

# Interview with John Eaton\*

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B R Y A N   S C H W A R T Z

## I. INTRODUCTION AND BACKGROUND

**Bryan Schwartz (BPS):** Your background is that after a career as a touring rock 'n roll musician you went to law school. I am just trying to locate where you were in this great transition from physical books to cyber. You went to law school because you wanted to be a lawyer?

**John Eaton (JE):** I went to law school for the same reason I think a lot of people do: because I had an Arts degree and wanted a career. Can I give you the whole biographical tale?

**BPS:** Certainly.

**JE:** As a young fellow in my early teens, I learned to play drums and I became pretty good at it. I became absolutely besotted by rock 'n roll music and playing drums in rock bands. I did like a lot of kids in suburban Canada; I played with a bunch of friends. I had always been a fairly decent high school student, but all of a sudden in grade 11, my marks started to fall off because the only thing I cared about was playing drums in rock bands. Finally, in grade 12 I came to the realization that I really only cared about playing drums in rock bands so I quit high school. I did not graduate high school. I played around in various bands. I lived in the Toronto area but I ended up playing with bands that toured pretty rough places in Northern Ontario and Atlantic Canada. At one point, I played for a really, really, *really* third-rate female impersonator named Ricky Day out of Hamilton, Ontario. He headlined the "Ricky Day Revue" which consisted of: Ricky; a guy from Boston named Ramon Lee, who was a poor man's Johnny Mathis; and a

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\* Interview conducted by Bryan Schwartz. John Eaton is Law Librarian & Associate Professor at Robson Hall. He was Reference Librarian at the E.K. Williams Law Library from 1991-95 and has been in his current position since 1999-2014.

very entertaining, but completely mad and insane British guy named William Bonney, who had been through the musical ranks. Bonney had played in a number of bands in Britain that had gone places but he moved to Canada and became sort of a comical magician. So this entourage toured around parts of Canada and is just one of many bands I played with.

**BPS:** So what you are telling me so far is that most people think that William Bonney died during the range wars...

**JE:** That's right; he might still be alive, as a retired magician in Hamilton, Ontario. I did this throughout all of my twenties. I was on the road playing in rock bands for all of my twenties and it started to wear thin. It was thinner and thinner and thinner until finally I found myself in Victoria, British Columbia and talked myself into a job as the manager of the student union pub at the University of Victoria in 1979. I was 26. I bluffed my way into this job and I had to hire students to work my pub. I always assumed they were vastly my intellectual superior and I quickly realized that was not the case. A lot of them were actually rather dim and I could hold my own in a conversation with most of them. I started to think about maybe going a little further in life than managing bars and playing in rock bands. After about three years doing that, I began university as a mature student at the University of Victoria when I was 29. I did an undergrad degree there and excelled at it but it was in the Humanities; I was a student in history with a minor in linguistics. The reality set in that I was not going to get a job out of this, so somebody said, "Why don't you write the LSAT?" Wrote the LSAT, got a good score and realized I could go to any law school I wanted to. At this point, I realized I wanted to return to my home base of Ontario. So I applied to all of the Ontario law schools, was accepted to, and attended U of T.

While there, I realized a couple of things: I realized I liked the whole process of research but I did not like the notion of lawyering. I also realized that the issues I found the most interesting were in the areas of criminal law and family law. But I quickly realized that to actually practice in those two areas would be soul-destroying; I just could not do it. I had always worked in libraries as an undergrad and as a law student. I just loved that environment and I loved the process of research, but I did not like lawyering. I was 35 years old when I graduated from law school, so the year that everybody else went off to article, they were all ten years younger than

me. I felt like I had to get my career going and I had decided on a law library career. So I went off to Library Science school at the University of Maryland and spent a year and a half there. That is sort of how my career got launched.

**BPS:** Let me go back to your history background and enjoying the process of research. People, at least from your generation, who are historians, that was part of the thing that attracted them—the dust of the archives; the actual treasure hunt notion; finding a document, an actual real document that existed 200 years ago.

**JE:** Yes, the detective work of that is a real thrill.

**BPS:** Which culminates in an actual physical find. “Here is a document signed by Louis Riel,” or “here is an actual photograph from 1890” and so on and so forth, but it was not just finding information in representative and homogenous ways on the screen, it was more like stamp collecting or coin collecting in a way. You were actually finding documentary archives and physical objects which start to tell the story. Obviously, it was something that you enjoyed. You had no idea when you started all of this that you were at the beginning edge of the transition of the cyber world.

**JE:** No. I had no clue whatsoever.

**BPS:** When you are going to library school at the University of Maryland, what year was that?

**JE:** That was in 1988-89.

**BPS:** What did they call it then? Did they call it “Librarianship,” or Information Science?

**JE:** They were all basically Library and Information Sciences. I think mine was College of Library & Information Services. There is no library school left—that I know of—that has kept the word “library” in the title. It is just simply not sexy enough, or not expansive enough. Most now are called Information School or even I-School.

**BPS:** Just trying to think of the origin of the word library; it is Latin, isn't it?

**JE:** Yes, from *libros* for book.

**BPS:** That is what I was thinking.

**JE:** It is actually from the physical book.

**BPS:** It is from the object. It is one of the tragedies of civilization, like when the Alexandria Library burned and we lost the last remaining copies of plays by Aeschylus. That generation, you did not know you were on the cusp; you could not imagine that 20 years later people would be going "Books? Who needs books?"

**JE:** No, I do not think I foresaw that particularly but I am of the age—and maybe you are too—where I thought that the computer is just a fantastic tool for speedily and easily finding and locating things. If I am heavily involved in research, I like to use the computer to locate what I am after and then use the print resource to actually do the work. That is sort of how I envisioned how it would be going. I thought, "Man these finding aids are going to be so much better; the computer is going to enable us to locate stuff so efficiently." But I thought we would still be elbow deep in paper. I do not think I foresaw the time when libraries would be just throwing huge collections in the dumpster and replacing it all with computer terminals.

## **II. THE GREAT LAW LIBRARY**

**BPS:** Your career began in the 1980s, but you knew many people who started even before-hand. I know you are quite a student of history and might even be able to help us with the early days. So if you go back to before there was even a law school, the primary resource for practicing lawyer—apart from whatever they would have in their own collection in their own office—would have been the Great Library downtown in the Law Courts.

**JE:** The Great Library would certainly have been it. The bigger firms would have certainly had the *Canadian Abridgement*, which would have been their case-finding, statute, and noting-up tool. Probably every firm that could

afford a collection would have had a *Canadian Abridgement*, but absolutely, the Great Library would have been it for the practicing bar; it would have been it for judges, and it would have been it for law students prior to the move to Robson Hall.

**BPS:** It would be very hard for people today, just as they cannot imagine what it was like working with typewriters and white-out and stuff. I actually remember seeing cases argued before I went to law school and the method there was actual physical books that the lawyer would have to bring in. Judges would have a large trolley of books rolled in. Arguing case law was quite a physically-demanding exercise.

**JE:** Well I would imagine even, if you go back far enough—prior to photocopying even, prior to computerization in preparing case books or *facta* for trial—counsel would identify cases and make photocopies of those cases to include in a case book for the judge. If you just go back a few more years, prior to the advent of Xeroxes and photocopies, they would have wheeled in copies of law reports with the specific cases identified, and judges would have had to pull them off the trolley and read them as they are deciding the case. Things have changed.

**BPS:** A typical person probably would not have had a codex collection because they are expensive. You would probably have something like the *Dominion Law Reports*, maybe the *Western Weekly Reports*, a few textbooks, and that was the very limited database that you had to work from. There could be other material but it seems to me that legal theory did not matter that much because you just simply did not have access to that in any convenient way. You would not study American or British cases that were not readily accessible.

**JE:** Other than those certain British cases that stand as the fundamental underpinning of certain areas of law. You would learn about *Donoghue v. Stevenson*,<sup>378</sup> *Hadley v. Baxendale*,<sup>379</sup> etc.

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<sup>378</sup> *Donoghue v Stevenson*, [1932] UKHL 100, [1932] SC (HL) 31 [*Donoghue*].

<sup>379</sup> *Hadley v. Baxendale*, [1854] EWHC J70, (1854) 156 ER 145 [*Hadley*].

**BPS:** When we did our research for the special issue, we discovered a memorandum from Cliff Edwards, who oversaw the transition from the downtown practice-oriented law school to the academic setting. He says in that material that the core of any law school is the law library. Is that a fair reflection of how you would have understood things in the 1960s?

**JE:** I would say it was the case up until quite recently. In fact, there is a similar quote—possibly from Christopher Columbus Langdell at Harvard—who said something like, “The library is to the law student what the laboratory is to the science student.”<sup>380</sup> The thinking was the science student attends lectures and then heads to the lab to put their knowledge to use; the law student has lectures and then puts their knowledge to use by heading to the law library, reading cases and all of that sort of stuff. The library has had, in law schools, a more valued position than libraries in most other disciplines. I do not know of any other discipline in which it is said that the library is at the core of what they do. It is always sort of peripheral to what students do in most other faculties.

**BPS:** I remember being told that Bill Lederman,<sup>381</sup> who was a celebrated constitutional lawyer from way back when I went to law school, saying once to a colleague, that “We are so lucky as lawyers because we are scientists and all the data we need is contained in our libraries; it is very compact, very convenient.”

**JE:** Just as an aside, I believe the law library at Queen’s is named after William Lederman.

**BPS:** I cannot remember if he was dean at one point, certainly not when I was there, but he was a celebrated constitutional academic at the time.

The law library would serve triple duty: it was a resource for the students; if you had to write a memo, you would be scrambling in there; it

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<sup>380</sup> C.C. Langdell, *The Centennial History of the Harvard Law School 1817-1917*, (Cambridge, MA: The Harvard Law School Association, 1918) at 97. The quote is as follows: “The library is to us what the laboratory is to the chemist or the physicist, and what a museum is to the naturalist.”

<sup>381</sup> William Ralph Lederman (January 6, 1916-July 26, 1992) was the first Dean of the Queen’s University Faculty of Law from 1958 to 1968, and a Canadian constitutional scholar.

would be a resource for the faculty to the extent that they were engaged in scholarship. To what extent was it a resource above and beyond what the Great Library had to offer? As a practicing lawyer in the 1960s to 1980s, is he coming up to the law school to get information he simply cannot access at the Great Library?

**JE:** In those particular years, I do not know that the academic law library had more material than the Great Library. The Great Library began to see its collection shrink in the late 1990s, early 2000s, until now. It is a shell of its former self. Now we have to make up the difference at the E.K. Williams Law Library. I do not know that there would have been a huge difference in, say, the 1960s and 1970s, into maybe the 1980s. Probably where we would have exceeded the collection of the Great Library would have been in British and American materials. I do not know that the core doctrinal Canadian material would have been much better at the E.K. Williams Library than it would have been downtown.

**BPS:** So let's go back to where we started, to the Cliff Edward's quote: "The Library is the core of the Law School."<sup>382</sup> When we started, there was basically an oligarchy of law schools. A small number of law schools in Canada controlled the market to the Canadian legal profession. That was an era when there was one law school for the whole province, a handful of law schools across the whole country. It has not changed that much in the last 20 years. We have started to see a big change. I think one of the biggest changes we have seen is the academicization there. Its location in the universities with all kinds of ideological and sociological implications but I think what we are trying to see is the oligopoly being broken. It turns out that you can have a Canadian law school that does not have to be in Canada.

**JE:** Yeah that is right. I believe there is Canadian Constitutional Law being taught at Bond [University] in Australia.

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<sup>382</sup> Memorandum on the Future Status and Location of the Manitoba Law School (1966), Winnipeg, University of Manitoba Archives (Box 14 folder 6) at para 7. The quote is as follows: "The fulcrum of any law school must be its library. In order that a law school may achieve any degree of success and recognition, its library must attain a high degree of excellence."

**BPS:** There is Bond; I believe Kent is another in England. It has significantly affected the market in Ontario. Foreign-trained lawyers are coming into the Canadian market and you are starting to see these joint American-Canadian programs where you will be able to go to law school. If you are starting a law school today and someone said, “Well the heart of this new law school is the library,” would that still be a credible proposition or would you say, “Well hey, we do not even need a library”?

**JE:** Yeah, I think it is a credible proposition if, by library, you mean information centre. I think now the perception of the modern academic library is that it will have some materials, but it will be more of a social place where students can meet and converse. This is another change that technology has brought about and I think it is rather a positive one. When we were just books—30 years ago or whatever—and you were in the library doing your work, you were sitting there with a book. It was just you and a book. There is no social aspect to that. It is a very lonely, solo pursuit. However, if everything is digital and everybody has a laptop—which everybody does—there is the possibility of four people being together and accessing the same material at exactly the same moment and ingesting it communally, together. This is what we see much more of: people working in groups. I would still say the heart of the law school is this centre where, first of all, the librarians have to deliver the right content and have to instruct them appropriately on how to use that content; but essentially, providing them with a workable, usable space to work together or alone on materials is really a mission of a modern law library.

**BPS:** But if four of us can work on this instantaneously, each of us in our own basement or cabana chair, why are we physically in the library?

**JE:** Because we have to be at law school.

**BPS:** Oh, it is something we do during the day, right? Between lectures? Oh, I see. So we are going to work; might as well have this physical space.

**JE:** Right, well, also your house is a pit or my house is being sprayed for fleas or some such thing. We have to meet communally somewhere else. What is the biggest communal space in most law schools? It is the library.



### III. LAW LIBRARIANS

**BPS:** If we go back to the old days, who would have been a law librarian? Law firms would not have had their own librarian, I would think.

**JE:** If they had their own collections, they usually had a clerk who did loose-leaf filing and someone who had the job of looking after collection and coming up with some sort of system where the lawyers signed out the books in the office. It would be an administrative person.

**BPS:** Selecting and culling collections in major firms could be a challenge in itself. Maybe law firms are going to be more electronic. So who would be a law librarian in those days? Could it be a lawyer who is doing library stuff, or could be a librarian who is doing law stuff?

**JE:** More likely the latter than the former: mostly librarians who had come into law and had learned it on the go. When I came into the field in 1990, I had a law degree and a library science degree; I was one of only a handful of people who had the dual designation. There was Shih Sheng Hu,<sup>383</sup> Denis Marshall,<sup>384</sup> Neil Campbell,<sup>385</sup> myself—all of whom spent portions of their careers at the U. of Manitoba, by the way—and just a handful of others. It is now fairly commonplace. We were the first wave of people with a law background who then went on to study library science. Invariably, it was in that order: law, and then library science. We were the first generation to hold that dual designation. Most others had been librarians who had been hired by a law school or a law firm or a law society or court house and asked to organize their materials and did some learning on the job.

**BPS:** In your assessment, how much learning is actually involved for a librarian? There are competing schools of thought on management: that a

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<sup>383</sup> Shih Sheng Hu, Robson Hall faculty, 1967-78.

<sup>384</sup> Denis Stanley Marshall (1949-June 23, 2000), Robson Hall faculty, 1978-89. He was the Law Librarian and Assistant Professor at the Faculty of Law at the University of Manitoba. After leaving, he was the Law Librarian and Associate Dean at Queens University Faculty of Law.

<sup>385</sup> Neil Campbell, Robson Hall faculty, 1989-98. After serving as the Law Librarian at the Faculty of Law at Robson Hall, he moved to B.C., where he served as the Law Librarian at University of Victoria until 2014.

good manager can manage anything versus you actually have to have knowledge of the discipline to be a good manager. Looking at the 1960s to 1980s: was it important to actually have a law background to be a law librarian or could an effective librarian pick up the law part?

**JE:** I think an effective librarian could pick up the law part. Testimony to that fact is that there were lots of very successful law librarians in that era and lots of good academic law libraries in that era. Their choices were not really as difficult as they became when material all got duplicated and became available in print and online. The challenge of law librarians later on became juggling the differing methods of research of your faculty. You had younger students coming in who were comfortable with digital material, and older students, who were moving out but had not left yet, who were completely uncomfortable in that environment and wanted print materials. At a time of shrinking budgets, you are duplicating your costs because you have to rent them online and buy them in print. Back in the 1960s and 1970s, it was a matter of identifying what the core doctrinal texts were and going out and buying them.

**BPS:** It was probably more consequential then who a law librarian was. In the following sense, we talked earlier in this conversation that the collection was physically in the library. So in those days, there was such a thing as an unreported case: a decision would happen but it would not show up in any report.

**JE:** Yes, unreported cases were like trees falling in the forest with no one to hear it. They existed but they left absolutely no trail.

**BPS:** Yes, if you had cases from another jurisdiction but you did not have their reports, they might as well not exist. Because the database was comprised of what was physically present—the ideological and doctrinal impact of what the law librarians were choosing—the specific data points were quite significant. Of course, that would have in turn been impacted by what the Bar was demanding, so some sort of dictatorial choice by non-lawyers; there was no way around the loop then. You could not say, “Oh, I am really interested in what is going on in those unreported cases from Manitoba, Nova Scotia, the United States” or even the reported cases from

the United States if it is not physically available. You are not going to look for it, not going to cite it; no one is going to pay attention to it.

#### **IV. EPISTEMOLOGY AND PHYSICALITY OF INFORMATION**

**BPS:** Taking a little bit of a different path, and then we will come back to this, but if I do not ask, it will probably be completely forgotten. It seems to me that it is interesting in terms of epistemology. We have gone from one type of library classification system to another. The original system was the Dewey Decimal.

**JE:** Well there have been a number of them. Dewey was never used very widely.

**BPS:** What was the system we used prior to going to the Library of Congress?

**JE:** In law or in general?

**BPS:** In general.

**JE:** In general, Dewey.

**BPS:** Did we use Dewey in law?

**JE:** What did they use in the Great Library? I have no idea. There were two other law classification schemes and I don't know which one was used. There was, believe it or not, Los Angeles County Law Library<sup>386</sup> classification system and there was one called Moys<sup>387</sup> developed in England. But to be quite honest, I do not know which was used. Lots of places, many smaller law libraries probably came up with classification systems of their own.

**BPS:** Numbers like KC...is that Library of Congress?

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<sup>386</sup> The Los Angeles County Law Library classification system was developed in 1958.

<sup>387</sup> The Moys Classification Scheme, which is a library classification system for legal materials, was designed by Betty Moys. It is used primarily in law libraries in common law jurisdictions such as Australia, New Zealand, UK, and Canada.

**JE:** It is. K is law, just generally, and you start adding other letters to get to the jurisdictions.

**BPS:** When did we switch from Dewey to Library of Congress?

**JE:** To my knowledge, at Robson Hall it has always been LC, Library of Congress. However, there is a Canadian exception; it is called KF Modified, which is kind of an interesting one. It was developed by Canadian law libraries. If you actually use Library of Congress, it is all arranged jurisdictionally, and that makes sense if you are American. If you are an American legal researcher and you want contract law, the first thing you want is American contract law, and you find that in a particular range. If you want to go further afield and you want to look at British contract law, Canadian contract law, Australian contract law; they are in completely different areas. KD is Britain, KE is Canada, etc., and you do not mind checking contracts in a whole other region of the library. For Canadians, it does not really work. When we want to look at contract law we want to look at everybody's. We want to look at ours, at American, British, and Australian together. The way that Canadians have adapted LC is to have everything lumped together by subject, and jurisdiction becomes somewhat irrelevant. There are more indicators other than the call number to show whether it is Canadian or not, but basically it means that all contract law is in one range. Back in the days when call numbers really mattered because people browsed the shelves, they would find the call number for a good book and then they would look all around it to find more. Canadians developed this system so that if you are looking for contract law, you are going to get everything in one area.

**BPS:** The reason that I was asking this was precisely for the sort of insight you are giving us, that the way people classify a thing will have something to do with the way people actually understand the substantive discipline. So law actually had its own letter under the Library of Congress system a century or two ago. Law was its own distinct profession; you would not think of it as a branch of the social sciences or humanities. It was taught as a profession like engineering or medicine; why wouldn't it have its own letter? Even now if you are in the physical law library looking at environmental law, what would be proximate would be environmental law? In the United

States, it would be American Environmental Law; here it would be environmental law in various jurisdictions. You would not be standing in the section next to environmental engineering, environmental science, ecology, and so on and so forth; it will be strictly law and you would have to go to a different physical location to actually get other aspects of the discipline.

I mention that because one of the controversies today in academic education is to what extent is law an autonomous discipline and to what extent should it be part of a larger exploration of humanity. When I am a law student in 1970s and I am looking for something, it is more useful for me to be there physically. I look for one book and then I see what is around it. When you are doing computer-based research, I suppose sometimes you find things quickly using the particular letter or particular name. Other times, you are going to be ingenious to find things that have different names or different authors. You do not have the physical locator for the intellectual material.

One of our themes here, implicitly, is physicality; I know the law firm collections are physical objects in a confined geographical location, which has serious implications in terms of the substance of the discipline because you do not have the books or the physical report. It basically does not exist as a data point. When you are doing research, the fact that things are physically lumped together expedites your research. It will constrain it in other ways: if your books are all about law, it is less likely to occur to you that you should look up books on environmental science or environmental history or whatever else might for more modern sensibilities be relevant. The way you accessed data was the physical book, the codex; nowadays, in practice a lot of the ways we access legal material, whether it is an article or a textbook, is a single screen. I do not have the actual physical case report as a distinct unit; I do not have that issue of the *Dominion Law Report* as a unit. I have got a screen in front of me. I can page up, page down, go to the proximate screen, but I do not have the physical object. My view tends to be that we might be looking and absorbing information differently because of the physical difference. Do you have any thoughts on that whole topic of physicality?

**JE:** What the computer has enabled us to do is to much more quickly locate and identify meaningful and relevant material. It used to be quite tedious. I mean, we are talking about going and finding a book on the shelf, but it

used to be this whole process of going through the card catalogue—which could be time consuming if you did not know the subject headings; and there were no computers to assist you with that yet; and you relied on your own knowledge of the law, your own brain, to find the right subject—flip through all of the cards to find out where it was located on the shelf. It was quite an undertaking.

Clearly with computers you can identify and locate materials much more quickly and then, of course, reading them online speeds up everything enormously, but here is where it has an effect, I think. What I notice is that students or people doing research—and I am as guilty of this as anybody—no longer read much of the case to get the general context, the flavour of the case. A computer enables you to search within a document for your search term. For example, you are looking for automobile negligence; you do a search and get a bunch of results; you are then able to whip through the results very quickly, finding occurrences of your search terms, which then takes you within that document to the particular point where your search term or topic is being talked about. It enables you to very quickly make a decision about whether you are going to pursue this case.

But I had an occasion a few years ago where a student was looking for a particular point of law and asked me if he had found a case that I thought was relevant. He showed me the case, and I said, “Yeah, this looks to be on point.” And he said, “Good, because this particular statement by the judge really helped my case.” But I kept looking at it, and then went back and looked a few screens ahead and a few screens back and discovered it was a dissenting opinion. In fact, when we investigated further, the actual decision was one that worked against this particular fellow but he had bounced through the case, sort of bunny-hopped through the case based on his search terms and found a quote that he liked but he was not reading the whole context; he was not reading holistically. That is one of the things we have lost with computers. It is human nature; you are going to take the easiest route and so we just bounce through cases, finding where our topic is discussed, and so we do not get the whole essence of the case.

**BPS:** I have always thought that one of the paradoxes of information is that too much is the same as nothing. Darkness and white noise are both not telling you anything. So now you have got access to a lot of information and you are responsible to check the cases but you only have so much time. In fact, clients are only paying for so much time and nothing else. So maybe I

am looking for twenty cases an hour rather than two cases in an hour; I have got more coverage, but my attentiveness to any of them is going to be much less. I am going to be looking for the magic word, the magic quote, and do not have the luxury of time to sit down and actually absorb any particular case. I have a little theory. I do not know if you have ever seen it substantiated in the literature. My theory is this—only a hypothesis (I have not really seen it substantiated anywhere)—that the physical books have an advantage that we have lost, and the advantage was that it provided a physical map of a line of argument. So if I am reading a novel, there is a beginning, middle, and end that were physically manifest, meaning that something in the beginning was actually physically earlier in the book.

**JE:** I can actually remember if something that I read was in the upper left corner of a page or bottom right.

**BPS:** So we tend to map information into the physical book, which sounds trivial, but is quite an important organizing tool. Everybody's brain works differently, but I think a lot of people are like you. I can remember beginning, middle, and end, left side of the page, right side of the page, so the flow of the argument would tend to go along with the book. Maybe there is a certain disciplining that goes along with that. You were encouraged to think in sort of a linear, logical unfolding form because you had an actual physical map to go with that. The physical end of the book is where I wrap it up; the beginning of the book is where I introduce the argument; the middle here is where I elaborate. My guess is that, when we are just looking at these little snippets, we are absorbing less because we are just getting these little isolated bits of information, which are harder to synthesize when you do not have the physical map of the codex. If you are not in an environment where you are used to the disciplined, linear unfolding of a narrative or an argument, you become, in some ways, less adept at it. Is there any literature you have come across with that?

**JE:** No, I am not aware of any substantive literature on that but I do tend to think that there is a certain logic there. I think it is sort of similar to what I was saying about people not being absorbed into the actual text; they are not sort of being actually sucked in and are not becoming participants in the text, which you are more of when you are reading the printed page. I do know that people are now talking about how younger students who have

essentially only learned in the digital environment. They presume that there are actual physiological brain mapping differences in these particular young people as opposed to people like ourselves, who have done all of our learning entirely in the print milieu. It is interesting. It certainly has implications. I do worry about the accuracy of research done entirely online.

The biggest problem for me as a person who is engaged and is expert in the organization of information, the thing that frustrates me more than anything else is the fact that while Google is an amazing human development, it has also caused significant number of problems for those of us who organize and retrieve information and teach the skills involved in organizing and retrieving information. This is something that I do not think we can do anything about. I think we just have to throw up our hands and acknowledge that Google has won and that the intelligent organization of information is basically a thing of the past.

I deal with my students and I say, "Look, imagine you are an articling student. Time is of the essence and you are told to find everything on this particular point of law. What would you prefer? Would you prefer to go into a database where all of these materials have been arranged, described, and organized, and it is easy to drill down to exactly what you want or would you rather use a Google-type search engine where you just throw terms into a basket and you see what you get and you get hundreds of thousands of results?" It is obviously a leading question, and what I am getting at is that you are better off using the organized services. The fact of the matter is, I do not know any students who do not prefer to just Google it. They do not seem to mind the fact that they are going to get thousands of irrelevant results. They are quite willing to sift through and find those pearls. Whereas there are entire armies of people who have organized the law for you and can take you straight to the cases you need to look at, but no one seems to want to employ those services.

**BPS:** Is that because some of them exist only in a physical format like a textbook?

**JE:** There are actually digital representations of those original textual formats. The *Canadian Encyclopedic Digest* online is still a fantastic tool for doing research and it is even faster and better online but I still have to drag people kicking and screaming to it. It is like trying to get them to eat their



vegetables, to get them to use actual organized databases rather than just seeing what they can find throwing terms into the ether.

**BPS:** Do you think as the use goes down, production will go down as well?

**JE:** I think productivity will go down.

**BPS:** Well, people used to spend their lives writing a textbook on contracts or conflicts of law, which are often very influential. It was not that easy to find stuff and locate stuff. Now you can cut out the middle person and go directly to it and what you are saying is a lot of students actually prefer to do that. Do you think we are going to see another generation of Dicey, Morris, and Waddams, or is that kind of writing going to disappear?

**JE:** I do not imagine that it is going to go on.

**BPS:** I think you are right and I think that is not only because of the consumption. I think that part of the integration of law schools into the academic world has been—you saw the Arthur's report tended to devalue what you are describing—to devalue the organizing of doctrine, explaining doctrine, clarifying doctrine, critiquing doctrine. It is more about taking a particular topic, maybe in an interdisciplinary way, and writing some sort of combined legal-sociological-philosophical critique of where the law should be moving rather than where the law is or has been. I am not sure we are going to see this kind of material. Some of it will continue because it is already started and will not be done by giants; it will be done by people at a more junior level. They will just keep grinding out future editions. The incentive to actually sit down and do a textbook—the interest in doing that, from both the consumption-production—I do not know if we are going to see the great textbooks that we saw in the past.

## V. TRANSITIONING FROM PAPER TO THE INTERNET

**BPS:** Go back to the beginning of the interview. You started at a time when we still had the codex paragon.

**JE:** Well, I started at a time when things were clearly going to transition. I went to law school in the mid-1980s. At U of T we had a mandatory moot

that everybody had to do and as part of the preparation for the moot there was—I think the library had gotten this added into the curriculum—there was a mandatory Quicklaw session. You had to take your moot team of four people, two respondents and the two appellants, and meet with the reference librarian and be introduced to Quicklaw, which was brand new then. Quicklaw got up and going in 1986, I believe, or at least came to market in a meaningful way in 1986, and this was right around that time. We met with the reference librarian and were taken into a room that was clearly a converted broom closet where there was a single computer terminal. The reference librarian would say, “Ok, what is your moot problem?” and ours was an evidence problem based on blood samples from an accident. She did a search and she came up with x number of cases. There really were not that many because, at that time, Quicklaw was not retrospective, it was only building its database going forward; it had just started, so there were not that many cases. So we sort of stood around; we watched her do this and we thought, “ho hum.” I guess this is going to be good one day but it meant absolutely nothing to us. So I was there at the very beginning of the computer revolution, if you will. After law school, I went to library school and we had to work with computers. It was all very primitive sort of stuff, but we had to learn both print and electronic resources. I really did straddle both eras: the card catalogue and the digital library system, as well.

**BPS:** When I went to law school there were a couple professors one was Hugh Lawford.<sup>388</sup>

**JE:** The founder of Quicklaw.

**BPS:** And I think Keith Latta<sup>389</sup> led his own rather interesting biographical path. I never actually took a class with Latta but I heard that he was very involved with Quicklaw.

**JE:** Professor Lawford started it in the 1960s because he was a computer buff. This was a time when the idea of a computer buff was almost

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<sup>388</sup> Hugh Lawford (September 8, 1933-August 17, 2009) was the founder of Quicklaw and a professor at Queen’s University.

<sup>389</sup> Keith Latta helped Hugh Lawford with the creation of Quicklaw and was a professor at Queen’s University from 1968-1971.

ridiculous. It is almost like saying, “Oh, so-and-so likes to make rockets in his backyard.” The notion of a regular guy liking to make computers was crazy. Computers were massive mainframes that took up half a city block and were owned by the military. In 1963, there were only mainframes.

**BPS:** This will seem very quaint. I do not know if you remember this era, but when I was in high school, I took a summer course in programming because we were told this new era was all about programming. I learned Fortran IV<sup>390</sup>. Turns out that almost nobody knows how to do programming; it is a small elite group of people that actually know how to do it.

**JE:** I believe Fortran as a language still exists though. Not that I know much about programming, I mean obviously there are other languages, but I do not think Fortran as a language has disappeared.

**BPS:** We learned about punch cards. What are those machines where you actually physically cut out holes and you take the deck put it through a mainframe and then two minutes later, you have to wait in line and it comes out on laborious printer? It had striped papers and there were holes in it so the spokes of the turning wheel would advance them. We actually thought the future was going to be that everyone was going to have to learn programming. Of course, the future has turned out to be a small number of people who have learned to do it and a lot of industries end up making it so user-friendly that you do not need to know how to program.

**JE:** It is a crude analogy and I do not know if it works that well but I liken the advent of the computer to the advent of the automobile. At the very beginning of the advent of the automobile, everyone realized this thing is really going to take off; this is going to revolutionize everything. We are going to get rid of horses; we are going to use automobiles for everything. I am sure there are people who said the future lies in auto mechanics. Become an auto mechanic. And they did not imagine the day would come when no one really knows how a car works; you just get in and drive it. They had the notion that you had to really get inside and learn about its workings. In the

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<sup>390</sup> FORTRAN was developed by IBM in the 1950s and is derived from “Formula Translating System.”

1980s, this is how everyone was approaching computer systems. Everyone was telling us, “You really have to understand how this stuff works; you have to understand what you are doing; you have to understand this because people are going to be using computers.” Exactly the same thing has happened as happened with cars. People are using computers without any clue, no interest at all in how they work. I am not saying this as a bad thing; it is just human nature. If you do not need to know how something works and it just does it for you then why learn how it works? Nobody is studying—well, some people are—but no one is pushing legions of people towards programming because there are not that many jobs and people do not need to know programming to run a computer.

**BPS:** You were aware that Lawford was doing this stuff? That some people at Queen’s were doing this stuff?

**JE:** As I said, they came to market around 1986 but he had been messing around and gotten funding to try it out around 1963. A lot of my information on this is anecdotal. I think that the way he started on this was converting the text of Canadian Treaties. I do not know if it would have been to tape or punch cards or what, but then demonstrated that one could search for occurrences of specific terms within that text and could therefore find the treaty that deals with matter x.

**BPS:** I was going to ask you about that. I mean, it is so obvious to me now that the algorithm we use now is a search algorithm. I do not think it was obvious at the time that that is where the technology will go, that it will be something as simple as I can pick any words and we will find it in the text. Was that received or an innovation on his part?

**JE:** I do not believe it was an innovation on his part. It employs what is known as Boolean logic, which was based on the math of Professor George Boole<sup>391</sup> from University College Cork in Ireland. That is just simply very elemental logic. It is the difference between “and” and “or.” To retrieve a document, it needs this word “and” that word meaning that you are going

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<sup>391</sup> Professor George Boole (November 2, 1815-December 8, 1864) was the first recognized professor of mathematics at Queen’s College, Cork (now University College Cork). He developed the basis for Boolean logic.

to get x documents, as opposed to this word “or” that word, from which you are going to get many more.

**BPS:** If you asked me about Boolean logic, and what I think about it, I would say, “Yes and no.”

**JE:** But while we are on that subject, one of the great things that is now lost in the “Googlization” of searching is the Boolean search.

When I became a reference librarian in 1990-91, Quicklaw was only four or five years old. Most lawyers knew of its existence, knew it could do the work for them, knew it could speed everything up, but they did not know how to use it and they did not really want to learn. So as reference librarian at Robson Hall, I used to do a tremendous amount of work for the practicing Bar, who would pay modestly for that. But I was really good at employing Quicklaw, which was complicated. It was not really difficult to understand but it had a Boolean operating system of “and,” “or,” “but,” “not,” and proximity searching that had specific rules. Once you had mastered the rules you could construct very exact searches that could drill down to exactly what you needed. Frankly, I—and I am not being immodest here—became very good at employing Boolean search strings. You can still do that but hardly anyone does so any more. All of the databases have realized that the whole Boolean thing is what is putting people off. Now they have to be more like Google. So now you sort of have two options: you can do a search where you chuck terms in a search bar and see what happens; or you can construct a Boolean search. I do not think many people are doing the latter. There is a real loss of control over the search when you are just relying on a Google-type search where you throw terms into a search bar. All you are doing is an “and” search. You are searching “this and this and this and this,” whereas with the Boolean search, you can be much more specific.

**BPS:** I guess there is a relationship between hardware capacity and software elegance by which I mean, if you had very little computer power and things took a long time, then you would use a front-end thinking thing. “How can I be laser precise in what I am asking?” If the computer can search a world of information and spit out an answer without thinking through the strategy, I would not have to go to all that time and effort. I can just toss it in and there is such machine power and fast turn-arounds that I do not have

to think hard. I understand that contemporary programmers complain about how “in the old days, people wrote very few lines of code, which was very efficient and elegant and concise” because they had only limited amount of computer power. Now, of course, brute force can make up for all of the inelegance so you do not need to be as concise and clear and compact in your programming any more. There was this larger thought that everyone was going to need to be adept and thoughtful and conversant with technology and computer science to be good at this stuff. Where it went was more computing power, and programs to go along with computing power that would do the work for you. You did not have to do a whole lot of thinking, and that is where we have ended up.

**JE:** But on that, I have always shocked my students by saying—and I do not think there is a single one that agrees with me—that while Google is ubiquitous—and hey, I am human, I use Google 400 times a day just like everybody else—but I shock them when I tell them Google is actually sort of dumb. Google is very brawny, enormously powerful, and can rapidly canvass a vast universe of information, but it is not very bright. Basically a computer search that brings you back 180,000 results is not a particularly good one, but I cannot seem to get that point across to students. You do not want 180,000 results; you want about six, and I can show you a way that we can get to six. There’s a way we can search and get just those six cases, but I get few takers.

**BPS:** I try to teach that, too. My theory is, try to find one recent article and then try to find an eccentric term. If you are searching cyberspace and security and law firms you are going to get 58,000 articles. Try to find something more eccentric and specific. Maybe there is a key author in the area and he or she is the authority that everyone is citing in the area, and I have reduced 58,000 to maybe 200 that are on point. Or there is a particular case name or statute, so I am not actually looking for the most encompassing terms. I am trying to look at eccentric terms, parochial terms that actually cut out most of the stuff and get me where I want to go.

**JE:** Right, and that is definitely one strategy that you can use to winnow out all of the stuff that does not really matter. I give them techniques to say, “Ok, let’s do a field search. Let’s just search a database like Westlaw or LexisNexis. We will do a Google-type search. Just throw in words with no

connectors, but let's do it in an appropriate field: the keywords field, or the summation field. So we know that our search terms are going to be actually talked about as what the case is about." I get some takers on that, but there is a bit of reluctance actually. They would still rather not have to think about that kind of stuff.

**BPS:** The habituation, to me, seems quite remarkable. I tell the story to my class over and over again; I do it in a light-hearted and comical way, but it actually represents a real phenomenon. In my research and writing courses, my seminar courses, where a major component is writing an essay. I tell them the same story at the beginning of the course, which is that it is never enough to do just a web-based search. You have to go in more specialized databases like LexisNexis and Westlaw. I have an integrated process of feedback and I get some papers which still have not looked into the specialized literature. Every year, in one of my courses, I will still have one who has still not got it by the end. They still think that all you do is web-based research and the only thing I can think is that it is just habituation. I am so used to this; this is the way that I do everything on my life. Everything is on the web and I have to dig deep, but taking the step to go to a specialized database, that is just not something I do. It is like having manual transmission rather than automatic transmission.

**JE:** It seems unnecessary. Why do I have to push in a clutch and change gears? That seems stupid.

**BPS:** Yeah, just go on one all-purpose Google and I find out what I find and I do not have to switch databases. With Google, everything is connected, so what is my problem here? It is actually a problem in terms of teaching people how to actually use the specialized databases and obviously a necessary exercise that it turns out we have to do because if we do not teach it here then they are not even going to be aware that this stuff exists. This is where we are headed.

Let me take you back. You lived through the transition, so sociologically, how does this transition occur? Is it that some people in the older generation are kind of the keeners and get into it, and the rest of you guys grudgingly go along but it is not what you signed up for; or a new generation that said, "What else would we do? We are not book people; we are information people." How do you get from a book world to cyber world?

Is it driven by personalities? Is it a generational split? Is it driven by economics?

**JE:** I think it is economics, and I think it is just human nature. I have always said that what everybody looks for in whatever they are consuming is fast, easy, and cheap. Everyone is looking for fast, easy, and cheap. Google and the Internet are fast, easy, and cheap. That is just human nature to seek that out.

**BPS:** Fast, easy, and cheap is actually FEC, and if you are into that, you are actually feckless, rather than “feckful.”

**JE:** But a guy like me comes along and says, “I want you to employ Boolean search terms. I want you to sit down and think about what are actually appropriate search terms and while you are in there, I want you to parse out that search. I want you to make sense of that search. I want you to search in these fields and in that field.” In other words I complicate the whole thing, so I turn fast, easy, and cheap into fairly slow, difficult, and...

**BPS:** Slow, tedious, and laborious.

**JE:** Exactly, but what I try to say to them is “Look, let's get to the cheap part here. You are practicing law; the currency you are working with is time, and sifting through hundreds of irrelevant documents in order to find those few pearls or nuggets as opposed to doing all of that work at the front end and coming up with a search that drills right down to the exact information you need to answer your client's question; maybe that is cheaper. Maybe it is not fast; maybe it is not easy; but it is certainly cheaper than wasting time playing with hundreds and hundreds of articles and cases that are not really going to help you.” So I try and teach in that vein.

Back to your question about why we have gone that way: essentially computers and digital information are faster, easier, and in some ways, cheaper than what it replaced, and I do not think humans are ever going to go back to slow, expensive, and difficult, when those are your two choices.

**BPS:** What about the human element? Tell me about people who grew up and got into librarianship rather than information technology. There are few fields that have been as revolutionized as that one.



**JE:** That is true. It is sort of interesting. Remember when we were young and we were kids in the 1960s, whenever we saw science fiction shows about the future, the big transformation was going to be in transportation, right? We were all going to be flying around in little hover cars; we were all going to be going to the moon and back for the weekend. Everybody predicted that where human development and human intelligence was going to take us was going to be improvements in transportation. We did not know that communications was going to be where the big revolution was going to occur. That is exactly where the big revolution has occurred and because librarianship is basically an information and communication discipline it has undergone huge changes.

To the credit of the discipline, most people adapted quite well. For many of us, there was an excitement, seeing what we used in the print world, repurposed for the digital world. What is lamentable though is that we have sort of moved past that point now where nobody seems to want, in the digital world, a representation of what the physical world did. The taxonomies, the organization of the information: all of that stuff that was done in the physical world is actually very easily replicated digitally and is actually still enormously valuable and extremely helpful. There was a great amount of excitement in making that transition. What is really sort of unfortunate is that, having made that transition and having been able to present that stuff in a digital world has been met with almost complete and total lack of interest. "No, sorry, we would rather that information just sort of exist, like the ether, not be organized and we will just use Google to pick out little bits here and there."

**BPS:** The book generation saw that technology as a means to an end. The uber-book, the faster book, the faster way to get to the book, the way to make the book more accessible; you do not have to get the papyrus in a library. Now this is all accessible to everyone instantly and what they did not anticipate is the technology would not only be a different means to the same end it would change people's sense of what the end is.

## **VI. PREDICTIONS FOR THE FUTURE OF INFORMATION**

**BPS:** What is going to happen? Legacy is a big issue in computer science generally. How do you constantly take old information, old programs?

When you get to the next generation, how do you upgrade? I have read an article once that some of the clunkiness of modern software is a legacy problem, that it is constantly built on top of old stuff and has to be able to integrate old stuff and that is why it is so clunky. What is going to happen to all of this material that was not created for the digital age? My guess is that it is all going to disappear. It is not like people are going to make a systematic effort to make sure that a textbook from 1880—no matter how important it was at the time—will not disappear from the scene, or am I being too pessimistic?

**JE:** I think you might be being a little bit pessimistic. Obviously, not everything that existed a number of years ago is going to be transitioned and reformatted to be available digitally, but lots of it will. What you have said about legacies, the whole older iterations just being built upon rather than being torn down and reinvented, is actually an analogy for the law itself. In our common-law, *stare decisis* world, that is essentially what we do. We take the existing law and we build on it. We do not very often completely eradicate it and start afresh. We just keep building on what has existed, and it is for that reason that I think there are problems in our particular discipline with just relying on digital materials. Not everything that we need to know was written in the last 10-15 years. There is obviously stuff that predates that that is very valuable. I do not see how you can be a complete legal researcher without occasionally having call to use a print collection, simply because of the nature of law itself. The old does not disappear; it just gets built upon. It becomes a foundation and gets built upon and built upon and built upon, meaning that there are going to be occasions when you are going to need to find primary resources in print; you are going to need to find other sources in print. In order to be the holistic legal researcher, I do not think you can completely and totally avoid law libraries and print.

The other thing that is really interesting, too, that I think that a lot of people do not realize, is that even though law is one of the very first disciplines to use computers, we are now way behind other disciplines in terms of things like eBooks. Quicklaw was a pretty early adopter of the computer model; the database from which LexisNexis grew was actually a project of the Ohio Bar Association, from a couple years before Hugh Lawford got the idea in 1963. As a discipline, law was one of the very first to recognize that we could computerize all of this text and search it. But we are slow to adopt the eBook.

EBooks are very commonplace in many disciplines. In Canadian law, however, they are practically non-existent. The only meaningful publisher of eBooks is Irwin Law who has a suite of their titles as eBooks. Carswell/Thomson are doing a little bit of it but we are way behind other disciplines. That, I think, is a matter of economics. Take medicine or science, for example: you can publish something and the whole world can use it. For Canadian law, what do Canadian lawyers need? Well they need books on Canadian law, and it is even more specialized than that. Someone working in Manitoba sometimes only needs Manitoba law and nothing else. There is not a lot of economic reward for publishers to be publishing eBooks on Manitoba law because there is such a small group of potential consumers out there. All of this digital legal information we are talking about is all primary sources, all cases and statutes, but the secondary literature—the textbooks and the treatises—all that kind of stuff is mostly in print still. So until this all gets solved, there is still a place for the knowledge of the print collection and the ability to use a print collection in order to be a good legal researcher in Canada.

**BPS:** My understanding of the economic model for major parts of law publishing in Canada is: small captive audience, very high price.

**JE:** That is the only way it works, really.

**BPS:** I guess the idea is, wouldn't there be a model for the eBook which is way cheaper and could be mass accessed? Why has that not been adopted?

**JE:** Basically because the people who are producing them are still essentially print publishers. Thomson is a print publisher, Irwin is a print publisher, and unfortunately they still see this as "I want to get \$35 per title for everybody who is willing to look at my book. That is the only way the economics work for me." They do not want to say, "Ok, fine, this institution wants to buy it for \$100 and then everybody can use it." They cannot make that model work for them economically but that is what people want. People do not want to pay for access to an eBook the same that they would pay for the print.

**BPS:** Just doing a cost-benefit analysis, while there are only a few who would buy a \$200 hardcopy textbook, I think that more people would be more willing to purchase a \$10 eBook.

**JE:** I would hope that the publishers have crunched the numbers and figured this out. I think they are fearful of digital rights management not being effective enough to stop people from downloading and sharing and essentially ripping them off, in their view.

**BPS:** Let's stay on this idea of eBook versus print copy. It is something that I have faced as Editor of the *Manitoba Law Journal*. My colleague Darcy McPherson<sup>392</sup> and I took it over about four years ago. One of the things that we have been asked is, "Why don't you just start doing it as an e-version?" My very impressionistic sense is that if we did an e-version, fewer people would look at it, would read it, and I think it would be a real deterrent to authorship. There is something for an author of holding a physical product in your hand.

**JE:** Yeah, I have authored a couple of books and bibliographies, which no one is doing those anymore. It is enormously rewarding, and there is huge satisfaction in holding the book and actually seeing what it looks like. I agree with that. However, I must add that digital publication will greatly expand the reach of one's publication and must be seriously contemplated.

**BPS:** Do you think that this love of print is just because we are from a certain generation? Do you think there could be a new generation that does not put a premium on having an end product anymore?

**JE:** I do not know. I try to anticipate what is in the mind of young people—and I feel so old and lame having to say that—but I just ask my son who is in his early twenties and goes to university and is pretty typical. He still loves books. He loves holding them and reading them, but to him, by his own admission, books are a recreational thing; they are something that are almost a hobby. He has lots and lots of books; he loves going to the bookstore; he loves buying books; but this is all for his personal enjoyment. For work, he cannot imagine not having access to digital materials accessible

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<sup>392</sup> Darcy MacPherson, Robson Hall faculty, 2002-present.

online. I think that is perhaps fairly common-place. Books are cool; books are ok. I like books. I like going to the bookstore and buying one now and again, but to actually spend my life working with information, I do not want to do it in book-form.

**BPS:** Fun to have a few but I am not going to have a big library. They are clunky. It is this thing about materiality we were talking about a little earlier in the conversation; I was saying I have this intuition that one of the ways that ideas go with books is the geography of the book. I had not thought about this before, but there is another physicality to books which is simply their physical disintegration. If I pick up a case report from 1920, the pages are yellow, it is cracking, and that is one of the things that map onto my intellectual understanding. If I pick up an old case in an old book, it kind of gives me a sense that, yeah, this is an old case, or this is a really old case.

**JE:** That is right; there is a certain landscape to materials in print, isn't there?

**BPS:** Yes, everything on the computer screen is exactly the same. If I am reading something from 1920, it looks exactly like something that is hot off the press today. Certainly you did not anticipate when you started this job all the revolution that was going to take place while you have been at it. Do you have any sense if someone was having this conversation 30 years from now, doing the same sort of exercise that I am doing now? Do you have any idea about what they will go through? Have we gone through a revolution which we are not going to see something like it again for a long time?

**JE:** Well I think it is a certain limitation of mine. I cannot imagine what the next revolution in information technology might be. I do feel that the revolution that we are currently going through is as profound and as transformational as the invention of the printing press, going from scribes writing out in hand to the printing press. At one time, like a lot of people, I was quite dubious of that. I thought, "No, no, it will be kind of a blend of both." I thought people were like me. Yes, I love the computer to find things but I want to actually hold the item in my hands. I want to read it; I want to take a bath with it. I want to be able to hold it. I thought everyone was sort of that way but now I realize we are not, and this was brought home to me by a sort of funny anecdote that I love to tell people.

I do a regular reference shift in the library every week (actually I should be there right now!) and one time, a young woman in first or second year, came up to me and she had been given a title of a book in one of her courses. She said, "Could you tell me where I could find this?" And I looked at it and it was certainly something we should have, so I looked up the call number and I said, "Here it is" and I wrote down the call number. She said, "Oh great! Thank you so much." And there was a certain vagueness about the way she was looking at me and I waited for her to head off into the stacks and go looking for it, but she was not doing that so I sort of said, "Just over there." And she did not seem to understand what I was getting at. She figured she should make sure so she asked, "Ok, so I just take this number and put it into Google and it will come up?" And I said, "Oh, no, no, no, that is the call number for the book and it is just over there." And I pointed over to where it would be in the stacks just a few feet away, and her response was, "It's a book!?" And I said, "Yes, it is a book." And she said, "Oh God, I do not need it *that* badly!" And she walked out. The hostility towards books, texts, materials, is actually a real thing and it was at that time that I realized, "Oh my God, if she is fairly typical, maybe we have crossed a divide here." It is as profound a transition as scribes writing out by hand to the printing press as the printed word on paper to the digital world.

**BPS:** My sense is history and changes do not occur in one smooth, straight line curve. The printing press was a revolution that changed the whole world.

**JE:** Yes, I am sure there were still people writing out by hand for decades and decades after the invention of the printing press.

**BPS:** Right, but the world was never the same. You could point to particularly direct access to the Bible, a key factor in the Protestant Reformation, which changed the whole world. It is hard to imagine; although you never know what will eventually happen. The change from the library world to the technological world, from the physical object to the computer screen: it is difficult to imagine that there is going to be a comparable revolution in the next 200 years.

**JE:** I am too limited of intellect to imagine what the change might be. Unless there is some sort of sci-fi movie-type thing of the direct implantation of

knowledge into people's brains by way of circuitry or something, I cannot imagine what it might be. Perhaps artificial intelligence is the next revolutionary step.

**BPS:** I cannot remember who said it but someone said, "Predictions are difficult, especially about the future." Who knew?

**JE:** Well I steadfastly agree with that.

## **VII. THE DECLINE OF PREPARATORY EDUCATION**

**BPS:** You teach Advanced Legal Research, and you get a lot of experience with students researching and writing. An oft heard complaint from practicing lawyers (which does not make it true, it is just oft heard; maybe it is just every generation blaming the next one), that these young folks do not know how to write properly.

**JE:** Unfortunately, I would have to say I agree. The quality of writing that I see is really low and I do not just mean quality in terms of how well they tell the story and how they develop, I mean spelling and grammar mistakes, even though computers ostensibly correct those for you. Everything I get from students is replete with lots and lots of grammatical mistakes. The impression I get is that they do not really think that it matters all that much. Perhaps for a half generation it will matter because they will be going up against judges and senior lawyers for whom it still matters, but one day they themselves will be the judges and senior lawyers and if they do not care, it is probably not going to matter in the long run.

**BPS:** I have a few guesses about that; I will just put them out there and you can tell me if you think there is any merit to any of them. I think part of it has to do with intake. To get into law school is still incredibly competitive. GPAs are actually higher than ever; if you look at LSATs, which can double as some sort of IQ test, people seem to be as smart as ever, but a lot of people complain that the writing skills are not there. A minor part of that is what has happened to undergraduate education. We have lived through an era of very big classes. Nobody is going to give you a 30-page essay to write if you have 200 and plus students. Students will tend not to choose courses with big essays. They're more likely to choose courses in subject matters, or

delivered in a manner that you are going to get good marks. It is easier to get an A on a multiple choice course than one that requires you to write a long essay. Maybe people are not coming here with the sort of preparation that they used to in terms of research and writing. Any thoughts on that?

**JE:** I tend to suspect that that is largely true. I also suspect that unfortunately the LSAT becomes increasingly more important because I think there has been increasingly significant grade inflation. So the fact that GPAs have remained constant or have gone up may not necessarily mean we are getting better students. Grade inflation may mean we are getting largely the same calibre or maybe marginally worse students. I think the inability to write predates undergraduate education, too. I am not so sure that high schools are trying particularly hard. I did ask my kids—my daughter is in high school, my son is a recent graduate—and they could not recall ever being taught any grammar at any point in their English studies.

**BPS:** Another way to learn good writing is to read good writing but I do not know to what extent students are still exposed to good writing. I have had a couple of experiences very recently in which I have used allusions to things like Shakespeare and been told, “Well, we do not read Shakespeare.” Then I had a class a number of months ago where I made a reference to A.E. Housman, and I was basically asked, “Who?”

**JE:** That does not surprise me at all.

**BPS:** I have been told I have to stop making these biblical allusions because no one has read the Bible. I am not saying it is a good thing to read the Bible because of a particular value system—there is religious freedom—I am just saying there is a lot of good writing in the English translations of the Bible.

**JE:** There was a time when the non-religious—and even the irreligious—at least knew a few quotes from the Bible. They could identify items and recognize things from the Bible, for sure. I am rather surprised that you would have had that response.

**BPS:** Maybe another thing is habituation through a particular form of communications that is instantaneous; effective, but not elegant. Emailing



back and forth; it is about fast responses, getting the message out. There is a premium on swiftness and not style. It's the same thing with Twitter. Who would have thought that a major form of communication would be...what is the character limit?

**JE:** 140.

**BPS:** 140 characters. Maybe this generation actually communicates effectively from their point of view. It does not have to be spelled right.

**JE:** In fact, 140 maximum characters incentivizes spelling incorrectly; truncating things and using acronyms and code words and buzzwords and stuff.

## **VIII. CONCLUSION**

**BPS:** Last question before we wrap it up. John Eaton III, your counterpart in this generation is 25 years old, has tried a couple things, has worked in a rap band or extreme sports, goes to law school, does not want to do the grind of actual practice is thinking that his career is going to be an information technologist to the profession or law school. Is this person wasting his time? Is there still a place for that person?

**JE:** Let's say one of my kids said, "I want to follow in your footsteps." I would do everything in my power to dissuade them from doing so. Maybe I am overly pessimistic. My view of what a law librarian is, or a legal information person is, maybe very much rooted in my particular time. While there may be a need for these people, I do not know that there is a market for them. The economics and the belief that everything can be delivered online and Google can find anything for you is so pervasive that I do not think that many people are looking for experts in legal information. I wholeheartedly believe that law librarians are necessary, but I do not think that many others recognize it. I do not think there is a market for them. I certainly would not encourage anyone to go into this discipline. It is rather depressing. I am about to retire. I am about to leave the profession and it makes me sad. I feel that I have ridden this profession pretty much to its end and it does not have much of a future, which is I guess is good timing for me but nonetheless is still quite sad and dispiriting.

**BPS:** Ok, that is a depressingly truthful way to end this conversation so that is a take.

**JE:** Alright, well, thank you; it was very enjoyable.