitutes a number for one of the more than four hundred digest topics; a key symbol, unique to Westlaw; and a second number, the key number, representing a particular subtopic within the digest topic.

Likewise, to impose some order on the vast amounts of information available, LexisNexis has recently developed SmartIndexing to create controlled vocabularies in their news and business databases.

As Abbott observed: “There is a big difference between storage of data, which new technologies have immensely improved, and retrieval of information, which they have not.” Abbott, *supra* note 20, at 437.

LexisNexis, West km by West. These initiatives are an effort by the two vendors to partner with law firms under the rubric of knowledge management to capture the experience and expertise documented in the internal work products of these firms in the form of pleadings, memoranda, briefs, etc., for future reference. Without such support, law firms interested in exploring the potential of KM are faced with the financial burden of undertaking such an initiative themselves.

### *Vision Is the Key to Law Librarianship as a Profession*

¶57 If current trends stay their course, with experienced law librarians failing to engender a professional attitude in the rising generation of law librarians and novices to the profession failing to develop a habit of envisioning the future despite the demands and pressures of day-to-day library operations, law librarianship as a profession may fall victim to technology and budgetary shortfalls. Law librarians may find their area of expertise deprofessionalized, experiencing the same fate as other professions, such as medical laboratory technicians, which have automated to a point that the exercise of professional judgment is no longer a part of the conduct of its practice.<sup>35</sup>

¶58 Vision is essential to professionalism. Law librarians must recognize and anticipate the impact innovations external to the profession will have on the profession. For example, computerization has impacted every facet of law librarianship from the ordering and cataloging of legal materials through the referencing and circulating of those materials. As a result, every improvement in computer capability impacts one or more of the functions within the law library. Other such trends include declining budgets, outsourcing, the role of online resources in the law library or law school environment, vendor-library relations, professional development and retooling, and vendor involvement in professional associations.

¶59 While such innovations cannot be controlled, the professional recognizes trends, envisions the impact those trends can have on the profession, and anticipates that impact in order to minimize the disruption to continuing library functions and yet maximize the benefit of those trends to the law library in the long run. This is the unique province of the professional—vision.

¶60 The problem is that professionalism is not usually defined in terms of vision. Professionalism is discussed in terms of professional “association, licensure, ethics codes.”<sup>36</sup> Even the MacCrate Report, which was a reaction to professional concerns, i.e., learning, skills, values,<sup>37</sup> ethical conduct,<sup>38</sup> client

35. ABBOTT, *supra* note 9, at 12.

36. *Id.* at 1–2.

37. MACCRATE REPORT, *supra* note 11, at 111. Emphasizing the issue of values, the MacCrate Report stated:

For a profession to create for itself an identity, it must not only claim as its own a special body of learning and skill—for which the legal profession looked increasingly to the law schools—but it must also embrace a core body of values which sets members of the profession apart and justifies their claim to an exclusive right to engage in the profession’s activities. “Professionalism” lies in adherence to such values.

*Id.* at 108.

38. *Id.* at 203–07.

representation,<sup>39</sup> CLE,<sup>40</sup> etc., failed to address what I believe is the key concept of professionalism—vision. “[T]he traditional vision of law” espoused by the report was that of “a unitary profession whose members share a common calling.”<sup>41</sup> The focus of the report was “skills and values.”<sup>42</sup>

¶61 Academically, the concept of professionalism is inherent in the phrase, “publish or perish.” This is often invoked to bifurcate the activities of education—teaching and research. But while a professional may be involved heavily in the day-to-day activities surrounding a profession (e.g., teaching), what makes a person a professional is that person’s struggle to get out on the cutting edge of those activities, envision the possibilities of the future, and develop new and innovative ways of accomplishing those activities and sharing them, i.e., researching and publishing. It is perspective, not activity, that defines the professional—thought, imagination, innovation, or, more succinctly, vision.

¶62 I think this may have been the concern, in part, of my criminal law professor in law school, who, as pragmatic as he was—he was a retired prosecutor with what we all understood was a 97% conviction rate—taught three basic principles of lawyering, one of which was that lawyers must have a “boundless imagination.”<sup>43</sup> I believe he was trying to lift our rather parochial minds out of the casebooks and treatises that we used in class and get us to think creatively about the subject and the profession. Sometimes he would come into class and give us a pop quiz that challenged not only our problem-solving abilities but our creative thinking abilities. Whether he was consciously thinking of professionalism in the way I have described in this article or not, I think he was trying to instill in us a true professional perspective—a vision of being a lawyer.

¶63 While I contend that the essential characteristic of professionalism is envisioning a future end state, there is also an element of continuity to professionalism, an appreciation of the strengths and benefits of the status quo. Important to the professional is the disciplined implementation of change to effect the envisioned end state. For example, we have all been introduced to new technology which we

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39. *Id.* at 207–12.

40. *Id.* at 305–17.

41. *Id.* at 124.

42. *See id.* at 123–33 (explaining the formulation of a statement of skills and values in the report). One comment in the MacCrate Report that corresponded to Abbott’s definition of a profession was made in connection with the statement of skills and values:

[A] lawyer cannot competently represent or advise the client or other entity unless he or she has the breadth of knowledge and skill necessary to perceive, evaluate, and begin to pursue each of the options. Indeed, the lawyer is not even in a position to diagnose the client’s problem adequately unless the lawyer has the range of knowledge and skill necessary to look beyond the client’s definition of the problem and identify aspects of the problem and related problems which the client has not perceived.

*Id.* at 124.

43. Woodruff (Woody) J. Deem, Remarks at the J. Reuben Clark Law School, Criminal Law (Fall 1981). The other two principles were that lawyers must have an “insatiable curiosity” and “reckless courage.”

initially thought was ingenious but later found ourselves asking, “How would I use it?” Pursuing technology for technology’s sake with, at best, the idea that “someone will be able to use it” has placed many a librarian not so much on the cutting edge as on the bleeding edge of technology, especially as a product continues to evolve as improvements are made to it. Instead the professional constantly surveys the horizon for technological innovations and carefully weighs the apparent benefits of implementing a particular innovation against its costs, including hidden ones such as employee training and disruption of operations. It is the careful and deliberate implementation of technology that will validate the vision of the professional, despite possible missteps, that differentiates the professional from the rabid “techy.”

### Recommendations

¶64 To engender professionalism in their members, library schools and associations (including AALL for law librarians) must consciously and aggressively assume the role of creating, expanding, and developing the theoretical basis of librarianship—the abstract knowledge identified by Abbott. They should promote these activities across all aspects, competencies, functional areas, etc., of librarianship. They should address, directly and indirectly, those activities that impact the core competencies of librarianship, even entering into a public dialogue with those engaged in activities operating on the borders of the library profession, i.e., online information providers.

¶65 Perhaps one of the best means of addressing the issue of vision is for library schools and associations involved in meeting continuing education needs to offer classes and programs that not only address current issues facing the profession—a good first step—but that also cover long-term strategic thinking and planning. This will help train members of the profession to constantly think in these terms.

¶66 On an individual level, library schools and associations need to consciously instill in librarians an appreciation of the importance of and a desire to develop a professional perspective—*vision*—toward their activities. Library associations also need to engender in more experienced librarians an appreciation of the necessity to instill in newer librarians a true attitude of professionalism, one that focuses not just on mastering the day-to-day skills associated with library operations, but also on envisioning the future and realizing that vision in individual areas of responsibility.

¶67 The management skills exhibited by senior librarians should exemplify professionalism. While efficiency dictates centralized decision making and would, therefore, favor a staff that would execute the decisions of the administration without question, effectiveness should be the goal of any library administration. Directors, for example, will normally have some specific area within which they have developed a proficiency early in their careers. In that area, they may be able to rely on their own experience in making decisions, but in all other areas of library

operations, the effectiveness of the library is better served by relying on those who, through direct experience, have developed perspective in their respective areas, Encouraging a professional perspective—vision—among those exercising their expertise in their areas of responsibility would yield more effective library operations, tapping into the expertise of each individual. Centralized decision making yields efficiency, but seeking effectiveness develops professionalism and, ultimately, builds the profession.

### Conclusion

¶68 Abbott argues that professionalism is about jurisdiction, an area of expertise in which the professional operates and, as I argue, a perspective from which the professional surveys the horizon to identify trends that will impact the profession for good or ill. Those that will improve the performance of the profession are adopted, resourced, and cultivated. Those that impede the profession are avoided. However, because the very foundation of professionalism is abstract knowledge, with advances in the profession, the basis must also evolve to ensure an orderly incorporation of advances within the profession.

¶69 I have described some of the past, present, and future issues that could represent challenges to the professional status of those within the profession of librarianship. Those that are resolved by replacing the application of abstract knowledge to particular fact situations with the rote application of skill sets, be it by the application of technology or some other trend, will be deprofessionalized.

¶70 Those that are resolved by the innovative application of abstract knowledge to a particular fact situation, such as the mastery and teaching of online legal resources to law students, rather than simply ceding the responsibility to vendors, preserve the professional jurisdiction. In the case of research instruction, professionals envision the future of legal research instruction by a willingness to expand the concept of instruction to incorporate and integrate the teaching of online resources.

¶71 It may be argued that everything that occurs in life is a reaction to something else that has happened. The basis of that argument may be valid, but I believe that the professional envisions and anticipates the impact of trends on the horizon long before the “enemy” is at the gate. In doing so, the professional does not simply prepare to stave off the attack. The professional facilitates the incorporation of the positive aspects of these trends into the profession to its improvement and rejects their negative aspects as incompatible with the direction of the profession.