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WHAT A LONG, STRANGE TRIP IT'S BEEN

Robert C. Berring*

My career began in 1975, so the changes that I have seen in legal research are profound. In 1975, law students lived in a world that consisted almost entirely of casebooks and case reporters. The National Reporter System and the universe of *Shepard's Citators* represented authority. Not that most students really understood how to use the Key Number System or how *Shepard's Citators* were compiled. Few students knew or cared about from where the information that they used was gathered, or even considered thinking about its authenticity. There were trusted sources and bases to be touched. After that had been done, research was complete. It was a simpler time.

In those days, a researcher often had to perform double and triple look-ups to complete a task. Once she found a guide that pointed her to a source, she then had to proceed to the index of that source and, following the creative use of the index, she might find the citation to what she sought. Even with the citation for the correct source in hand, she might have to walk to a shelf to get the appropriate tool. Worse, the books, being three dimensional objects, existed in one place. She physically had to go to the library to do her research. One could not work at home. Pajama research in one's room was impossible. Once at the library, she might have to wait to use the resource that she needed as someone else might have it. Possession was the key. Perversely, the materials that were most useful were the ones that were most popular, so they often WERE in use. For publishers, the name of the game was developing better indexes and quicker means of distribution. Getting information fast, via loose-leaf services, pocket parts, supplementary pamphlets, and advance sheets, was always a challenge. In 1975, it was miraculous that BNA's *U.S. Law Week* could deliver the full text of the opinions of the Supreme Court of the United States to the west coast within 48

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hours. Not only was there no Internet, there was no fax, no email and no FedEx. The United States Postal Service was the only game in town. Think about that and realize one should have bought UPS stock at the IPO.

Forty years later, the casebook is a wounded dinosaur. It makes no sense and everyone knows it. Shepards is just one system that lives within another system, and it no longer carries the cachet of unchallenged authority. The bound volumes of the National Reporter System are doing better as decorations in wine bars than as useful volumes on the shelves in law libraries. No one willingly embarks on a double look-up. Information that is delayed by 10 seconds seems cruel and unusual. A few years back, I discovered that one could frighten a first-year law student by showing him a large index and asking him to use it. (Should I even mention card catalogs? No, no point in it). The thought of being compelled to travel to the library to carry out research is ludicrous. Pajama research is so much more convenient. Students live in a digital world where everyone is interconnected. Social media, not the library, sits astride most research streams. Nor is the universe of available information restricted. Via a standardized search box, the modern legal researcher, if well-funded, can reach information from all parts of the globe on all issues. No more waiting to find out what one wants, no more need to walk to it. The change is far from over, but the corner has long since been turned.

Has the change affected the way that legal researchers think? Has it changed the very nature of legal discourse? Many have opinions on this topic, but it is distressingly difficult to quantify. Studying this issue is akin to studying whether people who are in love tend to stare longer at one another. (This is one of my favorite government-sponsored studies.) The obvious answer is yes. Today's legal research is so different from its great grandparent in 1975 that it could not be otherwise. The heart of legal information has changed. No one reads judicial opinions from start to finish. Today, the researcher dives directly to a relevant piece of the opinion and works from that point. Some commentators contend that this makes judges write opinions differently. Statutory enactments have become so prolix that many members of Congress willingly stated that they had never read the Affordable Health Care Act (Obamacare). Perhaps some congressmen did not read complex legislation in 1975 either, but I doubt that they

would have so blithely copped to it. The nature of legal information has changed.

The final stage awaits. Will artificial intelligence (AI) write the concluding chapter on legal research? Will AI allow the researcher in 2025 simply to explain the problem to an AI system and then receive her answer in the form of a completed document? The great Professor Grant Gilmore once said that law schools should admit that they train a sort of glorified plumber. Will AI prove him right? At one point maybe there will be no need for a human researcher at all. The only thing that is sure is that time will tell.

