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Jenni Parrish

UC Hastings College of the Law, parrishj@uchastings.edu

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A Tribute to Professor Dan Henke

by
JENNI PARRISH*

My first encounter with Dan Henke occurred when I was a first year law student at the University of Texas in 1975. He was passing through Austin on his way to visit San Antonio, his hometown. I was the research assistant to Professor Roy Mersky, the Director of the Tarlton Law Library at Texas. While my time with Professor Henke was relatively brief, I was advised that he was one of the "leading lights" in American law librarianship and that his library at Hastings was "cutting edge" in terms of technology. If anyone with psychic powers had told me then that eighteen years later I would succeed him as Library Director at Hastings, I could not have given such a prediction any credence. The world is an interesting place.

I have now worked at Hastings nearly five years, long enough to get the lay of the land. During my tenure here I have come to feel greater and greater respect for my predecessor. I greatly appreciate the willingness of the *Hastings Law Journal* and its Volume 48 Editor-in-Chief, John Kelley, to allow those of us who have known Dan Henke so long to give him this tribute and to enlighten those who might not be aware of his contributions to the institutional greatness of Hastings.

Professor Henke earned his Bachelor of Science degree in Foreign Service (1943) at age 19 and his J.D. degree at Georgetown University (1951) following service with the Tenth Mountain Division in Italy. While in law school he worked as a Business Economist in the Office of Business Economics of the Department of Commerce. He was admitted to practice law in the District of Columbia and Texas in 1951 and practiced law in San Antonio while an adjunct instructor at St. Mary's University Law School until he attended the University of Washington receiving his Master's degree in Law Librarianship in 1956. After serving as an assistant to Professor Marian Gallagher, the Director of UW's Law Library and a true pioneer in the profession, he held the position of Head of the New Jersey Bureau of Law and Legislative Reference. There, he performed legal research for the Arthur Vanderbilt and Joseph Weintraub Supreme Courts. Following the sudden death of Vernon Smith he was

* Professor of Law, Hastings College of the Law. B.A., Rice University (1974), MLS., University of Texas at Austin (1975), J.D., University of Texas at Austin (1978).

appointed Law Librarian and Lecturer in Law at Boalt Hall in 1959 and Professor of Law in 1964. Vernon Smith left two important tasks incomplete upon his death that Dan was obliged to undertake. One was the management of the 1962 American Association of Law Libraries national convention and the other was the promotion of the Robbins fund for Civil and Canon Law which ultimately yielded assets to the University presently valued in excess of fifteen million dollars.

In 1970, Professor Henke was enticed by Deans Arthur Sammis and Marvin J. Anderson and Professors Richard R.B. Powell and William L. Prosser to come to Hastings as Director of the Law Library and Professor of Law. Although he was offered additional salary at Boalt he elected to come to Hastings because of the opportunity it afforded him to select an outstanding staff and serve as project planner for a great new law library in the Civic Center of San Francisco.

By coincidence, Chief Justice Roger Traynor also came to Hastings in 1970 and it was Professor Henke's pleasure to assist him in legal research pursuits as he did with Arthur Vanderbilt.¹ When Roger and Madeleine Traynor proposed the Roger Traynor Center for the study of law at Hastings, Professor Henke welcomed their interest and intent to improve the administration of justice through this center.

Law Libraries in 1970

To know what Dan Henke did for Hastings, one must understand what the practice of law librarianship was like in the United States in the early 1970s. First, he had a genuine desire to provide superlative service to the Library's clientele and he instilled this philosophy in individual staff members. To carry out this service credo he utilized an imaginative appreciation of the wonders of technology that was not characteristic of his time in law librarianship. Many law librarians saw it out there looming on the horizon but not many were rushing to embrace it. In the early 1970s there was no LEXIS or WESTLAW, at least not in the ubiquitous incarnations we have today. The closest thing to a personal computer was the IBM typewriter with memory. If a library director wanted to send a letter to someone, he (and in the 1970s the director was more likely than not to be "he"²) first dictated the letter into a dictaphone, it was then typed by a secretary using a foot pedal to start and stop the dictation tape. The director then read the letter, corrected or changed any-

1. See Bernard Schwartz, *The Judicial Ten: America's Greatest Judges*, 1979 S. ILL. U. L.J. 405. It was Dan Henke's experience that both men truly valued law libraries and used them to their advantage.

2. LAW LIBRARIANSHIP: HISTORICAL PERSPECTIVES 501 (Laura N. Gasaway & Michael G. Chiorazzi eds., 1996) (stating that in 1970, 35.6% of the law library directors at the 146 ABA accredited law schools were women; by 1975, only 29.9% were women).

thing he thought appropriate, she (and in the 1970s the secretary was most likely to be a "she") then re-typed it, he signed it, and it was mailed. This cumbersome process was necessary for any official correspondence, and of course, it assumes that the director had a secretary. Dan Henke, among others, lacked secretarial help in the early days and developed a lifelong habit of typing his own letters on an old manual typewriter.³

In 1970, there was no electronic mail, fax machines, personal computers, LEXIS or WESTLAW at Hastings as there would be in the future. By 1991, there would be a Learning Resource Center at Hastings housing an elaborate computer lab and staffed to train students in automated legal research techniques. With Dean Bert Prunty's support, Hastings was one of the first law libraries to adopt the Innovative Interfaces library automation system (1984) which truly revolutionized how daily business was conducted in the Law Library. From the initial installation of an automated public catalog, to the automated circulation system to the automated acquisition system, the jobs of everyone on the library staff, as well as the level of service provided to the law school community would never be the same after the advent of this sophisticated technology.

In the 1970s, Professor Henke had to engage in aggressive and persuasive advocacy to successfully bring WESTLAW and LEXIS to Hastings. This is not surprising to anyone who was in law librarianship in that era. My first full-time professional job was at the University of Oklahoma starting in 1978 and the vast majority of my hours on the job were spent teaching law students and law faculty to use LEXIS. I also did demonstrations for interested alumni and local attorneys. Although everyone was fascinated by this new toy, most people experienced some fear of "breaking" it and very few expressed unbridled enthusiasm about using this as a legal research tool instead of the hardcopy books in the law library. We had not been raised on computers as is true today, and certainly no one had any thought of having one in their home! Law, as we know, is a very conservative profession and it was many years before computer-assisted legal research was viewed as absolutely necessary and not just a frill.

Law librarianship in the '70s was no less conservative than its parent, the law. Looking through copies of the *Law Library Journal* from the era, one finds the occasional article about the new-at-the-time format, microform (i.e., microfiche and microfilm), but most of the articles are centered around collecting books. There were occasional acknowledgements that law was coming to be viewed as interdisciplinary in na-

3. "Mr. Henke could type like the devil." This seems to be the universal assessment among the "old-timer" law librarians at Hastings.

ture (e.g., the “law and” era, i.e., law and medicine, law and economics, etc.) and there were rudimentary discussions of the future impact of technology on the legal profession.

Lawyers have been slow to place network planning on their listings of necessary or fruitful endeavors, just as they have been slow to demand computer-assisted access to their literature. Only now are they beginning to approach that stage of discontent which is essential to the coordinated search for improved methods and an efficient pooling of resources.⁴

Even with these first tentative steps toward the automated world we work in today, there were other concerns that are now amazing to contemplate. Until at least World War II, librarianship of all types had been more of a custodial responsibility than a service-oriented profession. Apparently some librarians and their supervisors still needed convincing even in the 1970s:

In a law library without impressive size, it is up to the librarian to help the governing board visualize the difference between the custodial holding of a book collection and a reader-serving law library. Unless the board fully realizes the advantages that accrue to the primary users of the law library—that is, to the members of the bench and bar—they are unlikely to be impressed by requests for employment of more people.⁵

Librarians of the 1970s met these challenges of educating the law profession as to the valuable role that law libraries could play. In the '80s, the twin challenges of increasingly sophisticated automation and spiralling inflation in the cost of legal information materials regardless of format, made one long for the simplicity of the '70s and before. And then there is the decade of the '90s which will probably be summed up at the appropriate time by three words: mergers and acquisitions. It is becoming impossible to keep a scorecard on which publisher still exists and which has been bought out by a competitor and which company, new or old, is publishing which treatise or looseleaf service. One trembles to think what the “oughts” will bring (i.e., the years 2000 - 2009). Just as Dan Henke had a vision of the future and pursued it, so may we all navigate as well into our library future.

Hastings Law Library—A Brief History

The history of the Hastings Law Library is every bit as colorful as that of the College itself. Hastings was founded in 1878 by Serranus

4. Peter Freeman, *Network Aspects for the Legal Profession*, 65 L. LIBR. J. 4, 5 (1972).

5. EvaLyn M. Casey, *The All-Purpose Law Librarian: Endeavor v. Resignation*, 65 L. LIBR. J. 134 (1972).

Clinton Hastings.⁶ “The Founder’s parsimoniousness had initially dictated that there be no separate library facilities for the College, though even he, by the end of the first decade, had begun to see the necessity for a College library and for at least a small collection of necessary works.”⁷ There were at least two other reasons for the lack of a law library. First, in the late nineteenth and early twentieth centuries law students were commonly taught from case-books produced by disciples of Langdell. If one had access to these collections of “perfect” cases, what was the need for the real thing? Second, the College moved around a lot in its early decades and housing and hauling a law library from location to location would have been problematical indeed.

Part of the statute creating Hastings provided that the College’s students would have access to the San Francisco Law Library.⁸ While it was considered an excellent law library in the late nineteenth century, the San Francisco Law Library was more of a bar library, and “Hastings students were never much welcome in a library where the facilities were already overtaxed.”⁹ By the 1890s, the College had begun a small book collection.

In 1897, when Charles Slack resigned the deanship at Hastings, he urged the Board of Directors to create a special library fund but the request was ignored. Collecting of reporters and journals began in 1910, but acquisitions were often sacrificed to more pressing budgetary concerns. In 1925, the widow of a former Director, Robert Y. Hayne, donated 1000 volumes. During this period there were also generous donations of books by two attorneys, Charles S. Wheeler, Jr., and Frank R. Sweasey, and by an alumnus, Lawrence W. Young, ‘25. “But it was Charles William Slack who gave Hastings the real nucleus of its present library; in his will he left a magnificent library of 12,000 volumes, including a complete set of the National Reporter System.”¹⁰

Inadequacy was still the watchword to describe the Hastings Law Library and this was particularly driven home when the College was dropped from membership in the Association of American Law Schools in 1916 because its library resources were not up to AALS standards. In 1920 Hastings was readmitted on the strength of its statutory right to use the San Francisco Law Library.

6. See THOMAS GARDEN BARNES, *HASTINGS COLLEGE OF THE LAW: THE FIRST CENTURY* (1978).

7. *Id.* at 149.

8. 1878 Cal. Stat. 533, 534, § 12 reads as follows:

The Law Library Association, of the city of San Francisco, shall grant to the students the use of their library upon such terms and conditions as they may agree with the Directors of the College.

9. BARNES, *supra* note 6, at 149.

10. *Id.* at 150.

The Great Depression began with the crash of the stock market in 1929. As tough a time as it was for many,

[f]inancially, the Great Depression brought no real hardship to Hastings. The increased fees coupled with the increased number of students in the early 1930s gave the College a taste of prosperity such as it had not enjoyed before. The College's library was a major beneficiary; Slack, who as vice-president headed the Board and as chairman of the finance committee had the major say in College economics, saw to that. The library's growth was modest, but it was significant, especially in building up the reports.¹¹

When the 198 McAllister building was completed under Dean David Snodgrass' intense supervision in 1953, it included a library on the third floor designed to house 100,000 volumes. "There was finally room for Charles William Slack's library, and the reading room was named in his honor. Open stacks for the first time seemed to invite Hastings students into the world of books All in all a splendid achievement."¹² What a change indeed for the Hastings library resources.

But, unfortunately, what was adequate in 1953 proved inadequate by the early 1960s with greatly increased law student enrollments. In 1969 an addition was made to the 198 McAllister building and the Library was allowed to expand to take up most of the third floor.

In addition to the original Main (Slack) Reading Room, the Library maintained a smaller reading room devoted to California materials, a Loan Desk, a closed stacks area, an open stacks area, and offices for Reference, Serials, Documents, Acquisitions, Cataloging and the Director and Associate Director. Microforms were stored in a small closet and could be used behind the Loan Desk where the Library had several microform readers. The Sutro Room, a student lounge located on the third floor, housed the Sutro Collection ("lighter" law-related reading materials). A Faculty Library containing additional copies of research materials was located on the fourth floor.¹³

Nonetheless by 1970, when the American Bar Association did a routine law school inspection at Hastings, the space in the library was found to be inadequate. The College administration had begun to plan for the expansion of the campus across the street at what would become the 200 McAllister building. It is one of the hallmarks of Dean Marvin J. Anderson's tenure in office that he was able to secure authorization for the building in the political arena. Eventually it was decided that fully half the new building should house the Library. The brand new library director in 1970, Professor Dan Henke, expended great effort in designing the current law library facility. It opened its doors in January 1981.

11. *Id.* at 234-35.

12. *Id.* at 288-89.

13. Linda Whitehurst, *Hastings Law Library—A Brief History and Statistics* (Aug. 10, 1995) (unpublished manuscript, on file with the Hastings Law Library).

The Library, housed on the top three floors, was planned in such a thoughtful and expert way that sixteen years later it is still a very functional library facility and will unquestionably carry us well into the 21st century.

The Henke Legacy

While the library at 200 McAllister is undoubtedly the most visible part of Professor Henke's legacy to Hastings, there are other noteworthy contributions as well. Professor Henke has always been a teaching librarian in the finest sense of that term, i.e., one who believes in teaching by example, sharing information and skills training, particularly for fellow and sister law librarians. His colleague, Professor Emeritus Mortimer Schwartz, former Director of the Law Library at the University of California at Davis, was an instructor at a number of summer workshops and institutes created by Professor Henke for law librarians to enhance their skills. Professor Schwartz has stated that he observed in Professor Henke "a deep intellectual curiosity about new developments and an unselfish interest in sharing and bringing professional development to others."¹⁴ A similar motivation must have spurred Professor Henke's creation of the Western-Pacific Chapter of the American Association of Law Libraries. Again Professor Schwartz credits this as Henke's "brain-child" which would "serve the mutual interests and concerns of law librarians in the western states and Alaska and Hawaii."¹⁵ Professor Henke "persevered in shepherding its formation through several informal convocations of such law librarians."¹⁶

Sometimes the generosity a library director feels toward outsiders is not displayed toward his own staff. Such was not the case with Dan Henke. Several of the "old-timers" among the librarians on the Hastings Law Library staff pursued the Masters in Library Science degree and others the J.D. degrees, while working here, all with Dan Henke's blessing and encouragement. He also worked out part-time schedules to accommodate new mothers among the library staff before it was fashionable (or required by law) to do so.

Dan Henke was the Hastings Law Library and his nationally recognized professional achievements reflected glory on Hastings. He served on both WESTLAW and LEXIS advisory bodies at different times in the

14. Letter from Professor Emeritus Mortimer Schwartz, University of California at Davis School of Law, to Bettie Scott, Chair AALL Awards Committee (Apr. 17, 1995) (on file with author) (letter quoted with the permission of Professor Schwartz). In this letter, Professor Schwartz recommends Professor Henke for receipt of the Marian Gould Gallagher Distinguished Service Award, which he did receive in the summer of 1995. *See id.*

15. *Id.*

16. *Id.*

'80s. He did numerous ABA accreditation visits at other law schools throughout his career. He served as a building advisor and consultant for a number of law schools where those in charge had obviously been impressed by the new facilities at Hastings. He served on numerous committees for the American Association of Law Libraries and continues to be active in that association.

Another major contribution was Professor Henke's *California Law Guide*.¹⁷ While it was only one of his many publications, it is probably the most widely recognized. It was one of the first state legal research guides to be published and started a trend that is now followed in most of the 50 states.¹⁸ It particularly focused on the new automated legal research, and was described as "a very wonderful roadmap that will help the practicing lawyer become a better one and live with the accelerating pace of developing technology in law."¹⁹ This was a new idea. "The visual image of a lawyer or law student sitting at a computer terminal to do legal research might have been found in a science fiction novel, but not in a real life law office or law school."²⁰ But what was science fiction in the 1970s was a well-established reality by the 1990s. Professor Henke was a visionary.

His most recent publication, *Law in the Digital Age: the Challenge of Research in Legal Information Centers: An Analytical Justification for Law Libraries*,²¹ in presenting an account of the development of the Hastings Law Library, provides comprehensive information valuable as an operating manual for all types of law libraries now, and a projection of what law libraries will likely undertake in dealing with the technological revolution in the future.

A more subtle but no less stellar accomplishment is told most easily in statistics, the kinds of numbers dear to every librarian's heart. The chart below shows relevant numbers for 1970/71, Professor Henke's first year at Hastings, and 1990/91, Professor Henke's last year before his retirement from Hastings.²²

17. See DAN F. HENKE, CALIFORNIA LEGAL RESEARCH HANDBOOK (1971); DAN F. HENKE, CALIFORNIA LAW GUIDE (2d ed. 1976). A third edition has been published by Daniel Martin. See DANIEL MARTIN, HENKE'S CALIFORNIA LAW GUIDE (3d ed. 1995).

18. See ROBERT C. BERRING, FINDING THE LAW 308 app. A. (10th ed. 1995) (listing most recent state legal research guides).

19. LUTHER J. AVERY, *Foreword* to DAN F. HENKE, CALIFORNIA LEGAL RESEARCH HANDBOOK at xi (1971), *reprinted in* DAN F. HENKE, CALIFORNIA LAW GUIDE at vi (2d ed. 1976).

20. JENNI PARRISH, *Foreword* to DANIEL W. MARTIN, HENKE'S CALIFORNIA LAW GUIDE at xv (3d ed. 1995).

21. DAN F. HENKE, LAW IN THE DIGITAL AGE: THE CHALLENGE OF RESEARCH IN LEGAL INFORMATION CENTERS: AN ANALYTICAL JUSTIFICATION FOR LAW LIBRARIES (1996).

22. See Whitehurst, *supra* note 13; ABA Site Visit Report, at 15 (1970); 1990-91 *Statistical Survey of ABA Law School Librarians and Librarians*, 84 L. LIBR. J. 602 (1992). The collection and facilities figures were provided by Professor Dan Henke.

	<u>1970/71</u>	<u>1990/91</u>
# Bound Vols. and Microform Vol. Equivalents	72,321	493,648
\$ Spent on New Books, Continuations, Binding	\$150,390	\$651,580
# FTE Librarians	5	9.5
# FTE Paraprofessional Staff	3	9.5
Net Assignable Area of Library (square feet)	24,406	84,338
Seating	644	1,223

Dan Henke worked tirelessly to develop the Hastings Law Library, a historically neglected resource. Those book dollars bought not only law materials but many books in other disciplines related to law. This was particularly important at a law school campus where there is no university library across the quad to supply those social science and medical texts. That greatly increased staff was imbued with a service ethic that has certainly lived on after Professor Henke's retirement; it is now part of the institutional culture here. His building, the collection in it, and the people who staff it are all a testimonial to his hard work and vision of what a great law library could be.

We have become a very mobile society. It is rare for anyone to remain in one job for over twenty years. Dan Henke's long tenure at Hastings suggests what depths and richness can come out of a career spent so long in one location and the stamp that one can leave on an institution.

Dan, Dean Slack would be proud of you, as are we all.

