



"Never Ending, Still Beginning" : A Defense of Electronic Law Journals from the Perspective of the E Law Experience **by Archie Zariski**

This article considers the future of scholarly electronic journals (or ejournals) in the light of their short history with a particular focus on the discipline of law^{}. The author argues that self-publication by scholars on their own Web sites is not an adequate substitute for the peer reviewing and active dissemination*

*which can be provided by an ejournal^{**}. E Law - Murdoch University Electronic Journal of Law is used as an example of what such journals can contribute.*

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"It belongs to a class of publications which can hardly be called either useful or entertaining. It can rarely be used as a tool by the daily craftsman nor can it be often taken up to pass a vacant hour. Its subject matter should relate to the most momentous earthly concerns; but unless these can be connected with present interests, feelings, or passions, they are not usually found to move any large number of mankind to pay for instruction as to them. ... It was not easy therefore to provide for the continued publication of a work of this nature. ... All who have any experience of what this is, know that it is a labour 'never ending, still beginning,' constant and harrassing, requiring unwearied patience and a steady supply of funds."

"Law Periodical", *The Law Review* Volume 22 (1854-55), p. 39.

Introduction

So remarked an editor of *The Law Review and Quarterly Journal of British and Foreign Jurisprudence* which was founded in 1844 and included in its first issue a lead article on "Science and Study of Jurisprudence" as well as pieces concerning the judicial system of France, the consolidation of the criminal law, correspondence on the appointment of judges and the influence of political motives on judicial decisions, case notes and book reviews. He was commenting on the function later added to the Review's mandate of furthering law reform through acting as the publisher of the reports of the Law Amendment Society. I think these remarks from an early period of law journal publishing remain relevant today and I will argue that the case for scholarly law journals, now in electronic form, remains strong despite several current critical onslaughts.

Even in an era where we have come to expect rapid change I am amazed that in only a few years electronic journals have gone from defending their reason for existence¹ to being challenged by even more radical approaches: notably electronic preprint archives² and self-publishing on the Web³. Once a matter of "great debate"⁴ scholarly electronic journals have proliferated rapidly. After a meteoric rise⁵ will they disappear just as rapidly? There are now sufficient numbers of electronic journals to warrant a collection of collections of relevant links to them⁶ and an electronic journal devoted to electronic publishing.⁷ Conferences are being held in which electronic journals figure as a major topic⁸, there is a large body of literature published concerning them⁹, journals devote special issues to discussing them¹⁰, university courses are offered to help educate people in creating them¹¹, and public monies are being spent on supporting¹² and archiving them¹³. Yet some say this is misguided and wasted effort.

Electronic journals have already made their mark in the face off strong hesitations and dissent which I

would classify as falling in one of three categories: cultural criticism, economic arguments, and finally criticism based on disciplinary particulars. I will spend most of this paper dealing with the last but would first like to briefly survey the first two types of argument.

Cultural Criticism of Electronic Journals

It is still common to bemoan the fact that the terminal does not smell like leather bookbinding although most computer users now I suspect much prefer World Wide Web bookmarks to the old variety. Similarly, those who complain that they can't snuggle up with a monitor seem to entirely overlook that the proverbial "comfy armchair" can be placed in front of a monitor which is itself beside the fireplace should you so desire. Even the perennial whining about reading on screen can be answered by pointing out that making notes (on paper or in a computer file) while reading is much easier when ones' hands are not gripping the covers of a book - one tap of a finger serves to "turn a page". These are merely examples of the arguments once prominent that cultural and institutional practices would simply not permit the development of ejournals. In a more serious vein, deep reservations were expressed about the readiness and willingness of libraries for instance to accommodate and facilitate the spread of electronic journals. That has been quite firmly proved to be a false concern since there are now several large scale multi-library projects designed specifically for this purpose¹⁴, and it would be a backward university library today that did not assist its patrons in accessing electronic publications.

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Debate over the contribution which electronic technology might make to human advancement and the changes in thinking to which it might lead goes back to the 1940s¹⁵ and continues today. One of the latest proposals would see journals in electronic form being superseded by what Stevan Harnad calls "scholarly skywriting" which he believes can lead to a "fourth cognitive revolution" surpassing the achievements based upon modern printing techniques.¹⁶ For Harnad, the quality control over scholarly work imposed by journal editors and referees is of secondary importance to fast dissemination of research results accompanied by widespread opportunities for comment and contradiction via electronic networks. In his view this "subversive proposal" if embraced should lead to the decline and disappearance of increasingly more expensive scientific journals whether in print or electronic format. In a similar vein, Paul Ginsparg advocates the use of electronic preprint archives as the principal means for sharing research among scholars and has implemented this approach successfully for his own field of high-energy physics.¹⁷

My reasons for thinking that these approaches do not spell doom for electronic journals in law relate principally to the disciplinary differences between scientific and legal studies. Scientific scholarship today appears to operate under relatively unchallenged paradigms of knowledge and method and with rather well-defined narrow research fields and questions. This gives rise to a collaborative enterprise in which research is, I suggest, more easily classified and its worth determined. That in turn allows easy indexing of scholarship for the purposes of search and retrieval and fast assessments of quality by those "in the loop". It may well be that well-organized electronic archives and e-mail discussion lists may serve scientists as well as, or perhaps better than refereed journals, but I don't see similar research conditions in law and therefore doubt that the same model would work for legal scholars. I will return to the idiosyncratic nature of legal scholarship below. One analyst of electronic publishing has concluded that we still know too little about its nature and effects to judge its future and the impact it will have on academe or society as a whole.¹⁸

Economics and Electronic Journals

Another battle which electronic journals appear to have already fought and won is the economic one. Early debate over the viability of electronic journals considered such topics as competition between electronic and print formats of the same work¹⁹ and the real costs of electronic production.²⁰ The crisis in exploding serials costs felt primarily by academic and research libraries prompted the creation of its own electronic newsletter²¹ and publication of papers on the topic.²²

It now appears incontrovertible that electronic publishing is cheaper than print and our experience with *E Law* is a case in point. Over the last four years of its publication there has probably been a direct subsidy for its publication of under two thousand dollars, although it has benefited from the expertise of university staff working under a number of grants and projects.²³ *E Law* applied for funding support from the Australian Vice-Chancellors' Committee but was unsuccessful. Looking back, many of the objectives proposed for funding have now been achieved without the requested support, a major item being the presentation of a Web version. Of course, much of the work which has been done to publish *E Law* has been volunteer labor by law students acting as Editorial Board members to whom we are indebted. At least from 1997 they have the ability to gain academic credit for their participation in producing the journal.²⁴ It is worth noting, however that

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large sums have been spent on the development of eJournals in Australia and the United Kingdom, but still with the expectation that costs of acquisition of the published results of scholarly research will be lower overall for the electronic format.

Disciplinary Criticism

This brings us to what I believe is the most important test and challenge for electronic journals: responding appropriately to the specific needs of academic disciplines. It seems likely that the phenomenon which I have dubbed "virtual textuality"²⁵ will not have the same effects and elicit the same responses in all areas of knowledge. As Marshall McLuhan insisted, a change in the medium of transmission and storage of ideas seems capable of wide-ranging impact on our conception of its "content", and our conceptions of knowledge itself²⁶.

The practice of science has long since become the field of numerous disciplines although one can still speak of a "scientist" in paradigmatic terms. The scholarly study of law, however, still remains at least arguably a single discipline with its comprehensive designation of "lawyer" which academics also claim. I would argue it is important that the field of law remain a single discipline and not be fragmented into specialties and sub-specialties as in the scientific model. In my view there is a danger of losing the fundamental paradigm of law as we know it today if a central focus is not provided for it by appropriate disciplinary communication. What I am speaking of is the theme of the rule of law in aid of human well-being. It is this central moral element to scholarship that may have been largely lost in the scientific field due to an emphasis on narrow problems and technique and which has resulted in technological progress within a moral vacuum. My fear is that should law lose its own morally-based disciplinary focus it will become a mere amalgam of technically-proficient specialties which play an administrative-management function in society but do not deserve to be called the pursuit of justice through law.

My argument then is that "a library does not a discipline make" and that if we allow legal knowledge to be housed in such a form alone the existing discipline of law will disappear. A discipline is, perhaps most importantly, a community of interactive scholars and practitioners with a common focus. The communication tools of the discipline should be appropriate to maintain those links and further the common goals. It is my view that electronic law journals such as *E Law* are better tools to carry out those tasks than the mechanisms proposed by those who would welcome the disappearance of such journals.

Ginsparg's electronic preprint archive for researchers in high-energy physics is one version of the library model of disciplinary communication. It appears to work due to the ease of classification of contents into tightly defined niches suitable for archive and search technology where the searcher is very familiar with the terminology and has good pre-formed expectations of what might be available. This approach to sharing knowledge does not create or maintain a discipline I argue, but merely supports collaborative work which is generated by other means. I refer to the funded project-based method in which most scientific research is now carried out. Public and private funding now creates what might be called shifting communities of scientific scholars drawn together by grant monies. These communities have I believe gone a long way towards supplanting notions of distinct disciplines with recognized ongoing research issues. This is more than "interdisciplinarity", it is "nondisciplinarity" and I argue that the moral element in science has suffered for it. Without a general disciplinary forum such as can be provided by scholarly journals disciplines become specialties and specialties blind obsessions. Scholarly communication in such an environment becomes a closed circuit of those "in the loop" to the detriment alike of scholars and society.

Legal research is not yet predominantly done on the funded project model, although that approach is increasing in significance. One result of the present system of scholarly work in law is that ideas can be less easily pigeon-holed into neat categories for classification, archiving, search and retrieval. Titles of papers in law, for instance, often seem designed to mystify and intrigue readers rather than allow quick identification of the nature of the contents. Approaches to legal analysis and criticism as applied to one area of law may still have relevance and usefulness in others rather than being ultra-specialized techniques of no interest to many legal scholars. Legal issues often involve matters of opinion related to shifting social practices making current debate essential. These and other aspects of the nature of legal scholarship seem to me to call for general law journals to support and advance the discipline of law.

Functions of an Electronic Journal

Once it is acknowledged that the debate over the possibility and practicality of scholarly electronic journals has been won the next challenge is posed by those who say they are superfluous in the digital age. In the words of Bernard Hibbitts we are asked to conclude that they are "more trouble than they're worth".²⁷ Similarly, Stevan Harnad believes that the purposes of a scholarly journal can now be more efficiently realized by other means.²⁸

Fytton Rowland speaks of the four traditional functions carried out by a scholarly journal: dissemination of information; quality control; the canonical archive; and recognition of authors.²⁹ To this I would add the establishment of a disciplinary focus which helps to relate scholars to the rest of society and wider concerns than mere technical expertise - in the case of law, the cause of justice according to law. Harnad believes these functions can be adequately met by "scholarly skywriting".³⁰ His position seems to depend on the characterization of much scholarly writing as "esoteric" in the sense that its content will appeal to only a very small number of readers familiar with the subject matter and its importance. This certainly

describes much of scientific research where it is only the "insiders" of a particular research group or small community of scholars who will be interested in the majority of what its members produce by way of research. But that, I argue, is a situation which characterizes the decline of a discipline rather than its flourishing. It is what I suggest will describe scholarship in law if general journals disappear.

In some respects several of Rowland's four functions of journals are not equally important for law. First, most legal scholarship would not be well described as "information" but rather as "analysis", "opinion" or "critique"; even "polemic" would be applicable and appropriate in some cases. Legal writing is therefore less able to be fitted into factual classification frameworks such as science has been perfecting and it is accordingly harder to search for and find legal scholarship of a particular nature. The "dissemination" aspect becomes more important in law than the proper categorization of content. Second, in the era of what I call "virtual textuality" ideas lose much of the rigidity with being associated with print on paper, become more fluid and open to change and the "canon" is no longer set in stone. For the same reason, security and permanence of retention of ideas is more easily obtained by redundancy of sources rather than concentrating resources in unique locations. Finally, I would argue that the purpose of journals is only associated with recognition of scholars in a tangential way. But, in another sense, journals may have an important role to play in giving exposure to writing which is controversial and challenging and thus bring new ideas and approaches into the disciplinary mainstream.

It is the matter of "quality control" on which Professor Hibbitts largely rests his argument against law journals whether on paper or in digital bytes. Here, he has recited a history and litany of complaints about the student-edited American law school review which may justify abandoning that particular form of journal publication. But the American law review is not the first nor the only model of journal publication in law. Hibbitts' history begins in the latter part of the nineteenth century when law school journals took shape in the United States but does not mention earlier scholarly legal journals there or in the United Kingdom. In the latter country a number of general journals of law took shape in the early and mid nineteenth centuries in the mould of non-legal periodicals such as the *Edinburgh Review*, *Westminster Review* and the *Quarterly Review* which contained contributions from the likes of Bentham, Brougham and the Mills.³¹ The legally-focused reviews included *The Law Magazine and Law Review: or Quarterly Journal of Jurisprudence*, *The Law Review and Quarterly Journal of British and Foreign Jurisprudence*, and *The Quarterly Jurist*. These publications included many scholarly analyses and critiques of the law and legal practice and were guided by editors who professed openly certain principles, views and ideas which they brought to the task of selecting and presenting the contents.³² These journals helped to shape the academic discipline of law as we know it today and provide another model for law reviews in electronic format.

Professor Hibbitts believes that self-publishing of individual articles through authors placing them on their own publicly-accessible Web pages is the answer to dissatisfaction with American law school journals. Any peer-review would come post hoc as Web surfers visited the site, read the work and left their comments. Quality would shine through as greater or lesser numbers of readers commented upon, bookmarked and linked to worthwhile articles. Hibbitts' own article containing these ideas is held up by him as a successful model of the new world of scholarly legal publishing.³³

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Defending Electronic Journals

In defense of electronic journals I would like to offer several criticisms of Hibbitts' approach:

- As noted above, either centralized or distributed static archives of scholarly research depend heavily on reliable, appropriate indexing and search and retrieval mechanisms. Publication on a web site should not be described as "dissemination" of the work since it is not seen by anyone unless they locate the site and visit it. Hibbitts makes this concession at least once in a second article³⁴ when he notes that it would be more accurate to say that articles on Web pages are "made distributable". Professor Hibbitts' own original article is a case in point. As a subscriber to numerous discussion lists I remember receiving in 1996 quite a few duplicate copies of Hibbitts' electronic mail message informing recipients of the existence of the article on his Web site. To imply that mounting files on a Web server amounts to distribution of the ideas contained in them is thus not accurate. A journal on the other hand takes such an active role. *E Law* for instance distributes a table of contents which includes abstracts of all articles to those who subscribe to a list for this purpose. If an article is of interest it can be obtained by electronic mail or alternatively by visiting the *E Law* Web page. If nothing appeals, the contents message can simply be deleted. But at least authors are given an opportunity to attract readers' attention through placing the title and abstract before them rather than hoping some search engine has visited their site and enough people have the desire to search for and find their work. To be sure, Hibbitts appears to recognize some difficulty in his proposal by including a recommendation that some institution should provide a central indexing site with links to legal scholars' self-published materials. But this remains a passive approach which fails in my view to support a dynamic current debate of legal ideas which is the key to the health of the discipline.
- Professor Hibbitts is confident that legal scholars have or can easily acquire the skills necessary to self-publish on the World Wide Web. I can say that I have gained a good deal of knowledge of hypertext and associated technical matters in the last year due to my involvement with *E Law* but I am still impressed and awed with what Hibbitts presents on his pages and infers can be done by almost anyone. *E Law* has relied on the technical expertise of library and academic support staff which

has been acquired through significant investment of time and infusion of training monies through various programs. Although those skills are now being taught widely, I do wonder if the average law professor will really be able to publish their own work easily. Here a journal can offer a service such as *E Law* does to authors who are not required to provide their work in any particular format. *E Law* will take an article through editing and reformatting in order to provide it to readers in the lowest common computer denominator (plain ASCII text) as well as one of its highest level formats (hypertext). Our journal has made a commitment to keep abreast of technical developments in order to maximize the impact of work it publishes and thus shortly will be offering a multimedia issue. Surely this type of service is of benefit to busy professors?

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- Hibbitts' makes much of the retention of "authorial control" which he believes allows legal writing to become continually updated "living documents". In this way readers will not be troubled by coming upon what he calls "superseded products" in the dead archives of law journals. Surely, however this view is based upon a conception of legal research as somehow more or less "correct" in the way we speak of research results in the sciences. As noted above, scholarship in law is often and appropriately the expression of opinion in reaction to current events of legal significance. Opinions can change as events become history and there is nothing wrong with retaining a record of the development of a scholar's thought on a topic. In the extreme, Hibbitts approach would appear to banish reports of cases which had been overruled from the law library. Related to the issue of authorial control is the question of possible "competition" between authors who wish to self-publish and journals who include their work. This potential difficulty has been resolved by *E Law* through the adoption of an approach which puts no restrictions on authors' presentation of their own material. Indeed, there have been two significant articles published in our journal, David J. Loundy's "E-Law 2.0"³⁵ and Serge Braudo's "Propos Sur la Médiation en Matière Civile"^{35a} in which this possibility was present from the start. Indeed the Loundy article is also an example of a "living document" in the sense that the author now presents version "3.0.1" on his own web page.³⁶ This fact does not in my view detract from the benefit to author and readers of having published a previous version and continuing to make that available via the *E Law* archive. Indeed the earlier version may be valuable for historical purposes.
- Professor Hibbitts envisages law students as continuing to be involved in scholarly research in the roles of paid assistants to professors and it is true that they may get some of the benefits of acting as editors of a journal in this way. However, they will not gain exposure to the work of diverse authors and develop the critical skills involved in evaluating submitted work. At *E Law* students as Associate Editors have always taken an active role in assembling the contents and will be more involved in future as they receive academic credit for their participation.³⁷ *E Law* has a structure which includes both peer refereed and non-refereed materials. Refereeing is done by independent academics on a double blind basis but articles in other categories are assessed and edited by the student editors. This provides a valuable learning experience for students while retaining traditional quality control for the leading articles. In addition, helping to produce an electronic journal can assist in training future legal academics in the skills Professor Hibbitts believes they should have. There is already one electronic journal produced specifically in order to provide such training.³⁸
- Hibbitts also chides American law reviews with stifling creative and challenging legal writing by imposing conservative stylistic preferences and being obsessively preoccupied with citation conventions. This may well be the case, but is not a reason to do away with legal journals. At *E Law* being a new legal periodical without a heavy weight of tradition we have felt it easier to be less concerned with the look of articles than the substance of their content. Consistency within articles as regards citation is of course maintained but there is no single convention imposed on all authors. As regards content, *E Law* has published works of traditional doctrinal analysis, mooted documents, essays, comments and personal reflections. We believe authors appreciate and benefit from this flexibility.
- Professor Hibbitts is certainly right to insist that dialogue and debate are essential to legal scholarship and in his criticism of print journals for a format which makes them unsuitable to contributing to those processes. Electronic law journals however, due to the rapidity with which they can be assembled and distributed, may be in a much better position to enhance interaction amongst legal researchers on an international basis and across disciplines. A good example of this strength of electronic publishing is an extended debate concerning a feature article in the periodical *EJournal* which was published in a subsequent issue.³⁹ Professor Hibbitts' own Web site on which he has published his two articles on self-publishing is another good example of what can be done to incorporate reader response and debate. To his credit he has included at least one quite negative comment on his thesis but one wonders whether all self-publishers would be as scrupulously fair. An independent journal editor would usually be in a better condition to judge what interactions further a debate in a constructive way. Although *E Law* has tried to provide for this kind of interactivity amongst scholars I think it has not been successful in doing so to date. We have always tried to provide the e-mail addresses of authors as well as the editors as one way of facilitating responses and there is a separate category of articles "for comment" or "works in progress" regularly included. *E Law's* Web page includes a "feedback" button to e-mail the editors and this has been used on occasion but it appears more should be done. The Editorial Board is currently exploring ways of enhancing the potential of the journal to stimulate debate and dialogue amongst authors and readers.

Conclusion

In sum, I believe that most of Hibbitts' criticisms of law reviews are either inapplicable to *E Law* or have been accommodated satisfactorily in its structure with the possible exception of the feature of easy interactivity. For me, electronic law reviews are most definitely not "more trouble than they're worth" as Professor Hibbitts puts it.

I agree with the editor of the Law Magazine who said:

"It is obvious that from time to time legal and constitutional questions arise, some of which do not come into the courts, and which require elucidation, and may receive such elucidation in a legal journal. A legal journal is, indeed, the only medium for the exposition or discussion of such questions as they arise, without reference to any particular interest or result, and entirely in the interests of law and jurisprudence as a science, and with the accuracy incident to written compositions, which must await the judgment of a learned profession."⁴⁰

In guiding such a publication an editor was to be prepared "on any question to declare his own opinion, while giving full consideration to the opinions and ideas of others". Such an editor and such a publication contributes to the cause of justice without which law becomes a trade and technique rather than a profession and academic discipline. I believe *E Law* is carrying on in the footsteps of those earlier editors and journals and that although the work is "never ending, still beginning" it needs to be done. 

The Author

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Notes

^{*} I have prepared a chronology of what appears to me to be the most significant events in the conception, gestation, birth and development of *E Law - Murdoch University Electronic Journal of Law* which is attached as an [Appendix](#).

^{**} The opinions expressed here are personal and do not necessarily represent policies of Murdoch University, its Law School or the Editorial Board of *E Law*.

¹ See Public-Access Computer Systems Review [Special Section On Network-Based Electronic Serials](#), July 1991.

² See presentation of "[Winners and Losers in the Global Research Village](#)" by Paul Ginsparg at UNESCO, February 1996.

³ The approach advocated in "[Last Writes? Re-assessing the Law Review in the Age of Cyberspace](#)" by Bernard J Hibbitts.

⁴ See Jo Coward, "[The Great Debate](#)".

⁵ "In 1991 there were 110 journals and academic newsletters listed in the Association of Research Libraries Directory. This grew to 133 in 1992, 240 in 1993, 400 in 1994 (Okerson, 1994) and 700+ in 1995. There has also been remarkable growth in the number of refereed electronic journals from 74 in 1994 to 142 in 1995 (Okerson, 1995)." Mike Sosteric: "[Electronic Journals and Scholarly Communication: Notes and Issues](#)".

⁶ See the Web site [Ejournal SiteGuide: a MetaSource](#).

⁷ See [Journal of Electronic Publishing](#).

⁸ For instance, [ICCC/IFIP - Electronic Publishing '97](#).

⁹ See the [Scholarly Electronic Publishing Bibliography](#) by Charles W Bailey Jr.

¹⁰ For example, [The Information Society](#), Volume 11, no. 4 Special issue on Electronic Journals and Scholarly Publishing.

¹¹ See [InfoTrain](#), the teaching electronic journal project.

¹² See the UK [SuperJournal](#) project.

¹³ In Australia there is the National Library of Australia [PANDORA](#) Project.

- ¹⁴ In the UK there is [eLib: Electronic Libraries Programme](#); in the U. S., [CIC Electronic Journals Collection](#) and [Project Muse](#) (Johns Hopkins University); in Canada the [Canadian Electronic Scholarly Network](#); and in Australia the National Library's [PANDORA](#) Project.
- ¹⁵ See Vannevar Bush, "[As We May Think](#)".
- ¹⁶ Stevan Harnad, "[Scholarly Skywriting and the Prepublication Continuum of Scientific Inquiry](#)", and [Scholarly Journals at the Crossroads: A Subversive Proposal for Electronic Publishing](#).
- ¹⁷ See his presentation of "[Winners and Losers in the Global Research Village](#)" to UNESCO.
- ¹⁸ Mike Sosteric: "[Electronic Journals and Scholarly Communication: Notes and Issues](#)".
- ¹⁹ See the discussions on the [VIPIEJ-L](#) list in 1993.
- ²⁰ Stevan Harnad estimated that production of a page of scholarship for electronic distribution costs about 25% of the cost of print production: see Subversive Proposal supra note 16.
- ²¹ [Newsletter on Serials Pricing Issues](#).
- ²² See, for instance, Odlyzko, "[Tragic Loss or Good Riddance](#)", and "[On the Road to Electronic Publishing](#)", Mike Sosteric - [Electronic Journals: The Grand Information Future?](#), Fytton Rowland, "[Print Journals: Fit for the Future?](#)" and Stevan Harnad, "[The Paper House of Cards](#)".
- ²³ Principally "[Using computer network retrieval tools and communications in research and teaching](#)" and [Multimedia pilot projects](#).
- ²⁴ The year-long unit [L334 E Law Journal](#) enrolled its first students in February 1997.
- ²⁵ See Archie Zariski, "[Virtual Textuality and the Library](#)".
- ²⁶ For more about McLuhan's thought see [Project McLuhan](#) and [The McLuhan Probes](#).
- ²⁷ See "[Last Writes?](#)", "[Yesterday Once More](#)" and the [Akron Law Review Special Issue](#) devoted to those articles.
- ²⁸ See [The Paper House of Cards](#).
- ²⁹ See [Print Journals: Fit for the Future?](#)
- ³⁰ Supra note 28.
- ³¹ See Biancamaria Fontana, *Rethinking the Politics of Commercial Society: The Edinburgh Review, 1802-1832*. Cambridge: Cambridge University Press, 1985.
- ³² See for instance the statement published in *The Law Magazine and Review* Volume 3 (NS), no. 1 (January 1874) as "The Function and Influence of Legal Journalism".
- ³³ See "[Last Writes?](#)"
- ³⁴ See "[Yesterday Once More](#)".
- ³⁵ "[E-Law 2.0: Computer Information Systems Law and System Operator Liability Revisited](#)".
- ^{35a} "[Propos Sur la Meacutediation en Matiere Civile](#)"
- ³⁶ See "[E-Law 3.0.1: Computer Information Systems Law and System Operator Liability in 1995](#)".
- ³⁷ See the [Unit Outline](#) for L334 E Law Journal.
- ³⁸ [InfoTrain Teaching Electronic Journal](#).
- ³⁹ See "[The Holland et al Exchanges](#)", *Ejournal*, Volume 4, no. 3 (November 1994).
- ⁴⁰ "The Function and Influence of Legal Journalism", supra note 32.

Appendix

Highlights in the History of

[E Law - Murdoch University Electronic Journal of Law](#)

**Prepared by Archie Zariski, Founding Technical Editor
March, 1997**

- *March - December 1990* Exchanges on the role of scholarly electronic journals published in [Psycoloquy](#)

Volume 1

- 1990 Stevan Harnad publishes "[Scholarly Skywriting and the Prepublication Continuum of Scientific Inquiry](#)", Psychological Science Volume 1, pp. 342 - 343 (reprinted in Current Contents, Volume 45, pp. 9-13, November 11, 1991)
- March 1991 publication of first issue of [EJournal](#)"><http://www.hanover.edu/philos/ejournal/archive/ej-1-1.txt>>[EJournal](#)
- July 1991 *Public-Access Computer Systems Review* publishes [Special Section On Network-Based Electronic Serials](#)
- December 1991 Archie Zariski subscribes to ARACHNET ("A Loose Association of Electronic Discussion Groups") discussion list
- July 1992 Michael Strangelove publishes "Directory of Electronic Journals and Newsletters Edition 2.1" on ARACHNET list
- July 1992 Archie Zariski proposes creation of an electronic law journal to Murdoch University Law Programme Retreat
- November 1992 Murdoch Law Programme Working Party chaired by Archie Zariski created to "prepare a set of detailed specifications and feasibility study for an electronic law review for Murdoch"
- December 1992 discussions of electronic mailing list software programs on ARACHNET list
- December 1992 Erik Nilsson publishes "Ideas for Electronic Newsletters" on ARACHNET list
- January 1993 Working Party continues with student representatives
- January 1993 Murdoch University Library approached to assist in publishing an electronic journal using the Library's Gopher system
- January 1993 first issue of [Interpersonal Computing and Technology : An Electronic Journal for the 21st Century](#) (IPCT)
- January 1993 discussion of the role of publishers in the age of electronic journals on ARACHNET list
- April 1993 Murdoch University Library offers to host law electronic journal using a Gopher system on a trial basis; first solicitation of contributions from academic staff
- April 1993 Electronic Journal Working Party presents its [Report](#) which is accepted by the Law Programme
- April 1993 [Campus Review](#) Special Report on "Changes in Scholarly Communication Patterns: Australia and the Electronic Library"
- April 1993 discussion of "E-publishing and paper sales" on [VPIEJ-L](#)("Publishing E-Journals: Publishing, Archiving and Access") list
- April 1993 publication of Berge, "[The Founding and Managing of IPCT-L: A Listowners' Perspective](#)" in IPCT
- May 1993 publication of article "[Law Closes in on Electronic Journal](#) ." in *The Australian* newspaper resulting in inquiry regarding access to the journal by the PNG Courts
- May 1993 republication on VPIEJ-L of Franks, "[What is an electronic journal?](#)" originally posted on PACS-L list
- May 1993 Raleigh Muns advises VPIEJ-L of a hypertext resource he created explaining and exhibiting electronic journals available from a [software repository](#)
- May 1993 Murdoch Academic Services Unit proposes a staff development project which includes training law staff in electronic publishing - "[Using computer network retrieval tools and communications in research and teaching](#)"
- July 1993 *Interpersonal Computing and Technology* initiates a dedicated list for distribution of the journal
- August 1993 [first masthead](#) for *E Law* designed by Archie Zariski, [first call for volunteer student editors](#) and first [public call for contributions](#)
- September 1993 *Ejournal* publishes results of a [survey of subscribers](#)
- September 1993 first contribution to *E Law* received from Professor Lakshman Marasinghe
- October 1993 discussions with library staff and staff of Academic Services Unit concerning format of articles and drafting of [copyright policy](#) by Associate Professor Michael Pendleton
- December 1993 [first issue](#) of *E Law* published through installation of files on Gopher system by Murdoch University Library staff; *E Law* thus becomes the world's second law journal to appear in electronic format after the [Federal Communications Law Journal](#)
- January 1994 *E Law* contacted by E-LAW ([Environmental Law Alliance Worldwide](#)) and by David J Loundy concerning his article "E-Law: Legal Issues Affecting Computer Information Systems and System Operator Liability", *Albany Law Journal of Science and Technology*, Volume 3, no. 1
- March 1994 ISSN number obtained and name revised to *E Law - Murdoch University Electronic Journal of Law*
- May 1994 second issue of *E Law* published on Gopher and [via e-mail list](#) using Majordomo software running on Academic Services Unit computer Cleo under the management of Dr Roger Atkinson; Technical Editor Archie Zariski assists remotely from Sydney where he is on sabbatical; articles available by e-mail request to [elaw-j list](#)
- June 1994 *E Law* contacted by Roger Horne, British Barrister seeking permission to retransmit contents on "Legal Teleforum"
- June 1994 Stevan Harnad sends electronic mail message "[Publicly Retrievable FTP Archives for Esoteric Science and Scholarship: A Subversive Proposal](#)", followed by further e-mail exchanges and resulting in the publication of a book, [Scholarly Journals at the Crossroads: A Subversive Proposal for Electronic Publishing, An Internet Discussion About Scientific and Scholarly Journals and Their Future](#)
- July 1994 Battye Library of Western Australia contacts *E Law* regarding legal deposit requirements; arrangements made for deposit on computer disk
- July 1994 *E Law* registered with InterNIC "[Directory of Directories](#) "
- September 1994 *E Law* publishes David J. Loundy's article "[E-Law 2.0: Computer Information Systems Law and System Operator Liability Revisited](#)"
- September 1994 first appearance of [NetWatch](#) section prepared by Anne Greenshields of Murdoch

University Library

- *November 1994* Appearance of "[Tragic Loss or Good Riddance? The Impending Demise of Traditional Scholarly Journals](#)" by Andrew Odlyzko
- *December 1994* request by Association of Research Libraries to include *E Law* in its "[Directory of Electronic Journals, Newsletters and Academic Discussion Lists](#)", consent given
- *April 1995* first theme issue of *E Law* on [Indigenous Peoples' Legal Issues](#) edited by Catherine J. Iorns; revised contents file layout adopted
- *July 1995* *E Law* becomes accessible via a Murdoch Library Web server
- *July 1995* request received and approved to provide selected articles appearing in *E Law* to NSW lawyers via a BBS sponsored by the Law Foundation of NSW
- *August 1995* [Editors' Manual](#) prepared by student Assistant Technical Editor Inge Laww
- *September 1995* *E Law* requested to participate in National Library of Australia pilot project for accessing and archiving electronic resources
- *October 1995* Academic Services Unit undertakes a [pilot project](#) to engage in multimedia production with provision for a CD version of *E Law* to be made
- *December 1995* *Australian Law Librarian* publishes "[E Law- Murdoch University's Electronic Journal of Law: a Review](#)," by Nicholas Pengelley
- *December 1995* *E Law* editors Elizabeth Handsley and Archie Zariski together with Murdoch Library staff member De Stanton and Dr Roger Atkinson of Academic Services Unit submit proposal for funding support to Electronic Publishing Working Group of the Australian Vice-Chancellors' Committee; application unsuccessful
- *February 1996* appearance of "[Last Writes? Re-assessing the Law Review in the Age of Cyberspace](#)," by Bernard J. Hibbitts
- *February 1996* presentation of "[Winners and Losers in the Global Research Village](#)" by Paul Ginsparg at UNESCO
- *May 1996* Gopher system discontinued by Murdoch Library; all articles in Volume 3, no. 1 available in hypertext format via the Library's Web server
- *May 1996* Center for Library Initiatives of the [CIC group](#) of American universities requests and receives permission to maintain a disk archive of *E Law* in North America in addition to indexing the journal
- *June 1996* Murdoch University's [Research Mangement Plan](#) calls for staff to establish national and international electronic research networks and targets monitoring the success of *E Law* with a view to encouraging such ventures by other disciplines
- *June 1996* *E Law* [masthead](#) redesigned by Archie Zariski and Bret Lester
- *July 1996* *E Law* moves to a [new Web page](#) on the main Murdoch CWIS Web server with multiple cross-indexes created and maintained by programs written by Bret Lester, student Assistant Technical Editor
- *July 1996* Australasian law librarians agree to accept *E Law* in electronic format as fulfilling Murdoch University's reciprocal exchange obligation in relation to law school journals
- *August 1996* Technical Editor Archie Zariski prepares [Hyperediting Guide](#) for editors' use in manual conversions to hypertext
- *September 1996* *E Law* one of thirty nine e-journals studied in Stephen P Harter, "[The Impact of Electronic Journals on Scholarly Communication: A Citation Analysis](#)"
- *October 1996* proposal received from Lexis-Nexis to place *E Law* on the Lexis service
- *November 1996* [request made](#) through Web site feedback and approved for full text *E Law* articles to be made available on AUSTRUM and U. S. Family Studies CD-ROMs and Ozline
- *November 1996* [endorsement and encouragement](#) of electronic publications by Australian Vice-Chancellors' Committee
- *December 1996* first [non-English language article](#) published authored by Serge Braudo
- *February 1997* new Murdoch Law School unit [L334 E Law Journal](#) allows student editors to receive degree credit
- *March 1997* National Library of Australia requests and receives permission to include *E Law* in its [PANDORA project](#) for archiving electronic journals
- *March 1997* *E Law* has 503 e-mail subscribers from 34 countries, the majority being non-Australian

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"Never Ending, Still Beginning": A Defense of Electronic Law Journals from the Perspective of the *E Law* Experience by Archie Zariski

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