

San Francisco Daily Journal, 5/18/00, p. 18; 6/15/00, p. 18; 7/20/00, p. 18
Posted with permission of the Daily Journal.

This file cannot be downloaded from this page.

THE CALIFORNIA STATE (LAW) LIBRARY AT 150

This article ran in three parts in May, June & July 2000

Mark A. Linneman

Librarian, Bernard E. Witkin State Law Library Law Library

In January 2000 the California State Library was one hundred and fifty years old. It is the main research library for the state government and provides a massive variety of services to other California libraries as well as the general public. Since its very beginnings the State Library has been a law library providing access to legal authorities.

Among the first holdings of the California State Library were law books. Founded with donations by the eminent Californians Col. Jonathan D. Stevenson, Col. John C. Fremont and Senator Thomas J. Green, The California State Library was established by the State Legislature on January 24, 1850. Fremont's donation of a trunk full of books from his Mariposa County ranch consisted largely of one hundred law books and other legal materials. The original collection was supplemented in 1855 by the purchase of the law collection of William C. Olds, an early San Francisco attorney, for the then substantial price of \$17,250. This provided the foundation for a strong legal research collection. Of the 5,992 volumes listed in the 1857 *Catalog of the State Library* more than three quarters of the total were law books. The 1886 *Catalogue of the Law Department* lists each volume held by title. The *Catalogue* lists a strong collection of statutes and cases from the United States and Britain as well as the most important treatises.

Law books were vital to the establishment of the new state government. Originally the State Library was limited to serving the Legislature and its members, the Governor and the executive departments, the Supreme Court and the Attorney General. Together with the State Library as a whole the Law Department was in the Capitol, close to these core users. During the 1906-08 remodeling of the Capitol the Law collection remained there while the rest of the State Library moved to a temporary home.

In 1890 the State Library's collections were made available for use to the public and state-wide lending began in 1903. As of 1906 prospective users were advised that:

The Law Department is fully equipped with the latest reports, digests, encyclopedias and text books and is entirely available to the public for reference purposes. State officers are entitled to borrow books, and private individuals are accorded the same privilege upon presentation of an order signed by a Supreme, Appellate or Superior Court Judge. Books may be kept two weeks and will be once renewed for the same length of time. All books are subject to recall if required by a State Officer.

News Notes of California Libraries,1:21 (May 1906).

An altered and expanded version of this statement was still being published in 1951.

The Department of Legislative Reference, a substantial user of law books in providing services to the Legislature, was organized in 1904 and thereafter merged with the Law Department to form the Law and Legislative Reference Department. When ground was broken for the new Library and Courts Building in 1924, The State Library had the largest collection of law books in the state - 60,000 volumes all told. The Los Angeles County Law Library had 59,000 volumes and San Francisco County Law Library contained 52,000 volumes. The University of California Law School, not yet Boalt Hall, had 30,000 volumes. In the nineteenth and early twentieth centuries California law school libraries were not as large and comprehensive as state and court libraries.

The State Law Library began collecting California Supreme and Appellate Court briefs prior to 1905. The collection of Supreme Court briefs dates back to those submitted in 1863. By 1919 the Law Library could boast the statutes of all the other states, Great Britain, Canada, Australia and certain other foreign countries. For the use of legislators such materials as bills of several other states were received in the 1920s. The Law and Legislative Reference Department also prepared a handbook of information for the use of legislators under various titles from the 1930s to the early 1950s.

The Law Library collection contains substantial rarities. There are many older treatises and law reports particularly those from California. There are also items such as contemporaneous reports of the trial of Peter Zenger for libel in 1735. The collection of books on community property donated by San Francisco attorney and bibliophile Lloyd M. Robbins in 1932 is particularly noteworthy. This collection of 250 items covers codes and commentaries dating back to the sixteenth century. Included, for example, is a fine 1565 edition of King Alfonso X's *Las Siete Partidas*. This basic legal code provided the foundation for law in the Spanish-speaking world.

Concerns of the times have been reflected in the questions asked in the Law Library. They ranged from studies on other states and nations' restrictions on land ownership (noted as the "Japanese question") in the late 1910s to an early compilation of laws on the penalties for drunk driving in the 1920s to finding laws on the regulation of chain stores in the 1930s.. The Law Library responded to the state government's needs. All of these activities were carried on by a regular staff that generally numbered three or four, with various temporary additions, from 1921 until 1952. From 1922 until 1953, this staff was headed by Herbert V. Clayton.

Other consistent users of the Law Library until World War II included law students. The Law Library carefully purchased all those books required by the Board of Bar Examiners for students reading for the bar rather than attending law school. Students comprised a significant proportion of library users.

Space was a consistent problem throughout the first quarter of last century. The 1906-08 Capitol remodeling did not resolve this situation. The new Library and Courts building, sited directly across from the Capitol, was dedicated in 1928 and solved these difficulties for almost the next fifty years. The State Law Library has remained in the Library and Courts building since 1928. Together with the other parts of the California State Library it has shared the building with the State Supreme Court's Sacramento sittings and the Third District Court of Appeal.

The Depression was not kind to the State Library. There were staffing and acquisition fund cuts. Some additional work was done using temporary workers from the Works Progress Administration and other New Deal programs. In April 1942 there was a further reminder

that the Law Library was subject to the changes and aberrations of the larger society. Mr. James Fujitana, a "very industrious, intelligent and efficient" staff member, was removed to a Japanese relocation center.

The 1950s saw added staff and a change of emphasis. As of November 1953, with the retirement of Herbert Clayton, "Legislative Research" was removed from the title of the section. A separate section, the Legislative Reference Service, now dealt with assisting the Legislature, its members and other state officials in the use of all parts of the California State Library. Around 100,000 volumes were in the Law Library in 1952. By the early fifties the State Law Library collection was far smaller in holdings than either the biggest County Law Library (Los Angeles) or the largest law school collections (Boalt Hall).

By the 1960s it was clear that the demand for library services was rapidly escalating while the size of the collection, at least compared to other libraries, was not keeping pace. The 118,000 volumes held in 1964, after some duplicates were sent to other libraries, were relied upon for roughly six times as many loans (6,000 odd) as thirty years prior and over 8,000 reference queries per year were answered. The collection was inadequate for the demands of users. Funding had not kept up with other law libraries. In 1961/62 the yearly book budget of the state Law Library was \$30,000 while Los Angeles County Law Library had a monthly income of \$45,000. The Los Angeles, San Francisco, Alameda, San Diego and Fresno County Law Libraries all had more funds for purchasing books than the State Law Library. The State Library funded a plan developed by Carleton Kenyon, then State Law Librarian and later Law Librarian of Congress, to supplement the book budget by \$60,000 over five years to fill in the more obvious needs and gaps. The selection of books shifted emphasis to supporting the needs of state government rather than general users. This, and the extra funds, helped but the State Law Library, although remaining a distinguished collection, would never again be among the very largest law libraries in California.

Mr. Kenyon also served as an advisor and consultant to County Law Libraries throughout the state, particularly those with smaller collections. Up to twenty-five county law libraries were visited per year and he often did evaluations and reports for Library Boards of Trustees. Training was provided for new county law library employees. Providing assistance to these smaller libraries would continue to be emphasized under his successors - particularly Cy Silver and Muriel Hoppes in the 1970's and 1980's. The State Law Library also has been, and remains, a major source for borrowing books on interlibrary loan through local libraries. The smaller county law libraries have been the largest borrowers through this program since the 1940's. Assisting the less populated counties remains a concern of the Witkin State Law Library; new programs are currently being studied to increase services to these users.

Until the development of state prison law libraries in 1972 and the establishment of the Department of Corrections Prison Library Collection, providing legal materials to state prisoners was a responsibility of the State Law Library. The wave of requests from prisons in the late 1960's and early 1970's overwhelmed the Library's resources and staff. After 1972 the State Law Library, through interlibrary loan, served a backup to these prison libraries. Space problems also became serious in this decade. Some materials (e.g. Ninth Circuit Records and Briefs) were discontinued and sent to other libraries due to lack of shelf space.

The 1980's were a period of budget stringency in the State Library. Inflation continued to erode the book budget (by 37% over one two year period) and a multi-year hiring freeze was imposed on hiring new librarians. By 1991 the budget situation for the State Library as

a whole was dire. In an attempt to economize the State Library abolished, as of October 1991, the Law Library as a separate department. Its functions were merged with those of the General Reference Section, law staff were reassigned, and the book budget for legal materials cut by two thirds. Collections built since the 1850's could no longer be maintained. The law reports for many British Commonwealth jurisdictions or lower courts in Pennsylvania, for example, stopped sometime between 1980 and 1991. Texts for states other than California were eliminated. Foreign materials built up over a century were sent to other libraries, including Boalt Hall.

This new arrangement was not a success in meeting user needs, including those of the state government. In 1993 when the economy began to rebound some functions, including limited hours of reference, were restored to a separate Law Library. In 1994 the Law Library became a fully functioning separate unit again headed by Muriel Hoppes. Since 1994 there have been significant enhancements to the budget. The funds for books and other legal materials doubled to approximately \$600,000 and more staff was added in 1999-2000. When Frances Jones became Law Librarian (1995-99) she was able to use these resources for tasks such as once again making current records and briefs available. Some of the materials cut in the 1980's and early 1990's were restored. Further improvement in the collection are being made with newly available funds. Funds for books and staff were generated by an increase in the civil appellate filing fee with the proceeds to the State Law Library. This provision expires in 2005 unless renewed.

In 1997 the Law Library was honored by being renamed the Bernard E. Witkin Law Library. Senate Bill 605, authored by Senator Ken Maddy and signed by Governor Wilson, authorized the renaming and noted that Mr. Witkin's "...legendary contribution to the California law is deserving of a lasting tribute...from the state whose legal system, he, more than any other single individual in the 20th century, helped to shape." Cal.Educ.Code § 19328 (1999). The State Law Library is proud to be linked to Mr. Witkin.

The Bernard E. Witkin State Law Library remains a significant resource for the government and people of California.

The Witkin Law Library has a wealth of materials. California law is emphasized. There is a collection of California legislative bills beginning in 1867, California statutes dating from 1850 (including those printed in Spanish from 1850-1878) and the California Codes dating from the first four passed in 1872 based upon David Dudley Field's codes for New York. There are also finding lists for committee hearings and reports from 1937 and the Assembly File Analyses beginning in 1975 and including materials from the Law Revision Commission. For determinations of legislative intent, particularly for acts prior to 1993 when many materials are available online, the Witkin Library supplemented by the State Archives is the best source of information. California legal texts, both in current and superseded editions, are virtually complete.

There are also a substantial historical collection of official state reports and English and Canadian materials. Particularly for older legal authority, the Witkin State Library remains a preeminent asset.

The Witkin State Law Library will attempt, for non-state government patrons, to answer shorter reference questions presented in person, sent by mail, e-mail or phone. As the Law Library for the state government more emphasis is placed upon serving state government officials and agencies. However, a substantial number of attorneys and other private citizens continue to make use of the Witkin State Law Library, as they have for over a century.

Most of the collection is available on loan to individuals affiliated with the state government or interlibrary loan to other libraries. Faxes of up to five pages of photocopied materials are also available to libraries or state government users. Users with access to the internet can check the availability of materials by searching the California State Library's catalog at the Library's website, www.lib.ca.state.us. Access to the Law Library is also available by telephone (916-654-0185), email (csllaw@library.ca.gov), or facsimile (916-654-2039). Services of the Bernard E. Witkin State Law Library are available Monday to Friday, 9:30am to 4pm.

Copyright 2000 by Daily Journal. Reprinted with permission.