Some Thoughts on Law Libraries

By WARREN LEHMAN*

I suppose that there are two views of a library's functions, views that express an inevitable conflict in dealing with the material of civilization. Do we preserve it or use it? It was, I believe, Eric Hoffer who said that the mark of civilization is the will and ability to repair and maintain its possessions. And I think it doubtless true that a loving respect for the works of hands is one of the highest marks of a gentleman. Yet respect for the material of civilization can become a self-defeating obsession. If the run of museum directors had their way, every worthy object of edification, amusement, or education would be locked in public treasure houses, to be on view only at the convenience of the directors.

No one would dispute that a law library cannot be run that way. Yet a push in that direction is inevitable. Librarians are destined to maintain and protect. They are because they have valuable, even irreplaceable, treasures in their charge; they are, more commonly, simply because they have in their charge objects that are expensive to replace from budgets strained by spiralling demands for new acquisitions. Perhaps the greatest push comes because the librarian who must feel especially strongly the preservative instinct is outraged at barbarians who steal books or worse yet mutilate them. (At least to the thief we can attribute a feeling comprehensible to the conservative spirit. No such feeling can be attributed to the one who mutilates. He is beyond the pale, uncivilized.)

One would not want a librarian to approach his trust any differently. Yet a library, and of all libraries a law library, is not a museum. It has been described as a lawyer's "laboratory." More accurately, I suppose, it could be called his "tool room." And, whether as student, teacher, or practitioner, the lawyer must have access to his tools, feel comfortable around them, hone his own ability by using them. That is the law teacher's view, and it runs inevitably into the librarian's.

Difficult as it may be for the librarian, it must be the law teacher's view that prevails. Of relatively few books in a law library's collection can it be said that the value of a specific copy is so significant as to justify limiting access to it. The most used portions of a law library collection are perpetually in print, hence replaceable at new book prices. But, more important, law libraries are organized, all of them, solely for the purpose of serving research needs, not to preserve—except as is necessary to the fulfilling of its primary purpose—and certainly not to edify or over-awe.

One non-architectural means of resolving this conflict is to make law school librarians full faculty members, so that they see themselves clearly as participants in the process of legal education. And when I say full members, I mean more than holders of academic titles. Ideally a librarian should teach. Certainly he should attend faculty meetings and serve on committees, even non-library committees. The rest of us should avoid treating him as a second class citizen in the academic body politic. That is, we should if we don't want him to retreat into his domain from whence to harass and frustrate us by giving full play to his preservative instincts.

The architect will have a hard time designing a good law library unless an appropriate accommodation has been made to this inevitable contest. However the contest goes, its result is likely to be expressed in steel and concrete, where for generations the students will be able to assess just how well the librarians got along with the faculty at the time the building was built.

All this doesn't mean that the librarian's concerns are not to be respected. The question is, rather, how they can best be, without interfering with the purpose in having a library in the first place. It may well be appropriate to have a special room for rare books, access to which is under the librarian's specific control. With respect to some limited portion of a law library's collection, the interest in preservation may be sufficient to justify having someone stand as mediator between the user and the books. But recognition of this preservative activity must not provide excuse for hiding books. The rare books a library is fortunate enough to have should be advertised, and advertised in the architecture of the building. The room for their storage and use should be attractive, provided with comfortable reading

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and writing facilities, and so located that even the casual library visitor is aware of its existence.

There are other than rare books that need some special treatment: those with respect to which there is high but brief demand. There are many books that teachers don't want to insist their students buy and that librarians would be foolish to provide in sufficient numbers that any and all students could be allowed to take them from the library. To resolve that problem we typically provide an area where those books are kept on reserve, apart from the general collection and under the direct control of library staff. The problem with the reserve area, besides the obvious one of locating it conveniently, is to make sure that it is neither too big nor too small. The latter is obvious enough. The problem with making a reserve room too big is that books that should be returned to the general collection are likely to be left there beyond the occasion for putting them there. The same kind of conflict arises with the rare book room. It, too, should not be so large as to encourage arbitrary decisions on rarity. Neither the rare book room nor the reserve area should become traps in which books fall into oblivion. While the architect can encourage his law library client to consider these problems, their most effective solution will be found in honest review of the books assigned to those two facilities; in the case of the reserve room, the review should not only be honest but frequent.

Stealing can be discouraged by a structure that subtly but inevitably drives every user past the check-out desk on exit and entry. To impose control by gates and grillwork after the building is up—because the architect failed to provide in the structure for such control—is an unfortunate makeshift, and a makeshift that is as likely as not to encourage attempts at evasion. The structure of a building is much less likely to be read as stating an intent to restrict than are the bars that are added to it; but passing the check point must provide access to the whole library.

The librarian's legitimate concern with protecting his books should also be recognized in both the building and the library budget. I don't know how many sets of reporters are needed for every hundred students. I do know that shortages encourage stealing and mutilation, and that stealing and mutilation evoke demands for interposing the librarian between the user and the books. It is better to buy another set of reporters than to spend money on iron cages to protect those one has. But sets of reporters take space. In planning a law library, someone—the school or its architects—ought to look into the space provided for books, not just in terms of new acquisitions but also in terms of the need for additional sets of present holdings to catch up with or match future growth in student enrollment. Of course, additional space will not solve the problem of theft unless the books to fill that space are bought when needed.

As participant in the design of a law library, the architect can aid in the reasonable settlement of the library-faculty conflict by providing appropriate space for those holdings that need special protection, by imaginative design for control, and by determining whether room adequate for expected growth is provided. But the school as client must participate willingly and intelligently in making these decisions. The architect can do no better than his clients permit him to; and once the architect is done and the building up, the spirit that dictated the design must continue to dictate the living within it. The architect in his design can help the librarian and the faculty get together; he cannot force them to.

A great deal can be learned about the design of law libraries by considering what they are intended to do and how people use them. Such information will not solve design problems; because, as David Pye has pointed out, form does not follow function.[1] But such information does set some limits on acceptable design, within which the architect can design both imaginatively and, for the occupant, successfully.

When Washington University Law School submitted to its architects a comment upon their preliminary design, George Anselevicius asked why we hadn't told him in the first place that what we wanted was not a school with a library inside, but a library with a school inside. It is a mistake to give an architect simply a statement of square footage requirements. Such numbers tell nothing of the relation of the parts. For an architect to be really effective, he must know how a building

[1] Pye, D., The Nature of Design (1964).

is to be used, what people are going to do in it.[2]

The key to the design of the library of a law school is that it is the heart of the school. It should be where both students and faculty live and work while not in class. The professor will be frustrated if it is not easily accessible. The student may not be frustrated. We may have to push him there. But there is where he should be, learning to know and use the tools of his craft.

For the convenience of the faculty and the education of the students, it would be possible to spend great amounts of time in the library. That means that, as George Anselevicius put it, the school should be inside the library. The faculty offices should be there; the law review office should be there; student study carrels should be there; student typing facilities should be there; it should be possible to smoke within its confines; it should be possible at the very least to get coffee and eat a bag lunch within a few feet of the library.

Especially from the point of view of wooing the student (the faculty is likely to be able to look out for itself in this regard), the library should not only provide facilities but do so with a good spirit. A library should be a pleasant place to be, which means not only comfortable chairs but pleasant prospects—views on which one can rest the eye weary from reading. That means not only windows to the outside but texture and variety within.

I might add here, a point that is likely obvious, that I do not favor the separate faculty or law review library. These facilities each require at a minimum a separate set of West's *Federal Reporters* and often one or more regional ones as well. With the problems a library typically has in maintaining sufficient sets for general use, it seems to be unreasonable to isolate one or two more sets that could be receiving wider use. The need for separate libraries is occasioned by the failure to put the faculty and the law review inside the main library. Doing so should obviate this waste.

The student should be gotten not only into the reading room but out into the stack areas as well. This raises the question of the relation between the reading room and the stacks, and whether they should be separated at all. While there should be no barrier between the two, I doubt that it is realistic at least in a law school library to eliminate the distinction completely. A relatively large amount of the reading students do is in a relatively limited number of the books a good-sized law library will have. That means that wherever certain sets of books are placed there will inevitably be a need for a great amount of seating. A separate room is a reasonable way of expressing this situation; of aiding the casual visitor in finding the basic collection; of separating those engaged in research (which is a distracting activity often involving moving around and conversation) from those who are trying to read closely in preparation for class; and of separating smokers from non-smokers.

Since I think it probably fair to say that all law professors could wish their students engaged in more research, it is highly desirable that movement from the reading room to the stacks and back should be made as easy as is architecturally possible. While the ratio of book shelves to seats in the stacks will be different than in the reading room, that does not mean that the provision of study space in the stacks deserves less attention. On the contrary, it deserves more. Seating must not only be comfortable and usable, but must be placed where it will be used. That requires the architect to look at the library collection not simply as a total number of books, but as a series of groupings of books. In relation to each of those groups there ought to be study space adequate in view of the ways in which they are used.

For lack of a better way, an even distribution of seats throughout the collection may be the only practical solution. Ideally however, it should be possible to study, or at least make reasonable guesses about, the need for seating in different parts of the library. This would require the librarian to participate with the architect in the assignment of collections to different parts of the library prior to the location of study facilities. The resulting arrangement might well have a limited useful life; but if expansion space were provided within each group, a well thought-out arrangement could probably last long enough, before requiring some re-arrangement of stack and seating locations to justify the initial effort.

[2] For a more detailed discussion of patterns of library use, see Lehman, W., "Talking to Architects," 19 *J.L. Ed.* 469 (1967).

The main justification for trying to write down some ideas about law library design is not to sell particular solutions, but to say something about the relation of the architect and the collectivity—the law school—that is his client. The architect, like the lawyer, is both the servant and the master of his client. Insofar as the question at issue between the two is the description of the problem to be solved, the client's every whim deserves attending to. But where the issue is how that problem should be solved, the architect is the specialist and deserves to have his opinions given the greatest respect.

To present to an architect a program of square footage requirements for various purposes is, in a way, to dictate the architect's solution. A statement that 1,000 square feet is needed for the law review, for instance, is a statement that the functions to be performed in the law review office demand 1,000 square feet. If the architect understands the functions to be performed in the law review, he may discover that with imaginative design they can be provided in 750—or in 500 should it be possible to put the law review into the library and eliminate the need for separate stack space. On the other hand, he may find more space is needed and some place he can borrow it from. It is easy to get tied to square-footage allotment. A university administration or the Federal Government is going to demand they be made before approving the hiring of an architect. While commitments to the Federal Government or a university administration must be respected in regard to total square footage, they ought not be considered sacrosanct in regard to allotments within the total. By not tying the architect to the solutions developed by the client, the client will get the best use of the architect.

Reaching agreement among the faculty and between teachers and the librarian on how the problems to be solved are defined is another matter. The architect cannot be blamed if the client misdefines his problem. The conscientious architect will attempt to help his client define it accurately, but he cannot be counted on to know more about law schools than do law teachers or librarians.

Hear Ye, Hear Ye!

The Association of Law Libraries will gather in the port city of Philadelphia, Pennsylvania, on June 30, 1968, at the Ben Franklin hostelry. Scholars will address the members while the ladies may stroll in the parks or visit the shoppes. The little ones may have an outing on the river. Be frugal with your schillings and pounds so that you may make the journey.

Mrs. Elizabeth H. Poe. Member
Local Arrangements Committee